

CITY OF MIDLAND, TEXAS
BRIEFING SESSION AGENDA
December 13, 2011 9:00 AM
Council Chamber - City Hall
300 North Loraine
Midland, Texas

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

1. Discussion of City Council 2012 Retreat (format of retreat, date(s), etc).
2. Discussion and review of potential infrastructure deferral process.

AGENDA FOR CITY COUNCIL MEETING
December 13, 2011 – 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 Robert Pase, Grace Lutheran Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Presentation of Proclamation to retired employee Eddie Price.

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 November 8, 2011.
 - b. Special meeting of November 21, 2011.
6. Consider a resolution to rescind Resolution 2011-261 and proceed with Fiscal Year 2012 General Purpose Certificates of Obligation Issue. (Finance)

RESOLUTION NO. 2011 - 293

RESOLUTION CANCELLING AND RESCINDING RESOLUTION NO. 2011-261 AND APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE SERIES 2012 CERTIFICATES OF OBLIGATION IN AN AMOUNT NOT TO EXCEED THIRTY-ONE MILLION ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$31,150,000.00); AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CAUSE NOTICES TO BE PUBLISHED AND POSTED

7. Consider a resolution authorizing reimbursement of the Water and Sewer Operating Fund from proceeds of the 2012 Certificate of Obligation proceeds. (Finance)

RESOLUTION NO. 2011 - 294

RESOLUTION DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH

PROCEEDS OF FUTURE DEBT; AND THE CITY OF MIDLAND REASONABLY EXPECTS TO REIMBURSE CAPITAL EXPENDITURES WITH PROCEEDS OF DEBT HEREAFTER TO BE INCURRED BY THE CITY

8. Consider a resolution awarding a contract to the single bidder for the purchase and installation of two pivot irrigation systems for the Utilities Department. (General Services)

RESOLUTION NO. 2011 - 295

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE PURCHASE AND INSTALLATION OF TWO (2) CENTER PIVOT IRRIGATION SYSTEMS FOR USE AT THE CITY'S SPRABERRY FARM FROM THE SOLE BIDDER, LAMESA IRRIGATION COMPANY, OF LAMESA, TEXAS, AT A TOTAL COST OF \$152,364.00

9. Consider a resolution awarding a contract for the purchase and installation of four complete side wheel roll irrigation systems for the Utilities Department. (General Services)

RESOLUTION NO. 2011 - 296

RESOLUTION AUTHORIZING THE PURCHASE OF FOUR COMPLETE SIDE-WHEEL ROLL IRRIGATION SYSTEMS AND SPARE PARTS FOR USE AT THE SPRABERRY FARM FACILITIES FROM MESA IRRIGATION, OF LAMESA, TEXAS, AT A TOTAL COST OF \$68,720.00

10. Consider a resolution approving an annual master agreement for an estimated quantity of 5/8", 1", 1 1/2", and 2" water meters with automated encoders for the Warehouse Division. (General Services)

RESOLUTION NO. 2011 - 297

RESOLUTION APPROVING THE PURCHASE OF SEVEN HUNDRED AND FIFTY (750) WATER METERS OF VARIOUS SIZES, ALL WITH ENCODER REGISTERS, FROM WESTERN INDUSTRIAL SUPPLY, L.L.C., OF ODESSA, TEXAS, AT A TOTAL COST OF \$128,809.00; THERE WAS ONE OTHER BIDDER WHO SUBMITTED A BID OF \$99,690.00 BUT IT IS THE CITY MANAGERS RECOMMENDATION THAT SAID BID DID NOT MEET SPECIFICATIONS AND SHOULD BE REJECTED; AND ADOPTING THE CITY MANAGER'S RECOMMENDATION

11. Consider a resolution approving the purchase of a Genie S-80X, 2WD, telescoping boom lift through HGAC from Equipment Depot LTD of Waco, Texas for the Garage Division. (General Services)

RESOLUTION NO. 2011 - 298

RESOLUTION APPROVING THE PURCHASE OF A TELESCOPIC BOOM LIFT FOR USE AT THE SCHARBAUER SPORTS COMPLEX THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF \$120,340.00; AND THIS ITEM WAS NOT ADVERTISED FOR COMPETITIVE BIDS BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

12. Consider a resolution approving plans and specifications and authorizing advertisement for bids for the renovation of Washington Park Pool. (General Services)

RESOLUTION NO. 2011 - 299

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE RENOVATION OF THE WASHINGTON PARK AQUATIC CENTER

13. Consider a resolution authorizing the execution of a professional services agreement with Midland Sports, Incorporated, of Midland, Texas, for professional marketing, promotion, and management services at the Scharbauer Sports Complex at a total cost of \$51, 000. (Community

Services)

RESOLUTION NO. 2011 - 300

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH MIDLAND SPORTS, INCORPORATED , FOR PROFESSIONAL MARKETING, PROMOTION AND MANAGEMENT SERVICES AT THE SCHARBAUER SPORTS COMPLEX AT A TOTAL COST OF \$51,000.00

14. Receive and file the CDBG Annual Report (CDBG)
15. Consider a motion directing staff to begin the annexation process for a tract of land approximately 28 acres. (Generally located at the northwest corner of Holiday Hill Road and Briarwood Avenue). (Planning)
16. Consider a resolution authorizing the Midland Odessa Transportation Organization or MOTOR MPO to be designated as a Transportation Management Area or TMA. (Transportation)

RESOLUTION NO. 2011 - 304

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS IN SUPPORT OF THE MOTOR MPO MOVING FROM A NON-TRANSPORTATION MANAGEMENT AREA (NON-TMA) DESIGNATION TO A TRANSPORTATION MANAGEMENT AREA (TMA) DESIGNATION; AND, DIRECTING STAFF TO REQUEST AND OBTAIN THE NECESSARY CORRESPONDENCE FROM THE GOVERNOR OF THE STATE OF TEXAS, ALONG WITH A FORMAL LETTER OF REQUEST FROM THE MOTOR MPO TO THE UNITED STATES DEPARTMENT OF TRANSPORTATION REQUESTING SAID DESIGNATION

17. Consider a motion on a request from the Texas State Independent Living Council (SILC) authorizing the City of Midland to support a grant from the Texas Department of Transportation that would increase employment and improve transportation services for individuals with disabilities living in the rural counties of Odessa and Midland. (Transportation)
18. Consider a motion on a request by West Company of Midland for Stadium Addition (Toyota of Midland), to approve items requested for deferral in the amount of \$11,707.00, and to waive the associated public improvement guarantee. This subdivision is generally located at the northeast corner of the intersection of West Look 250 and Network Dr. (Engineering)
19. Consider a motion on a request by West Company of Midland for Gateway Plaza (Section 3), to approve items requested for deferral in the amount of \$32,795.70, and to waive the associated public improvement guarantee. This subdivision is generally located at the northwest corner of the intersection of West Loop 250 and Business I-20. (Engineering)
20. Consider a motion on a request by West Company of Midland for Witcher Addition (Lot 2 & Lot 3), to approve items requested for deferral in the amount of \$112,194.00, and to waive the associated public improvement guarantee. This subdivision is generally located at the southwest corner of the intersection of Norden Drive and Liberator Lane. (Engineering)
21. Consider a resolution to assign a project number for the design and construction of drainage and paving improvements for Briarwood Avenue from Holiday Hill Road to Heidleberg Lane. (Engineering)

RESOLUTION NO. 2011 - 305

RESOLUTION APPROPRIATING \$36,413 FROM THE GENERAL FUND (001) UNAPPROPRIATED FUND BALANCE (5650) TO THE BRIARWOOD PAVING AND DRAINAGE IMPROVEMENTS PROJECT (8976)

Agenda - December 13, 2011

22. Consider a resolution to assign a project number for the design and construction of drainage and paving improvements for Mockingbird Lane from Holiday Hill Road to Midland Drive. (Engineering)

RESOLUTION NO. 2011 - 306

RESOLUTION APPROPRIATING \$19,478 FROM THE GENERAL FUND (001) UNAPPROPRIATED FUND BALANCE (5650) TO THE MOCKINGBIRD PAVING AND DRAINAGE IMPROVEMENTS PROJECT (8977)

23. Consider a resolution authorizing staff to re-advertise for bids for the Ward Street Bridge project. (Engineering)

RESOLUTION NO. 2011 - 307

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE WARD STREET BRIDGE PROJECT; SAID PROJECT WILL BE FOR THE REPLACEMENT OF THE BRIDGE DECK, REINFORCEMENT OF THE EXISTING BRIDGE STRUCTURE, IMPROVEMENTS TO PROTECT THE NEW STRUCTURE, AND IMPROVEMENTS TO BRIDGE RAILS AND SIDEWALKS

24. Consider a resolution accepting preclearance from the United States Department of Justice, Civil Rights Division, regarding the City of Midland's 2011 redistricting plan for the election of individual city council members and the configuration of individual districts. (Legal)

RESOLUTION NO. 2011 - 308

RESOLUTION ACCEPTING PRECLEARANCE FROM THE UNITED STATES DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION, REGARDING THE CITY OF MIDLAND'S 2011 REDISTRICTING PLAN FOR THE ELECTION OF INDIVIDUAL CITY COUNCIL MEMBERS AND THE CONFIGURATION OF INDIVIDUAL DISTRICTS

25. Consider a resolution to approve appointment of volunteers enforcing parking restrictions. (Police)

RESOLUTION NO. 2011 - 309

RESOLUTION APPOINTING INDIVIDUALS TO SERVE AS VOLUNTEERS TO ENFORCE AUTOMOBILE PARKING RESTRICTIONS AS AUTHORIZED BY CHAPTER 681 OF THE TEXAS TRANSPORTATION CODE

26. Consider a resolution approving award of the Raw Water Project at the Water Purification Plant to Archer Western Construction, LLC and appropriate funds. (Utilities)

RESOLUTION NO. 2011 - 310

RESOLUTION AWARDING THE RAW WATER PROJECT AT THE WATER PURIFICATION PLANT TO ARCHER WESTERN CONSTRUCTION, L.L.C., AT A TOTAL COST OF \$7,058,965.00

27. Consider a resolution approving the extension of the farm lease agreement with Kevin Cook for part of Section 12, Block 37, TWP-3-S, T&P RR Co. Survey located at the Spraberry Effluent Farm. (Utilities)

RESOLUTION NO. 2011 - 311

RESOLUTION AUTHORIZING AN AMENDMENT TO THE EXISTING SPRABERRY FARM LEASE EXTENSION AGREEMENT WITH KEVIN COOK, EXTENDING THE TERM OF SAID AGREEMENT THROUGH DECEMBER 31, 2012

28. Consider a resolution approving a one year farm lease agreement with Schumann Cattle Company for a 219.3 acre portion of the Plant Farm. (Utilities)

RESOLUTION NO. 2011 - 312

RESOLUTION AUTHORIZING THE EXECUTION OF A ONE-YEAR FARM LEASE AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS, AND SCHUMANN CATTLE COMPANY FOR OPERATION OF THE CONNER FARM LOCATED IN SECTION 10, BLOCK 38, TWP-2-S, T&P RY. CO. SURVEY, MIDLAND COUNTY, TEXAS

29. Consider a resolution approving the suspension of lease payments for AT&T Mobility Texas, L.L.C. while the Shell Tower is being relocated. (Utilities)

RESOLUTION NO. 2011 - 313

RESOLUTION APPROVING THE TEMPORARY SUSPENSION OF LEASE PAYMENTS FROM AT&T MOBILITY TEXAS, L.L.C., (AT&T), FROM JANUARY 1, 2012, THROUGH MAY 1, 2012, WHILE THE SHELL AVENUE ELEVATED WATER TOWER IS RE-COATED

30. Consider a resolution approving the suspension of lease payments for WWC Texas RSA Limited Partnership while the Shell Tower is being relocated. (Utilities)

RESOLUTION NO. 2011 - 314

RESOLUTION APPROVING THE TEMPORARY SUSPENSION OF LEASE PAYMENTS FROM WWC TEXAS RSA, L.P., (VERIZON), FROM JANUARY 1, 2012, THROUGH MAY 1, 2012, WHILE THE SHELL AVENUE ELEVATED WATER TOWER IS RE-COATED

31. Consider a motion on a request by Mayor Perry assigning a team comprised of Mayor Perry, Councilman Dufford, Councilman Morales, Courtney Sharp, Jim Nichols, and Stuart Purvis to review and evaluate the water RFP's recently received by the City. (City Manager)
32. Consider amending all three of the City of Midland's Section 457(b) Deferred Compensation Plan Documents in order to conform to final regulations issued by the Internal Revenue Service. (Administrative Services)

RESOLUTION NO. 2011 - 315

RESOLUTION AUTHORIZING THE ADOPTION OF REVISED AND AMENDED DEFERRED COMPENSATION PLANS OFFERED TO EMPLOYEES OF THE CITY OF MIDLAND, UNDER SECTION 457 OF THE INTERNAL REVENUE SERVICE CODE IN ORDER TO COMPLY WITH FINAL REGULATIONS WITH A COMPLIANCE DEADLINE OF DECEMBER 31, 2011

33. Consider a resolution authorizing the City Manager to execute a Right of Way License for the installation and maintenance of an oil & gas pipeline with Vitol Midstream, L.L.C. (Utilities)

RESOLUTION NO. 2011 - 316

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A RIGHT OF WAY LICENSE FOR THE INSTALLATION AND MAINTENANCE OF AN OIL & GAS PIPELINE ACROSS SECTION 44, BLOCK 38, T-1-S, MIDLAND COUNTY, TEXAS, WITH VITOL MIDSTREAM, L.L.C.

34. Consider a motion authorizing the City Manager to approve the relocation of equipment for Clear Wireless L.L.C. from the Shell Elevated Tower to the Edgewood Elevated Tower while the Shell Tower is being recoated. (Utilities)

SECOND READINGS

35. Consider an ordinance on second reading on a request by Bourbon St. D.C. for a Specific use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, on Lot 24, Block 53, Original Town, City and County of Midland, Texas. (Generally

located on the southeast corner of the intersection of N. Main Street and E. Texas Avenue.)
(Planning) (First reading held November 8, 2011.)

ORDINANCE NO. 8953

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 24, BLOCK 53, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH MAIN STREET AND EAST TEXAS AVENUE), WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

36. Consider an ordinance on second reading on a request by Alan Hale for a zone change from PD, Planned District for a Housing Development to an Amended Planned District on a 2.52-acre portion of Lot 3A, Block 1, Trinity Towers Manor, Sections 3, City and County of Midland, Texas. (Generally located near the northeast corner of the intersection of N. Loop 250 West and Sinclair Avenue on Manor Village Circle.) (Planning) (First reading held November 8, 2011.)

ORDINANCE NO. 8954

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3A, BLOCK 1, TRINITY TOWERS MANOR, SECTION 3, 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 NEAR THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH LOOP 250 WEST AND SINCLAIR AVENUE ON MANOR VILLAGE CIRCLE); 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

37. Consider an ordinance on second reading 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. (Transportation) (First reading held November 8, 2011.)

ORDINANCE NO. 8955

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

38. Consider an ordinance on second reading removing yield signs 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. (Transportation) (First reading held November 8, 2011.)

ORDINANCE NO. 8956

AN ORDINANCE ESTABLISHING YIELD RIGHT OF WAY SIGNS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; REQUIRING AND AUTHORIZING THE POSTING OF APPROPRIATE SIGNS AT SAID 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

PUBLIC HEARINGS

39. At approximately 10:30 A.M. hold a public hearing and consider an ordinance on a request by Los Conchos Ventures, LLC. for a zone change. (Planning)

ORDINANCE NO. 8958

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 19.71-ACRE TRACT OF LAND ("TRACT 1") WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT; BY PERMITTING A 12.97-ACRE TRACT OF LAND ("TRACT 2") WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS AN O-1, OFFICE DISTRICT; BY PERMITTING A 26.33-ACRE TRACT OF LAND ("TRACT 3") 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 60.84-ACRE TRACT OF LAND ("TRACT 4") WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS A 1F-2, ONEFAMILY DWELLING DISTRICT; BY PERMITTING A 7.93-ACRE TRACT OF LAND ("TRACT 5") WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS A TH, TOWNHOUSE DISTRICT; BY PERMITTING A 6.33- ACRE TRACT OF LAND ("TRACT 6") WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS A TH, TOWNHOUSE DISTRICT; BY PERMITTING A 10.64- ACRE TRACT OF LAND ("TRACT 7") WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A TH, TOWNHOUSE DISTRICT; BY PERMITTING A 19.73-ACRE TRACT OF LAND ("TRACT 8") WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A 1F-2, ONE-FAMILY DWELLING DISTRICT; ALL OF SAID TRACTS BEING OUT OF SECTION 6, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS; ALL OF SAID TRACTS BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS MADE A PART HEREOF; SAID TRACTS ARE GENERALLY LOCATED SOUTH OF MOCKINGBIRD LANE, BETWEEN HOLIDAY HILL ROAD AND ORIOLE 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

40. Consider a motion approving a proposed preliminary plat of Greathouse Addition (Los Conchos Development), a 155.99-acre tract out of Section 7, Block "X", H. P. Hilliard Survey, Midland County, Texas. (Generally located on the south side of Mockingbird Lane, between Oriole Drive and Holiday Hill Road.) (Planning)
41. At approximately 10:33 A.M. hold a public hearing and consider an ordinance on a request by Rodney Roberts for a zone change. (Planning)

ORDINANCE NO. 8959

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 2, GREEN HILL TERRACE, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS AN LR-2,

LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE NORTHEAST CORNER OF HOLIDAY HILL ROAD AND MOCKINGBIRD LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

42. At approximately 10:36 A.M. hold a public hearing and consider an ordinance on a request by Midland Bible Church for a zone change. (Planning)

ORDINANCE NO. 8960

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 4, MAYFIELD PLACE ADDITION, 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 EAST SIDE OF WHITMAN DRIVE, APPROXIMATELY ½ MILE NORTH OF MOCKINGBIRD LANE); 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

43. At approximately 10:39 A.M. hold a public hearing and consider an ordinance on a request by Gary Dawson for a Specific Use Permit Without Term for an accessory building for living or sleeping quarters. (Planning)

ORDINANCE NO. 8961

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF LOT 1, BLOCK 1, CAMELOT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF ELKINS ROAD, APPROXIMATELY ONE MILE NORTH OF BUSINESS INTERSTATE 20), WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR AN ACCESSORY BUILDING TO BE USED FOR LIVING OR SLEEPING QUARTERS; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

44. At approximately 10:42 A.M. hold a public hearing and consider an ordinance on a request by Sonny Aguilar for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge. (Planning)

ORDINANCE NO. 8962

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOTS 2 AND 3, BLOCK 27, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH COLORADO STREET AND WEST OHIO AVENUE), WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

45. At approximately 10:45 A.M. hold a public hearing and consider an ordinance on a request by InSite Tower, LLC. Specific Use Permit without Term for a Wireless Communication System. (Planning)

ORDINANCE NO. 8963

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 2, BLOCK 5, NORTHLAND SHOPPING CENTER, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF SCHARBAUER DRIVE AND NORTH "A" STREET), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A WIRELESS COMMUNICATION TOWER; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

46. At approximately 10:48 A.M. hold a public hearing and consider an ordinance on a request by Matt Gallagher for a Specific Use Permit without Term for an accessory building for living or sleeping quarters. (Planning)

ORDINANCE NO. 8964

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF LOT 19, BLOCK 9, REPLAT OF BLOCK 9, 2 SECTION, MA-ND MAR TERRACE, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF STANOLIND CIRCLE, APPROXIMATELY 350 FEET EAST OF CESSNA DRIVE), WHICH IS PRESENTLY ZONED 1F-1, ONE -FAMILY DWEL L ING DI STRICT , BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR AN ACCESSORY BUILDING TO BE USED FOR LIVING OR SLEEPING QUARTERS; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

47. At approximately 10:51 A.M. hold a public hearing and consider a resolution on a request by Westlake Hardware, Inc. for a Temporary Land Use Permit for Outdoor Sales. (Planning)

RESOLUTION NO. 2011 - 317

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR OUTDOOR SALES ON LOT 1, BLOCK 5, PARK PLACE, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF ANDREWS HIGHWAY AND CUTHBERT AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

48. At approximately 10:57 A.M. hold a public hearing and consider an ordinance on a request by Mid-Cities Church 191 for Special Exception to the zoning code. (Planning)

ORDINANCE NO. 8965

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 1, BLOCK 1, WESTLAKE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF STATE HIGHWAY 191 AND NORTH COUNTY ROAD 1275), BY PERMITTING A BUILDING TO EXCEED THE MAXIMUM HEIGHT LIMIT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

49. At approximately 11:00 A.M. hold a public hearing and consider a resolution on a request by Erasto Martinez dba Triple M Construction for a proposed preliminary plat ON APPEAL of Country Sky Addition. (Planning)

RESOLUTION NO. 2011 - 318

RESOLUTION APPROVING A PRELIMINARY PLAT OF COUNTRY SKY ADDITION, SECTION 12, BEING A REPLAT OF LOT 27, BLOCK 4, COUNTRY SKY ADDITION, SECTION 10, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF TUMBLEWEED TRAIL , APPROXIMATELY 780 FEET NORTH OF CACTUS TRAIL); THIS PLAT WAS DENIED BY THE PLANNING AND ZONING COMMISSION; AND THIS RESOLUTION IS AN APPEAL TO THE CITY COUNCIL

50. At approximately 11:03 A.M. hold a public hearing and consider a resolution on a request by Arcelia Renteria for an Extension for a Special Temporary for a Manufactured Home. (Planning)

RESOLUTION NO. 2011 - 319

RESOLUTION AUTHORIZING A TEMPORARY SPECIAL PERMIT FOR A MANUFACTURED HOME ON LOT 9, BLOCK 1, HOLLOWAY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF TERRELL STREET, APPROXIMATELY 150 FEET SOUTH OF CUTHBERT AVENUE)

51. At approximately 11:06 A.M. hold a public hearing and consider an ordinance on a request by Larry Mills for a zone change from PD, Planned District for a Transition District. (Planning)

ORDINANCE NO. 8966

AN ORDINANCE ADOPTING A SITE PLAN FOR LOT 1, BLOCK 83, WEST END, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF WEST WALL STREET AND "J" STREET); SUBJECT TO THE FOLLOWING CONDITIONS AND RESTRICTIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

52. At approximately 11:09 A.M. hold a public hearing and consider an ordinance on a request by SBC, L.P. for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District. (Planning)

ORDINANCE NO. 8967

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 4.68-ACRE PORTION OF THE REMAINDER OF LOT 1, BLOCK 6, WESTRIDGE PARK ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF CHAMPIONS DRIVE AND TRADEWINDS BOULEVARD); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

53. At approximately 11:12 A.M. hold a public hearing and consider a request by RSP Permian, L.L.C. (Bus Barn #2601) for a Permit to Drill an Oil and Gas Well within the City Limits located 733' FNL and 1905' FWL, Section 26, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of Briarwood Avenue, approximately 870 feet east

of Heidelberg Lane.) This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period at a regularly scheduled meeting. (Planning)

54. At approximately 11:15 A.M. hold a public hearing and consider a request by RSP Permian, L.L.C. (Bus Barn #2602) for a Permit to Drill an Oil and Gas Well within the City Limits located 600' FNL and 525' FWL, Section 26, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of Briarwood Avenue, approximately 450 feet west of Heidelberg Lane.) This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period at a regularly scheduled meeting. (Planning)
55. At approximately 11:18 A.M. hold a public hearing and consider a request by RSP Permian, L.L.C. (Bus Barn #2603) for a Permit to Drill an Oil and Gas Well within the City Limits located 690' FNL and 1080' FEL, Section 26, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of Briarwood Avenue, approximately 600 feet west of Roadrunner Trail.) This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period at a regularly scheduled meeting. (Planning)
56. At approximately 11:21 A.M. hold a public hearing and consider a request by Pioneer Natural Resources (Mabee #3) for a Permit to Drill an Oil and Gas Well within the City Limits located 660' FNL and 1980' FEL, Section 12, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of State Highway 349, approximately 1 mile north of Arapahoe Road.) This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period at a regularly scheduled meeting. (Planning)
57. At approximately 11:24 A.M. hold a public hearing and consider a request by Pioneer Natural Resources (Mabee E #4) for a Permit to Drill an Oil and Gas Well within the City Limits located 800' FSL and 1980' FEL, Section 12, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of State Highway 349 north of Arapahoe Road.) This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period at a regularly scheduled meeting. (Planning)
58. At approximately 11:27 A.M. hold a public hearing and consider a request by Pioneer Natural Resources (Mabee D #5) for a Permit to drill an Oil and Gas Well within the City Limits located 1880' FNL and 1980' FWL, Section 12, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of State Highway 349, approximately 3/4 mile north of Arapahoe Road.) This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period at a regularly scheduled meeting. (Planning)
59. At approximately 11:30 A.M. hold a public hearing and consider a request by Pioneer Natural Resources (Mabee D #6) for a Permit to drill an Oil and Gas Well within the City Limits located 1865' FNL and 660' FEL, Section 12, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of State Highway 349, approximately 3/4 mile north of Arapahoe Road.) This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period at a regularly scheduled meeting. (Planning)
60. At approximately 11:33 A.M. hold a public hearing and consider a resolution on a request by Robert Anderson for a Temporary Land Use Permit for a Caliche Pit. (Planning)

RESOLUTION NO. 2011 - 320
RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CALICHE PIT ON A

128.08-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK 38, T-1- S, T&P RR CO. SURVEY, MARTIN COUNTY, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF ELKINS ROAD, APPROXIMATELY ONE-HALF MILE NORTH OF ARAPAHOE ROAD); MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

DEVELOPMENT SERVICES

61. Consider an ordinance amending currently adopted Energy Code to meet Texas state law requirements. (Code Administration)

ORDINANCE NO. 8968

AN ORDINANCE AMENDING TITLE IV, "BUILDING REGULATIONS", CHAPTER 12, "ENERGY CODE", SECTION 2, "CHANGES AND ADDITIONS TO ADOPTED ENERGY CODE", OF THE CITY CODE OF THE CITY OF MIDLAND, TEXAS, SO AS TO REMOVE THE EXEMPTION FOR ADDITIONS, ALTERATIONS OR REPAIRS TO EXISTING RESIDENTIAL AND COMMERCIAL STRUCTURES; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM FINE OR PENALTY OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

62. Consider an ordinance on a City-initiated request to vacate a portion of E. Hamby Avenue and two alleys. (Planning)

ORDINANCE NO. 8969

AN ORDINANCE VACATING AND ABANDONING A 0.62-ACRE TRACT OF STREET AND ALLEY RIGHT-OF-WAY LOCATED IN BLOCK 79, EAST MIDLAND ADDITION, AND BLOCKS 2 AND 4, GLENN FRANCIS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF EAST GOLF COURSE ROAD AND NORTH JACKSON STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$2,718.80; WAIVING THE FEE FOR THE COST OF THE RIGHT-OF-WAY; RETAINING A GENERAL UTILITY AND DRAINAGE EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY

63. Consider an ordinance on a request by Andrew Mellen for the vacation of the 0.10-acre north/south alley and a 0.02-acre portion of the right-of-way of N. Marienfeld Street adjacent to the east half of Block 31A, Homestead Addition, City and County of Midland, Texas. (Planning)

ORDINANCE NO. 8970

AN ORDINANCE VACATING AND ABANDONING A 0.025-ACRE PORTION OF MARIENFELD STREET RIGHT-OF-WAY ADJACENT TO THE EAST HALF OF BLOCK 31A, AND A 0.099-ACRE NORTH/SOUTH ALLEY ADJACENT TO LOTS 1-8, BLOCK 31A, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF LOUISIANA AVENUE AND MARIENFELD STREET); ADOPTING THE APPRAISAL BY THE CITYMANAGER OF \$2,612.50; RETAINING A GENERAL UTILITY AND DRAINAGE EASEMENT; AND ORDERING RECORDATION BY THE CITYSECRETARY

64. Consider an ordinance on a request by Andrew Mellen for the vacation of a 0.55-acre portion of the right-of-way of Stonewall Street, a 0.17-acre portion of the right-of-way of Garden Lane, and a 0.14-acre portion of north/south alley right-of-way all adjacent to Block A, Montgomery Addition, City and County of Midland, Texas. (Planning)

ORDINANCE NO. 8971

AN ORDINANCE VACATING AND ABANDONING A 0.55-ACRE PORTION OF STONEWALL STREET RIGHT-OF-WAY, A 0.16-ACRE PORTION OF GARDEN LANE RIGHT-OF-WAY, AND

A 0.14-ACRE PORTION OF THE NORTH/SOUTH ALLEY RIGHT-OF-WAY, ALL ADJACENT TO BLOCK "A", MONTGOMERY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF GARDEN LANE AND FAIRGROUNDSROAD); ADOPTING THE APPRAISAL BY THE CITYMANAGER OF \$3,740.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

65. Consider an amended annexation ordinance to indicate that a portion of the land proposed for annexation on the west side of FM 1788 and on the north side of SH 191 will remain in the city's extraterritorial jurisdiction due to the owners requesting an agricultural use exemption agreement with the City. (Planning)

ORDINANCE NO. 8972

AN ORDINANCE AMENDING ORDINANCE NO. 8925 OF THE CITY OF MIDLAND BY ATTACHING AN AGREEMENT EXECUTED BY THE CITY MANAGER OF THE CITY OF MIDLAND AND OWNERS OF APPROXIMATELY 309 ACRES OUT OF SECTION 37, BLOCK 41, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, PURSUANT TO SECTION 43.035 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING THAT THE PROPERTY SUBJECT TO SUCH AGREEMENT SHALL REMAIN IN THE CITY'S EXTRATERRITORIAL JURISDICTION; PROVIDING THAT, EXCEPT AS AMENDED, ORDINANCE NO. 8925 SHALL REMAIN IN FULL FORCE AND EFFECT; CONTAINING A CUMULATIVE CLAUSE ; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ORDERING PUBLICATION; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO FILE A COPY OF THIS ORDINANCE IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND THE CITY MANAGER IS HEREBY AUTHORIZED AND DIRECTED TO EXECUTE THE AGREEMENT

66. Consider an ordinance on a request from the Texas Department of Transportation establishing a temporary construction speed zone of 60 miles per hour on a portion of Interstate 20 within the City Limits of Midland, Texas. (Transportation)

ORDINANCE NO. 8973

AN ORDINANCE ESTABLISHING A TEMPORARY CONSTRUCTION SPEED ZONE OF 60 MILES PER HOUR ON A PORTION OF INTERSTATE 20 FOR A STATE HIGHWAY IMPROVEMENT PROJECT BY THE TEXAS DEPARTMENT OF TRANSPORTATION; AUTHORIZING INSTALLATION OF APPROPRIATE SIGNS AND MARKINGS; 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

MISCELLANEOUS

67. Consider an ordinance amending Title VIII, "Food Establishments, Health and General Sanitation", Chapter 6, "Garbage, Trash and Rubbish", Section 9, "Collection from Commercial Customers", of the City Code of Midland, Texas, so as to replace the explanatory paragraph of Table 1. Standard Commercial Locations: Three Yard Containers. (Solid Waste)

ORDINANCE NO. 8974

AN ORDINANCE OF THE CITY OF MIDLAND AMENDING TITLE VIII, "FOOD ESTABLISHMENTS, HEALTH AND GENERAL SANITATION," CHAPTER 6, "GARBAGE, TRASH AND RUBISH," SECTION 9, "COLLECTION FROM COMMERCIAL CUSTOMERS" FOR CLARIFICATION; AND ORDERING PUBLICATION

68. Consider a resolution amending Article VIII of the Airport Minimum Standards. (Airport)

RESOLUTION NO. 2011 - 321

RESOLUTION AUTHORIZING AN AMENDMENT TO ARTICLE VIII. PRIVATELY OWNED NONCOMMERCIAL HANGAR AND AVIATION FUEL DISPENSING FACILITY OF THE

AIRPORT MINIMUM STANDARDS AT THE MIDLAND INTERNATIONAL AIRPORT

69. Consider a resolution authorizing the execution of a Land Lease Agreement between Good Luck Investments L.L.C. and the City of Midland for a 0.28 acre tract of land. (Airport)

RESOLUTION NO. 2011 - 322

RESOLUTION AUTHORIZING THE EXECUTION OF A LAND LEASE AGREEMENT WITH GOOD LUCK INVESTMENTS L.L.C., FOR HANGAR DEVELOPMENT LOCATED ON A 0.28 ACRE TRACT OF LAND LOCATED IN LOT 4B, BLOCK 11, MIDLAND INTERNATIONAL AIRPORT, INDUSTRIAL PARK ADDITION, SECTION 6, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

70. Consider a motion making appointments to various Boards and Commissions.
71. Consider a request from Bluestem Energy Holdings, LLC. (Evans "J" #1) for a Permit to drill an Oil and Gas Well within the City Limits. (Planning)

RESOLUTION NO. 2011 - 301

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 2,322 FEET FROM THE SOUTH LINE AND 2,310 FEET FROM THE EAST LINE, SECTION 8, BLOCK "X", T-1-S, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY ½ MILE NORTH OF MOCKINGBIRD LANE); AND CONSOLIDATING SAID PERMIT UNDER AN EXISTING ROAD REPAIR AGREEMENT

72. Consider a request from Callon Petroleum (Annie #3) for a Permit to drill an Oil and Gas Well within the City Limits. (Planning)

RESOLUTION NO. 2011 - 302

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 849 FEET FROM THE NORTH LINE AND 2,087 FEET FROM THE EAST LINE, SECTION 48, BLOCK 41, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH FARM-TO-MARKET ROAD 1788, APPROXIMATELY 1 MILE SOUTH OF STATE HIGHWAY 191); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

73. Consider a request from Callon Petroleum (Annie #8) for a Permit to drill an Oil and Gas Well within the City Limits. (Planning)

RESOLUTION NO. 2011 - 303

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 671 FEET FROM THE NORTH LINE AND 1,197 FEET FROM THE EAST LINE, SECTION 48, BLOCK 41, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH FARM-TO-MARKET ROAD 1788, APPROXIMATELY 1 MILE SOUTH OF STATE HIGHWAY 191); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

EXECUTIVE SESSION

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

- a. Section 551.071, Consultation with the City Attorney:
 - 1. Discuss with the City Attorney contemplated litigation with the U.S. Fish and Wildlife Service regarding the Dunes Sagebrush Lizard.
 - 2. Discuss with the City Attorney and Attorney(s) with the law firm of Cotton, Bledsoe, Tighe, and Dawson, litigation styled In Re: Heritage Consolidated, LLC, Case No. 10-36484-hdh, Chapter 11, Jointly Administred, in the United States Bankruptcy Court, Northern District of Texas, Dallas Division.
- b. Section 551.072, Deliberation Regarding Real Property
 - 3. Deliberate the lease and value of approximately 0.28 acres of land located in Lot 4B, Block 11, Midland International Airport Industrial Park Addition, Section 6, an Addition to the City of Midland, Midland County Texas, to Good Luck Investments, L.L.C, organized and existing under and by virtue of the laws of the State of New Mexico.

Respectfully Submitted,

Courtney B. Sharp
City Manager

**MIDLAND CITY COUNCIL
MINUTES
November 08, 2011**

BRIEFING SESSION

REGULAR SESSION

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

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 City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas at 10:14 a.m., November 08, 2011.

OPENING ITEMS

1. Invocation - Reverend Blake Collins, Midland First Assembly Of God-Youth Minister
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Presentation of Commendation to Irece Jordan.

Mayor Perry noted that Irece Jordan would not be present to receive her commendation as her husband had passed away this morning. A moment of silence was observed.

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.

Paul Lewis, 3501 Gulf, requested the City Council place an item on a future agenda to consider and discuss a proposal halting the issuance of new water meters at new locations in the City of Midland until such time as the drought or rationing ceases. He distributed a graph showing the correlation between rainfall and water available in CRMWD reservoirs noting that last year sufficient rainfall was received but reservoir levels have continued to diminish.

Lisa Grissom, 112 S. Loraine, Suite 440, representing Tall City Blues Fest, asked that her request to have fees waived (Agenda Item No. 42) not be considered. She stated that after much consideration she felt that the request did not align with the organization's beliefs. She also asked that the City Council review their policy as to the amount of deposit charged for the Midland Center and Centennial Plaza. She distributed a document outlining plans for the 2012 event.

Kaethe Selkirk, 5555 N. Lamar Boulevard, Austin, noted she was from the Texas State Independent Living Council. She indicated they were working on a TXDOT grant for the disabled and requested the City Council offer their support. Mayor Perry noted that the City Council could not take action on this item and suggested she provide a sample resolution for their consideration at their next meeting.

CONSENT AGENDA

Council Member Trost made a motion to approve Consent Agenda Items 5-26 with the exception of Agenda Item numbers 21, 24, and 26; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None ABSTAIN: None ABSENT: None

5. Approved a motion approving the following minutes:
 - a. Regular City Council Meeting of October 25, 2011.
6. Approved a resolution to proceed with Fiscal Year 2012 General Purpose Certificates of Obligation Issue. (Finance)

RESOLUTION NO. 2011 - 261

RESOLUTION APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE SERIES 2012 CERTIFICATED OF OBLIGATION IN AN AMOUNT NOT TO EXCEED THIRTY-ONE MILLION ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$31,150,000.00); AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CAUSE NOTICES TO BE PUBLISHED AND POSTED

7. Approved a resolution approving the City of Midland's Fiscal Year 2012 Investment Policy. (Finance)

RESOLUTION NO. 2011 - 262

RESOLUTION APPROVING THE CITY OF MIDLAND'S FISCAL YEAR 2012 INVESTMENT POLICY

8. Received information regarding the fourth quarter Fiscal Year 2011 Investment Report. (Finance)
9. Approved a resolution approving Fiscal Year 2011 Miscellaneous write-offs. (Finance)

RESOLUTION NO. 2011 - 263

RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR MISCELLANEOUS ACCOUNTS RECEIVABLE AND INSUFFICIENT FUNDS CHECKS

10. Approved a resolution approving Fiscal Year 2011 Water, Sewer and Sanitation write-offs. (Finance)

RESOLUTION NO. 2011 - 264

RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR WATER, SEWER, AND GARBAGE COLLECTION SERVICES

11. Approved a resolution approving Fiscal Year 2011 EMS write-offs. (Finance)

RESOLUTION NO. 2011 - 265

RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR EMERGENCY MEDICAL SERVICES RECEIVABLES

12. Approved a resolution casting the City of Midland ballots for the Midland Central Appraisal District Board of Directors. (Finance)

RESOLUTION NO. 2011 - 266

RESOLUTION CASTING THE CITY OF MIDLAND'S VOTES FOR DIRECTORS OF THE MIDLAND CENTRAL APPRAISAL DISTRICT AND DIRECTING THE CITY MANAGER TO FILE THE APPROPRIATE DOCUMENTS.

13. Approved a resolution allocating funds to the CGI System Upgrade Project (8817). (Finance)

RESOLUTION NO. 2011 - 267

RESOLUTION ALLOCATING \$216,220.00 TO THE CGI SYSTEMS UPGRADE PROJECT (8817)

14. Approved a resolution approving the sole source purchase of 1250 MXUs for the Automated Meter Reader System for the Customer Service Division. (General Services)

RESOLUTION NO. 2011 - 268

RESOLUTION APPROVING THE PURCHASE OF ONE THOUSAND TWO HUNDRED

FIFTY (1,250) TRANSMITTERS FOR USE WITH THE CITY'S AUTOMATED WATER METER READER SYSTEM FROM WESTERN INDUSTRIAL SUPPLY, L.L.C., OF ODESSA, TEXAS, FOR \$150,000.00; AND ACCEPTING THE CITY MANAGER'S RECOMMENDATION THAT SAID TRANSMITTERS ARE PROPRIETARY IN NATURE AND AVAILABLE ONLY FROM A SOLE SOURCE

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

RESOLUTION NO. 2011 - 269

RESOLUTION APPROVING THE PURCHASE OF AN AMBULANCE THROUGH THE HOUSTON GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF \$166,900.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

16. Approved a resolution approving plans and specifications and authorizing advertisement for request for proposals for a storage area network. (CISD)

RESOLUTION NO. 2011 - 270

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR THE CONSTRUCTION OF A STORAGE AREA NETWORK AT 601 NORTH LORAIN, MIDLAND, TEXAS, FOR THE COMMUNICATIONS AND INFORMATION SERVICES DEPARTMENT

17. Approved a resolution approving plans and specifications and authorizing advertisement for request for proposals for an Internet Service Provider. (CISD)

RESOLUTION NO. 2011 - 271

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR AN INTERNET SERVICE PROVIDER FOR THE COMMUNICATIONS AND INFORMATION SERVICES DEPARTMENT

18. Approved a resolution authorizing the acceptance of \$150,358.00 in reimbursement funds from the Texas Department of State Health Services to reimburse the Health and Senior Services Division for the delivery of Immunization Services; and authorizing the execution of acceptance documents. (Community Services)

RESOLUTION NO. 2011 - 272

RESOLUTION AUTHORIZING THE ACCEPTANCE OF FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES TO REIMBURSE THE CITY OF MIDLAND HEALTH AND SENIOR SERVICE DIVISION FOR THE DELIVERY OF IMMUNIZATION SERVICES; AND AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS

19. Approved a resolution authorizing the acceptance of \$101,889.00 in reimbursement funds from the Texas Department of State Health Services to assist the Health and Senior Services Division with the delivery of Bioterrorism Preparedness Program Services; and authorizing the execution of acceptance documents. (Community Services)

RESOLUTION NO. 2011 - 273

RESOLUTION AUTHORIZING THE ACCEPTANCE OF \$101,889.00 IN REIMBURSEMENT FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES TO ASSIST THE HEALTH AND SENIOR SERVICE DIVISION WITH THE DELIVERY OF PUBLIC HEALTH EMERGENCY PREPAREDNESS SERVICES; AND AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS

20. Approved a resolution authorizing the acceptance of \$55,814.00 in reimbursement funds from the Texas Department of State Health Services to assist the Health and Senior Services Division with the delivery of Local Public Health Services; and authorizing the execution of acceptance documents. (Community Services)

RESOLUTION NO. 2011 - 274

RESOLUTION AUTHORIZING THE ACCEPTANCE OF REIMBURSEMENT FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES IN THE AMOUNT OF \$55,814.00 TO ASSIST THE HEALTH AND SENIOR SERVICE DIVISION WITH THE DELIVERY OF LOCAL PUBLIC HEALTH SERVICES; AND AUTHORIZING THE

EXECUTION OF ACCEPTANCE DOCUMENTS

22. Approved a resolution authorizing the City Manager to advertise a Request for Qualification (RFQ) for firms to provide professional services (engineering and surveying) for the paving and drainage improvements along Briarwood Avenue from Holiday Hill Road to Heidelberg Lane (approximately 2 miles) (Engineering)

RESOLUTION NO. 2011 - 275

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES FOR PAVING AND DRAINAGE IMPROVEMENTS ALONG BRIARWOOD AVENUE FROM HOLIDAY HILL ROAD TO HEIDELBERG LANE; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT FOR SAID SERVICES; AND PROVIDING THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

23. Approved a resolution authorizing the City Manager to advertise a Request for Qualification (RFQ) for firms to provide professional services (engineering and surveying) for the paving and drainage improvements along Mockingbird Lane from Holiday Hill Road to Midland Drive (approximately one mile). (Engineering)

RESOLUTION NO. 2011 - 276

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES FOR PAVING AND DRAINAGE IMPROVEMENTS ALONG MOCKINGBIRD LANE FROM HOLIDAY HILL ROAD TO MIDLAND DRIVE; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT FOR SAID SERVICES; AND PROVIDING THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

The following items were pulled from Consent Calendar and considered individually.

25. Consider a resolution approving award of the Water System Improvements: Rehabilitation & Lead Abatement of Airport and Shell Elevated Storage Tanks Project to A & M Construction and Utilities, Inc. and appropriate funds. (Utilities)

RESOLUTION NO. 2011 - 278

RESOLUTION AWARDED THE WATER SYSTEM IMPROVEMENTS: REHABILITATION AND LEAD ABATEMENT OF AIRPORT AND SHELL ELEVATED STORAGE TANKS PROJECT TO A & M CONSTRUCTION AND UTILITIES, INCORPORATED, AT A TOTAL COST OF \$1,432,500.00; AND APPROPRIATING FUNDS

Council Member Trost made a motion to adopt Resolution No. 2011-278; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None ABSTAIN: None ABSENT: None.

24. Consider a resolution approving an amendment to the existing professional services agreement with Parkhill, Smith & Cooper and appropriating funds project for landfill support services. (Solid Waste)

RESOLUTION NO. 2011 - 277

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT TASK ORDER WITH PARKHILL, SMITH & COOPER, INCORPORATED, OF MIDLAND, TEXAS, FOR PROFESSIONAL LANDFILL SUPPORT SERVICES , AT AN ESTIMATED TOTAL COST OF \$152,390.00; AND APPROPRIATING FUNDS

Discussion ensued regarding the services that would be provided by Parkhill, Smith, and Cooper.

Council Member Trost made a motion to adopt Resolution No. 2011-277; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None ABSTAIN: None ABSENT: None.

26. Consider a resolution establishing the dates of regular City Council Meetings to be held in calendar year 2012. (City Manager)

RESOLUTION NO. 2011 - 279

RESOLUTION ESTABLISHING THE DATES OF THE REGULAR CITY COUNCIL

MEETINGS TO BE HELD DURING THE CALENDAR YEAR 2012

Following brief discussion, Council Member Sparks made a motion to adopt Resolution No. 2011-279 with the addition of June 26, 2012, and November 27, 2012; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None ABSTAIN: None ABSENT: None

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

21. Consider a motion on a request by West Company of Midland for Bizzell-Kiser Addition (Section 9), to approve items requested for deferral, and to waive the associated public improvement guarantee. This subdivision is generally located on the south side of Wolcott Avenue between Fort Worth Street and Terrell Street. The total value of the deferrals is \$91,399.12. (Engineering)

Discussion ensued about the types of improvements being made to the site and about requirement for moving mobile homes.

Council Member Hailey made a motion to approve a request by West Company of Midland for Bizzel-Kiser Addition (Section 9), to approve items requested for deferral, and to waive the associated public improvement guarantee; seconded by Council Member Trost.

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

PUBLIC HEARINGS

29. At approximately 10:36 A.M. hold a public hearing and consider an ordinance on a request by Bourbon St. D.C. for a Specific use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, on Lot 24, Block 53, Original Town, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of N. Main Street and E. Texas Avenue.)

ORDINANCE NO. 8953

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 24, BLOCK 53, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH MAIN STREET AND EAST TEXAS AVENUE), WHICH IS PRESENTLY ZONED C-1,CENTRAL AREA DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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

Mayor Perry opened the public hearing at 10:39. There being no one present wishing to speak, the public hearing was immediately closed.

City Secretary Turner read the caption of Ordinance No. 8953.

Council Member Trost made a motion to approve the first of two readings of Ordinance No. 8953 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

City Attorney Stretcher suggested that Section One of the Ordinance be amended to read "with term".

Council Member Sparks moved to amend Section One to read "with term"; seconded by Council Member Trost. The motion to amend carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

30. At approximately 10:39 A.M. hold a public hearing and consider an ordinance on a request by Alan Hale for a zone change from PD, Planned District for a Housing Development to an Amended Planned District on a 2.52-acre portion of Lot 3A, Block 1, Trinity Towers Manor, Sections 3, City and County of Midland, Texas. (Generally located near the northeast corner of the intersection of N. Loop 250 West and Sinclair Avenue on Manor Village Circle.)

ORDINANCE NO. 8954

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3A, BLOCK 1, TRINITY TOWERS MANOR, SECTION 3, 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 NEAR THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH LOOP 250 WEST AND SINCLAIR AVENUE ON MANOR VILLAGE CIRCLE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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

Mayor Perry opened the public hearing at 10:44 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. 8954.

Council Member Sparks made a motion to approve the first of two readings of Ordinance No. 8954 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None ABSTAIN: None ABSENT: None.

31. At approximately 10:45 A.M. hold a public hearing and consider a resolution on a request by Joe Smith / Oregon Trail Trees for a Temporary Land Use Permit for Outdoor Christmas Tree Sales on the remainder of Lot 1, Block 1, Scotsdale Addition, Section Two, City and County of Midland, Texas. (Generally located on the west side of N. Midland Drive, approximately 160 feet south of W. Dengar Avenue.)

RESOLUTION NO. 2011 - 280

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR OUTDOOR CHRISTMAS TREE SALES ON LOT 1, BLOCK 1, SCOTSDALE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 160 FEET SOUTH OF WEST DENGAR AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division Manager gave an overview of the item noting that staff recommended approval.

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

Council Member Morales made a motion to adopt Resolution No. 2011-280; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

27. Consider an ordinance on second reading on a request by SBC, LP. for a zone change from FD, Future Development District to PD, Planned District for a Housing Development on a 16.63-acre tract of land out of Section 25, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the northwest corner of the intersection of Crowley Boulevard and Rio Grande Avenue.) (Planning)

ORDINANCE NO. 8951

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 16.63-ACRE TRACT OF LAND (BEING 19.04 ACRES INCLUSIVE OF DEDICATED RIGHTS-OF-WAY) OUT OF SECTION 25, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE NORTHWEST CORNER OF CROWLEY BOULEVARD AND RIO GRANDE 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

City Secretary Turner read the caption of Ordinance No. 8951.

Council Member Trost made a motion to approve the second and final reading of Ordinance No. 8951 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

28. Consider an ordinance on second reading on a request by City of Midland for zone change from 1F-2, One-Family Dwelling District to 1F-3, One Family Dwelling District on Lots 9 through 14, Block 1; Lots 1 through 8, Block 2; Lots 3 through 8, Block 3; Lots 1 through 8 Block 4, Glenn Frances Addition; of Lots 3 through 10, Block 4 and Lots 1 thorough 9, Block 5, Glenmore Heights; and of the N/E 5 acres of Block 79, East Midland, city and County of Midland, Texas (Generally located near the southwest corner of the intersection of E. Golf Course Road and Tilden Street.) (Planning)

ORDINANCE NO. 8952

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 9-14, BLOCK 1, LOTS 1-8, BLOCK 2, LOTS 3-8, BLOCK 3, LOTS 1-8, BLOCK 4, GLENN FRANCES ADDITION; LOTS 3-10, BLOCK 4, LOTS 1-9, BLOCK 5, GLENMORE HEIGHTS; AND THE NORTHEAST 5 ACRES OF BLOCK 79, EAST MIDLAND, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A 1F-3, ONE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF EAST GOLF COURSE ROAD AND TILDEN STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

City Secretary Turner read the caption of Ordinance No. 8952.

Council Member Hailey made a motion to approve the second and final reading of Ordinance No. 8952 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

DEVELOPMENT SERVICES

32. 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. (Transportation)

ORDINANCE NO. 8955

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

Transportation Manager Gary Saunders gave an overview of the item.

City Secretary Turner read the caption of Ordinance No. 8955.

Council Member Morales made a motion to approve the first of two reading of Ordinance No. 8955 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

Brief discussion ensued regarding LED lights and how they are replaced.

33. Consider an ordinance removing yield signs 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. (Transportation)

ORDINANCE NO. 8956

AN ORDINANCE ESTABLISHING YIELD RIGHT OF WAY SIGNS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; REQUIRING AND AUTHORIZING THE POSTING OF APPROPRIATE SIGNS AT SAID 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

Transportation Manager Saunders gave an overview of the item.

City Secretary Turner read the caption of Ordinance No. 8956.

Council Member Sparks made a motion to approve the first of two readings of Ordinance No. 8956 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

Brief discussion ensued about what qualifies an intersection for a 4-way stop.

MISCELLANEOUS

34. Consider a request from Bluestem Energy for a Permit to Drill an Oil and Gas Well within the City Limits located 1021' FNL and 2310' FWL, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the east side of the N. Midland Drive, approximately 3/4 mile north of Mockingbird Lane.) (Planning)

RESOLUTION NO. 2011 - 281

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1021 FEET FROM THE NORTH LINE AND 2310 FEET FROM THE WEST LINE, SECTION 8, BLOCK "X", T-1-S, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 3/4 OF A MILE NORTH OF MOCKINGBIRD LANE)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting that this was one of five wells that had been brought before the City Council and public hearings were held on September 27, 2011. He noted that they were asking for a variance on landscaping and that no letters of objection had been received. He explained that the following four items on the agenda were all related to the same area but for five different wells.

Council Member Trost made a motion to adopt Resolution No. 2011-281; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

35. Consider a request from Bluestem Energy for a Permit to Drill an Oil and Gas Well within the City Limits located 1021' FNL and 1041' FWL, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the N. Midkiff Road, approximately 3/4 mile north of Mockingbird Lane.) (Planning)

RESOLUTION NO. 2011 - 282

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY

LIMITS LOCATED 1021 FEET FROM THE NORTH LINE AND 1041 FEET FROM THE WEST LINE, SECTION 8, BLOCK "X", T-1-S, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 3/4 OF A MILE NORTH OF MOCKINGBIRD LANE)

Mr. Jenkins noted that this was the second of five wells with the same information as previously noted.

Council Member Morales made a motion to adopt Resolution No. 2011-282; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

36. Consider a request from Bluestem Energy for a Permit to Drill an Oil and Gas Well within the City Limits located 1650' FNL and 2310' FEL, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the N. Midkiff Road, approximately 3/4 mile north of Mockingbird Lane.) (Planning)

RESOLUTION NO. 2011 - 283

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1650 FEET FROM THE NORTH LINE AND 2310 FEET FROM THE EAST LINE, SECTION 8, BLOCK "X", T-1-S, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY 3/4 OF A MILE NORTH OF MOCKINGBIRD LANE)

Mr. Jenkins noted that this was the third of five wells with the same information as previously noted.

Council Member Trost made a motion to adopt Resolution No. 2011-283; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Sparks, Perry, James, Hailey. NAY: None. ABSTAIN: None. ABSENT: Dufford.

37. Consider a request from Bluestem Energy for a Permit to Drill an Oil and Gas Well within the City Limits located 1650' FNL and 990' FEL, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the N. Midkiff Road, approximately 3/4 mile north of Mockingbird Lane.) (Planning)

RESOLUTION NO. 2011 - 284

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1650 FEET FROM THE NORTH LINE AND 990 FEET FROM THE EAST LINE, SECTION 8, BLOCK "X", T-1-S, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY 3/4 OF A MILE NORTH OF MOCKINGBIRD LANE)

Mr. Jenkins noted that this was the fourth of five wells with the same information as previously noted.

Council Member Sparks made a motion to adopt Resolution No. 2011-284; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

38. Consider a request from Bluestem Energy for a Permit to Drill an Oil and Gas Well within the City Limits located 2310' FSL and 990' FEL, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the N. Midkiff Road, approximately 1/2 mile north of Mockingbird Lane.) (Planning)

RESOLUTION NO. 2011 - 285

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 2310 FEET FROM THE SOUTH LINE AND 990 FEET FROM THE EAST LINE, SECTION 8, BLOCK "X", T-1-S, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY 1/2 MILE NORTH OF MOCKINGBIRD LANE)

Mr. Jenkins noted that this was the fifth of five wells with the same information as previously noted.

Council Member Hailey made a motion to adopt Resolution No. 2011-285; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

39. Consider a resolution authorizing the execution of a road repair agreement with Bluestem Energy Holdings, LLC. (Planning)

RESOLUTION NO. 2011 - 286

RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH BLUESTEM ENERGY HOLDINGS, LLC REGARDING ITS APPLICATIONS TO DRILL OIL AND GAS WELLS WITHIN THE CITY LIMITS IN SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

Mr. Jenkins gave an overview of the item noting that this item related to the previous five items and was for a road repair agreement.

Council Member Dufford made a motion to adopt Resolution No. 2011-286; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

40. Consider a resolution authorizing the City Manager to enter into a Professional Services Agreement with Freese and Nichols, Inc. to evaluate and recommend potential water use reduction programs and appropriate funds. (Utilities)

RESOLUTION NO. 2011 - 287

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH FREESE & NICHOLS, INCORPORATED, FOR THE EVALUATION AND RECOMMENDATION OF POTENTIAL WATER USE REDUCTION PROGRAMS, AT A TOTAL COST OF \$170,880.00 ; AND APPROPRIATING FUNDS

Utilities Director Stuart Purvis gave an overview of the item noting that previously the City Council approved going out for RFQs for water reduction strategies to improve and encourage less water consumption. Staff vetted several firms that submitted proposals and chose an organization from New Mexico whose climate is most similar to Midland's.

Council Member Hailey made a motion to adopt Resolution No. 2011-287; seconded by Council Member Dufford.

Discussion ensued regarding the appropriate length of the contract. City Attorney Stretcher noted that the contract could be amended to be six months rather than one year.

Midge Erskin, 3306 W. Golf Course suggested that information be printed for plants and trees informing consumers how many inches of water is needed.

Following discussion, Council Member Sparks moved to amend the main motion to have a first proposal no later than April 10, 2012 and for the contract to terminate on June 30, 2012; seconded by Council Member Trost. The motion to amend carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

41. Consider a motion authorizing the City Manager and City Attorney to develop an ordinance prohibiting texting while driving.

Council Member Dufford made a motion to authorize the City Manager and City Attorney to develop an ordinance prohibiting texting while driving; seconded by Council Member Trost.

Discussion ensued regarding how a ban on texting could be enforced. Police Chief Price Robinson reported he spoke with the court in Galveston, that their Ordinance is about two years old and they have written about 20 citations. They reported that most of those citations were written by motorcycle officers who could get within close proximity of the vehicles. He also reported that their prosecutors require phone tolls which can take some time to obtain.

Some Council Members felt more information was needed. Discussion revealed that more information would be gathered and a draft Ordinance would be brought before the City Council for their consideration.

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

42. Consider a motion regarding a request from Tall City Blues Fest to increase the 2011-12 Hotel/Motel Occupancy Tax allocation in the amount of \$9,608.97 to the Midland Center to cover expenses incurred by the Tall City Blues Fest. (City Manager)

Council Member Sparks moved to honor Ms. Grissom request and not consider the item. Due to a lack of a second, the motion died.

Members of the Council commended Ms. Grissom for her earlier comments and thanked her for her efforts.

Council Member James made a motion to defer indefinitely the request from Tall City Blues Fest to increase the 2011-12 Hotel/Motel Occupancy Tax allocation in the amount of \$9,608.97; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: Morales.

Mayor Perry noted that the Council would next recess to executive session in the basement conference room and then would publicly hear the remainder of the agenda items. He announced anyone wishing to stay for the meeting could wait in the basement break room.

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 551.071, Consultation with the City Attorney:

1. Discuss with the City Attorney and Attorney(s) with the law firm of Cotton, Bledsoe, Tighe & Dawson, P.C., contemplated litigation involving a 45.99 Acre Tract of Land located in Section 15, Block 39, T-1-S T&P RR Co. Survey, Midland County, Texas and more specifically described in Volume 2311, Page 306 of the Deed Records of Midland County, Texas.
2. Discuss with the City Attorney contemplated litigation with the U.S. Fish and Wildlife Service regarding the Dunes Sagebrush Lizard.
3. Discuss with the City Attorney and Attorneys with the law firm of Cotton, Bledsoe, Tighe, and Dawson, litigation styled in Re: Heritage Consolidated, LLC, Case No. 10-36484-hdh, Chapter 11, Jointly Administered in the United States Bankruptcy Court, Northern District of Texas, Dallas Division.

b. Section 551.072, Deliberation Regarding Real Property

4. The Midland City Council shall conduct a closed meeting to deliberate the purchase and value of real property described as all of Block 7, Original Town Addition, City and County of Midland, Texas.

Mayor Perry announced that pursuant to Texas Government Code Section 551.101, the Council would hold an Executive Session, closed to the public, to discuss the above matters as permitted under the Texas Government Code Sections.

Mayor Perry recessed the meeting to Executive Session at 11:41 a.m. The entire Council met in Executive Session until 12:59 p.m.

Mayor Perry reconvened the regular session at 1:02 p.m.

MISCELLANEOUS (Continued)

43. Consider a resolution retaining the law firm of Cotton, Bledsoe, Tighe and Dawson, P.C. regarding Heritage Consolidated, LLC, (City Attorney)

RESOLUTION NO. 2011 - 288

RESOLUTION AUTHORIZING THE CITY ATTORNEY AND ATTORNEY(S) WITH THE LAW FIRM OF COTTON, BLEDSOE, TIGHE, AND DAWSON, P.C., TO HANDLE ALL LEGAL MATTERS RELATED TO A 45.99 ACRE TRACT OF LAND LOCATED IN SECTION 15, BLOCK 39, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS DESCRIBED IN VOLUME 2311, PAGE 306 OF THE DEED RECORDS OF MIDLAND COUNTY, TEXAS (WHICH INCLUDES BUT IS NOT LIMITED TO THE REMAINDER OF LOT 1A, BLOCK 1, MIDLAND AIRPARK, SECTION 2, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS; AND LOT 2, BLOCK 1, MIDLAND AIRPARK SECTION 2, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS; AND LOT 4, BLOCK 1, MIDLAND AIRPARK, SECTION 3, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS); THE CITY ATTORNEY AND THE LAW FIRM ARE AUTHORIZED TO FILE LITIGATION, EMPLOY ALL NECESSARY EXPERTS, RESPOND TO SETTLEMENT OFFERS, AND TO EXECUTE ALL MOTIONS AND DISCOVERY DOCUMENTS AND TO MAKE ALL COURT APPEARANCES ON BEHALF OF THE CITY OF MIDLAND

Council Member Dufford made a motion to adopt Resolution No. 2011-288; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None, ABSTAIN: None, ABSENT: None,

44. Consider a resolution regarding Mountain States Legal Foundation. (City Attorney)

RESOLUTION NO. 2011 - 289

RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO EXECUTE ALL DOCUMENTS NECESSARY TO REQUEST ASSISTANCE FROM THE MOUNTAIN STATES LEGAL FOUNDATION, LOCATED AT 2596 SOUTH LEWIS WAY, LAKEWOOD, COLORADO 80227, REGARDING THE DUNES SAGEBRUSH LIZARD AND THE U.S. FISH AND WILDLIFE SERVICE; AND THIS RESOLUTION SPECIFICALLY AUTHORIZES THE DISCLOSURE TO THE MOUNTAIN STATES LEGAL FOUNDATION'S BOARD OF LITIGATION AND BOARD OF DIRECTORS THAT THE CITY OF MIDLAND HAS REQUESTED THE MOUNTAIN STATES LEGAL FOUNDATION'S LEGAL ASSISTANCE AND THE FACTS AND LEGAL ISSUES INVOLVED IN THE CITY OF MIDLAND'S REQUEST REGARDING THE DUNES SAGEBRUSH LIZARD AND THE U.S. FISH AND WILDLIFE SERVICE

Council Member Dufford made a motion as amended to adopt Resolution No. 2011-289 and to seek out other partners; seconded by Council Member Sparks.

Council Member James moved to amend the motion to have the City Attorney and City Manager seek out other potential partners prior to seeking legal counsel; seconded by Council Member Morales.

Discussion ensued regarding whether both items could be handled simultaneously noting that if they did not seek legal counsel they could miss the deadline for a lawsuit.

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

Council Member James moved to amend the main motion by simultaneously moving forward with the resolution and having the City Attorney and City Manager seek other partners. In the event no other partners could be found, the contract would not be signed; seconded by Council Member Dufford. Following brief discussion, the motion to amend was approved by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, and James. NAY: Sparks. ABSTAIN: None. ABSENT: None.

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

45. Consider a resolution authorizing an Economic Development Agreement between the City of Midland and the Midland Development Corporation (MDC) for improvements to State Highway 349. (Legal)

RESOLUTION NO. 2011 - 290

RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MIDLAND AND THE MIDLAND DEVELOPMENT CORPORATION FOR IMPROVEMENTS TO STATE HIGHWAY 349, AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE

Council Member Dufford made a motion to adopt Resolution No. 2011-290; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

46. Consider a resolution authorizing an Advance Funding Agreement between the City of Midland and the Texas Dept. of Transportation (TxDOT) for improvements to State Highway 349. (Legal)

RESOLUTION NO. 2011 - 291

RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AN ADVANCE FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS TO STATE HIGHWAY 349; AND AUTHORIZING THE MAYOR TO EXECUTE ANY RELATED DOCUMENTS NECESSARY FOR SAID IMPROVEMENTS

Council Member Dufford made a motion to adopt Resolution No. 2011-291; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

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

No appointments were made.

After reviewing their calendars, a special meeting was set for Monday, November 21, 2011, at 8:00 a.m. to consider board and commission appointments.

All of the business at hand having been completed, the meeting was adjourned at 1:23 p.m.

PASSED AND APPROVED the 13th day of December, 2011.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

**MIDLAND CITY COUNCIL
MINUTES
November 21, 2011**

The City Council convened in a Special Session in the Council Chambers, City Hall, Midland, Texas, at 10:33 a.m. on November 21, 2011.

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

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.

1. Consideration of appointments to various Boards and Commissions.

Council Member Dufford moved to reappoint Earl Eardmann and appoint Don (Woody) Woodward, and Brooks Smith to the Airport Planning & Development Board; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member James moved to reappoint the entire board on the Building Code Review Committee; seconded by Council Member Hailey. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Trost moved to appoint Tim Bryson, Alonda Massey and reappointed Lena Margita to the City Development Advisory Committee; seconded by Council Member James. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Dufford moved to appoint Don Woodward to fill the at-large vacancy on the Construction Board of Adjustments and Appeal; seconded by Council Member Trost. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Dufford moved to reappoint Lisa Grissom, Alice Church, Alex Singh, and Steve Jones to the Hotel/Motel Tax Advisory Board; seconded by Council Member Hailey. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Hailey moved to appoint Gregory Maes and reappoint James Blischke and Carla Repman to the Housing Authority Commission and Dennis Bade as an alternate; seconded by Council Member Dufford. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member James moved to reappoint Patricia Blackwell and Paula Mitchell to the Midland Center Advisory Board; seconded by Council Member Dufford. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member James moved to appoint Gary Douglas to the Midland Development Corporation; seconded by Council Member Trost. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Discussion ensued regarding expired positions. City Attorney Stretcher clarified that according to the Texas Constitution anyone holding a public office is held over until a replacement is appointed.

Council Member Dufford moved to appoint Mike Thompson to replace Alan Krenek, Tim Bryson to replace Michael Dobey and to reappoint Wesley Bownds, John James, and Rick Davis to the Midland Football-Soccer and Baseball Complex Development Corporation; seconded by Council Member Trost. The motion carried by the following vote. AYE: Morales,

Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Dufford moved to reappoint Curt Kamradt to the Midland Higher Education Facilities Corporation; seconded by Council Member Trost. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Morales moved to appoint Nathan Miller to the Midland Housing Finance Corporation; seconded by Council Member Sparks. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Dufford moved to reappoint John James, Karen York and Guy McKenzie to the Midland-Odessa Urban Transit District Board; seconded by Council Member James. The motion carried by the following vote. AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

Council Member James moved to appoint Paul Brown and David Rosen to the Oil & Gas Advisory Committee; seconded by Council Member Trost. Council Member Dufford moved to amend the motion by making the appointments effective December 1, 2011; seconded by Council Member James. The motion to amend carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. The motion, as amended, carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Dufford moved to appoint Amanda McCann and to reappoint P. Lourcey Sams and Tina Corbett to the Parks and Recreation Commission; seconded by Council Member Hailey. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Dufford moved to reappoint the entire Permian Basin Airport Board; seconded by Council Member Trost. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Sparks moved to reappoint Larry Edgerton to the Permian Basin Community Center for Mental Health and Mental Retardation; seconded by Council Member Dufford. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member James moved to appoint Jay Norris to replace Brian Carney and appoint Tony Carrillo as an alternate and to reappoint Galen Gatten to the Planning & Zoning Commission. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Dufford moved to appoint Annabel Holguin and Greg Turner as alternates and to reappoint Carla Repman to the Zoning Board of Adjustment; seconded by Council Member Sparks. The motion carried by the following vote. AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

All of the business at hand having been completed, the meeting adjourned at 8:48 a.m.

PASSED AND APPROVED the 13th day of December, 2011.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Bob McNaughton, Director of Finance

SUBJECT: Approval and Notice of Intent to Issue 2012 Debt

Purpose:

Resolution rescinding Resolution 2011-261 and approving as to amount and purpose and authorize publication of notice of intent to issue 2012 Certificates of Obligation.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

None

Discussion:

Resolution 2011-261 omitted water and sewer system expansion and improvements from the purposes listed in the Notice. The proposed resolution includes these purposes.

Notice of the issue is to be posted at City Hall on December 17 and remain posted until sale of the Certificates on January 24, 2012. Additionally, notice is to be published in the Midland Reporter Telegram on December 17 and December 24.

Attachment 1 is a schedule of events leading to the issuance of the Certificates.

Attachment 2 is a summary of uses of the Certificates.

Attachment 3 is the Notice of Intent to Issue for Publication.

City of Midland

Preliminary Schedule of Events For Certificates of Obligation, Series 2012

<u>Date</u>	<u>Event</u>
Wednesday, November 2, 2011	Review with Finance and Audit Committee
Tuesday, November 8, 2011	Direction from City Council on proceeding with Certificate of Obligation issue
Tuesday, November 8, 2011 or Tuesday, December 13, 2011	City Council act on Resolution to publish Notice of Intention to issue Certificates of Obligation
Wednesday, November 9, 2011	Initiate preparation of Preliminary Official Statement
Saturday, December 24, 2011	Last date for 1 st publication of Notice of Intention to issue Certificates of Obligation (1 st publication must precede January 24, 2012 date for authorization by at least 31 days). 2 nd publication must occur on same day of following week.
Tuesday, December 27, 2011	Submit Preliminary Official Statement and information to rating agencies
Wednesday, January 4, 2012 - Tuesday, January 10, 2012	Discussions with rating agencies
Monday, January 16, 2012	Receive ratings Distribute Preliminary Official Statement
Monday, January 23, 2012	If negotiated sale – pricing of issue by underwriters, overseen by First Southwest Company
Tuesday, January 24, 2012	<u>City Council:</u> Sale of Certificate of Obligation issue; Ordinance Authorizing Issuance of Certificates of Obligation
Thursday, February 23, 2012	Delivery of Certificates of Obligation, receipt of proceeds by City

SOURCES AND USES OF FUNDS

Midland, Texas
Certificates of Obligation, Series 2012
Current Rates as of 10/27/2011 +60bps
(preliminary)

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Dated Date 02/23/2012
Delivery Date 02/23/2012

Sources:	General Purpose Portion	Water & Sewer Supported Portion	Total
Bond Proceeds:			
Par Amount	14,375,000.00	16,775,000.00	31,150,000.00
	14,375,000.00	16,775,000.00	31,150,000.00
Uses:	General Purpose Portion	Water & Sewer Supported Portion	Total
Project Fund Deposits:			
Project Fund	14,185,000.00	16,550,000.00	30,735,000.00
Delivery Date Expenses:			
Cost of Issuance	103,000.00	122,000.00	225,000.00
Underwriter's Discount	87,000.00	103,000.00	190,000.00
	190,000.00	225,000.00	415,000.00
	14,375,000.00	16,775,000.00	31,150,000.00

Note: preliminary

BOND DEBT SERVICE

Midland, Texas
Certificates of Obligation, Series 2012
Current Rates as of 10/27/2011 +60bps
(preliminary)

Period Ending	Principal	Interest	Debt Service
09/30/2013	355,000	2,013,317.27	2,368,317.27
09/30/2014	1,075,000	1,289,549.23	2,364,549.23
09/30/2015	1,120,000	1,242,774.71	2,362,774.71
09/30/2016	1,170,000	1,193,975.77	2,363,975.77
09/30/2017	1,225,000	1,142,939.32	2,367,939.32
09/30/2018	1,275,000	1,089,665.37	2,364,665.37
09/30/2019	1,330,000	1,034,153.92	2,364,153.92
09/30/2020	1,390,000	976,191.87	2,366,191.87
09/30/2021	1,450,000	915,672.66	2,365,672.66
09/30/2022	1,510,000	852,596.30	2,362,596.30
09/30/2023	1,580,000	786,749.69	2,366,749.69
09/30/2024	1,645,000	718,026.29	2,363,026.29
09/30/2025	1,715,000	646,426.11	2,361,426.11
09/30/2026	1,790,000	571,736.03	2,361,736.03
09/30/2027	1,875,000	493,636.42	2,368,636.42
09/30/2028	1,950,000	412,127.27	2,362,127.27
09/30/2029	2,035,000	327,208.59	2,362,208.59
09/30/2030	2,125,000	238,560.75	2,363,560.75
09/30/2031	2,220,000	145,970.63	2,365,970.63
09/30/2032	2,315,000	49,331.68	2,364,331.68
	31,150,000	16,140,609.88	47,290,609.88

Note: preliminary

BOND DEBT SERVICE**Midland, Texas****General Purpose Portion****Current Rates as of 10/27/2011 +60bps****(preliminary)**

Period Ending	Principal	Interest	Debt Service
09/30/2013	165,000	929,074.01	1,094,074.01
09/30/2014	495,000	595,070.02	1,090,070.02
09/30/2015	515,000	573,547.35	1,088,547.35
09/30/2016	540,000	551,065.74	1,091,065.74
09/30/2017	565,000	527,518.65	1,092,518.65
09/30/2018	590,000	502,906.09	1,092,906.09
09/30/2019	615,000	477,228.05	1,092,228.05
09/30/2020	640,000	450,484.53	1,090,484.53
09/30/2021	670,000	422,568.98	1,092,568.98
09/30/2022	695,000	393,481.40	1,088,481.40
09/30/2023	730,000	363,115.24	1,093,115.24
09/30/2024	760,000	331,363.96	1,091,363.96
09/30/2025	790,000	298,334.12	1,088,334.12
09/30/2026	825,000	263,919.15	1,088,919.15
09/30/2027	865,000	227,905.96	1,092,905.96
09/30/2028	900,000	190,294.55	1,090,294.55
09/30/2029	940,000	151,084.92	1,091,084.92
09/30/2030	980,000	110,170.53	1,090,170.53
09/30/2031	1,025,000	67,444.82	1,092,444.82
09/30/2032	1,070,000	22,801.25	1,092,801.25
	14,375,000	7,449,379.32	21,824,379.32

Note: preliminary

BOND DEBT SERVICE

Midland, Texas
Water & Sewer Supported Portion
Current Rates as of 10/27/2011 +60bps
(preliminary)

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Period Ending	Principal	Interest	Debt Service
09/30/2013	190,000	1,084,243.26	1,274,243.26
09/30/2014	580,000	694,479.21	1,274,479.21
09/30/2015	605,000	669,227.36	1,274,227.36
09/30/2016	630,000	642,910.03	1,272,910.03
09/30/2017	660,000	615,420.67	1,275,420.67
09/30/2018	685,000	586,759.28	1,271,759.28
09/30/2019	715,000	556,925.87	1,271,925.87
09/30/2020	750,000	525,707.34	1,275,707.34
09/30/2021	780,000	493,103.68	1,273,103.68
09/30/2022	815,000	459,114.90	1,274,114.90
09/30/2023	850,000	423,634.45	1,273,634.45
09/30/2024	885,000	386,662.33	1,271,662.33
09/30/2025	925,000	348,091.99	1,273,091.99
09/30/2026	965,000	307,816.88	1,272,816.88
09/30/2027	1,010,000	265,730.46	1,275,730.46
09/30/2028	1,050,000	221,832.72	1,271,832.72
09/30/2029	1,095,000	176,123.67	1,271,123.67
09/30/2030	1,145,000	128,390.22	1,273,390.22
09/30/2031	1,195,000	78,525.81	1,273,525.81
09/30/2032	1,245,000	26,530.43	1,271,530.43
	16,775,000	8,691,230.56	25,466,230.56

Note: preliminary

RESOLUTION NO.

**RESOLUTION CANCELLING AND RESCINDING
RESOLUTION NO. 2011-261 AND APPROVING AND
AUTHORIZING PUBLICATION OF NOTICE OF
INTENTION TO ISSUE SERIES 2012 CERTIFICATES
OF OBLIGATION IN AN AMOUNT NOT TO EXCEED
THIRTY-ONE MILLION ONE HUNDRED FIFTY
THOUSAND AND NO/100 DOLLARS (\$31,150,000.00);
AND AUTHORIZING AND DIRECTING THE CITY
SECRETARY TO CAUSE NOTICES TO BE PUBLISHED
AND POSTED**

WHEREAS, on November 8, 2011, the City Council passed Resolution No. 2011-261, which authorized Publication of Notice of Intention to Issue Series 2012 Certificates of Obligation in an amount not to exceed Thirty-One Million One Hundred Fifty Thousand and No/100 Dollars (\$31,150,000.00); and

WHEREAS, said resolution omitted water and sewer expansion and improvements from the purposes listed in the Notice; and

WHEREAS, the City Council finds it to be in the public interest to cancel and rescind Resolution No. 2011-261; and

WHEREAS, the City Council finds it to be in the public interest to pass an updated resolution authorizing Publication of Notice of Intention to Issue Series 2012 Certificates of Obligation in an amount not to exceed Thirty-One Million One Hundred Fifty Thousand and No/100 Dollars (\$31,150,000.00), which includes water and sewer expansion and improvements among the purposes listed in the Notice; and

WHEREAS, the City Council of the City of Midland, Texas, has determined that certificates of obligation should be issued under and pursuant to the provisions of V.T.C.A., Local Government Code, Subchapter C of Chapter 271, as amended, for the purpose of paying contractual obligations to be incurred for the construction, improvement, and acquisition of public works and equipment, to wit: (i) acquiring and installing a voice and data communication system for public services, including police and fire departments, (ii) improving, constructing and equipping fire fighting facilities, (iii) improving, constructing

and equipping park and recreational facilities, (iv) improving and equipping the City's information technology system, (v) constructing and improving streets, including drainage, landscaping, curbs, gutters, sidewalks, signage and traffic signalization incidental thereto and the acquisition of land and rights-of-way therefor, (vi) improving and extending the City's water and sewer system and (vii) paying for professional services in relation to such projects and the financing thereof; and

WHEREAS, prior to the issuance of such certificates, the City Council is required to publish notice of its intention to issue the same in a newspaper of general circulation in the City, said notice stating (i) the time and place the Council tentatively proposes to pass the ordinance authorizing the issuance of the certificates, (ii) the maximum amount proposed to be issued, (iii) the purposes for which the certificates are to be issued, and (iv) the manner in which the Council proposes to pay the certificates;

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

SECTION ONE. That the recitals stated above are hereby adopted.

SECTION TWO. That the City Secretary is hereby authorized and directed to cause notice to be published of the Council's intention to issue certificates of obligation in the principal amount not to exceed THIRTY-ONE MILLION ONE HUNDRED FIFTY THOUSAND DOLLARS (\$31,150,000.00) for the purpose of paying contractual obligations to be incurred for the construction, improvement and acquisition of public works and equipment, to wit: (i) acquiring and installing a voice and data communication system for public services, including police and fire departments, (ii) improving, constructing and equipping fire fighting facilities, (iii) improving, constructing and equipping park and recreational facilities, (iv) improving and equipping the City's information technology system, (v) constructing and improving streets, including drainage, landscaping, curbs, gutters, sidewalks, signage and traffic signalization incidental thereto and the acquisition of

land and rights-of-way therefor, (vi) improving and extending the City's water and sewer system and (vii) paying for professional services rendered in relation to such projects and the financing thereof, such certificates to be payable from ad valorem taxes and a limited pledge of the net revenues of the City's water and sewer system. The notice hereby approved and authorized to be published shall read substantially in the form and content as shown in Exhibit "A" attached hereto and incorporated herein for all legal purposes.

SECTION THREE. That the City Secretary shall cause the aforesaid notice to be published in a newspaper of general circulation in the City, once a week for two (2) consecutive weeks, the date of the first publication to be at least thirty-one (31) days prior to the date stated therein for the final passage of the ordinance authorizing the issuance of the certificates of obligation.

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., 2011, 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:

Robert McNaughton, Director of Finance

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

**NOTICE OF INTENTION TO ISSUE
CITY OF MIDLAND, TEXAS
CERTIFICATES OF OBLIGATION**

TAKE NOTICE that the City Council of the City of Midland, Texas, shall convene at 10:00 A.M. on the 24th day of January, 2012, at Midland City Hall at 300 N. Loraine, Midland, Texas, and, during such meeting, the City Council will consider the final passage of an ordinance authorizing the issuance of certificates of obligation in an amount not to exceed THIRTY-ONE MILLION ONE HUNDRED FIFTY THOUSAND DOLLARS (\$31,150,000) for the purpose of paying contractual obligations to be incurred for the construction, improvement, and acquisition of public works and equipment, to wit: (i) acquiring and installing a voice and data communication system for public services, including police and fire departments, (ii) improving, constructing and equipping fire fighting facilities, (iii) improving, constructing and equipping park and recreational facilities, (iv) improving and equipping the City's information technology system, (v) constructing and improving streets, including drainage, landscaping, curbs, gutters, sidewalks, signage and traffic signalization incidental thereto and the acquisition of land and rights-of-way therefor, (vi) improving and extending the City's water and sewer system and (vii) paying professional services rendered in relation to such projects and the financing thereof, such certificates to be payable from ad valorem taxes and a limited pledge of the net revenues of the City's water and sewer system. The certificates are to be issued and this notice is given under and pursuant to the provisions of V.T.C.A., Local Government Code, Subchapter C of Chapter 271, as amended.

Amy Turner
City Secretary
City of Midland, Texas



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Bob McNaughton, Director of Finance

SUBJECT: Reimbursement of Water and Sewer Fund from 2012 Debt Issue

Purpose:

Resolution allowing for reimbursement of Water and Sewer Fund from proceeds 2012 Certificates of Obligation.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

None

Discussion:

The execution of the proposed contract for Raw Water Project (8975) with Archer Western Construction, LLC. is for a project included in the 2012 C.O.

The project requires funding to enable contract execution in advance of receipt of the proceeds of the 2012 C.O. issue and the Water and Sewer Operating Fund (300) will provide this advance funding.

The proposed resolution provides for the ability to reimburse Water and Sewer Operating Fund from the 2012 CO Bond upon receipt of the bond proceeds.

RESOLUTION NO.

**RESOLUTION DECLARING EXPECTATION TO
REIMBURSE EXPENDITURES WITH PROCEEDS OF
FUTURE DEBT; AND THE CITY OF MIDLAND
REASONABLY EXPECTS TO REIMBURSE CAPITAL
EXPENDITURES WITH PROCEEDS OF DEBT
HEREAFTER TO BE INCURRED BY THE CITY**

WHEREAS, the City of Midland, Texas (the “City”), intends to issue debt for raw water and water purification plant upgrades (the “Project”) and further intends to make certain capital expenditures with respect to the Project and currently desires and expects to reimburse the capital expenditures with proceeds of such debt; and

WHEREAS, under Treas. Reg. § 1.150-2 (the “Regulation”), to fund such reimbursement with proceeds of tax-exempt obligations, the City must declare its expectation to make such reimbursement; and

WHEREAS, the City desires to preserve its ability to reimburse the capital expenditures with proceeds of tax-exempt obligations;

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

SECTION ONE. That the City reasonably expects to reimburse capital expenditures with respect to the Project with proceeds of debt hereafter to be incurred by the City, and that this Resolution shall constitute a declaration of official intent under the Regulation. The maximum principal amount of obligations expected to be issued for the Project is \$7,200,000.00.

SECTION TWO. That a Water and Sewer Fund (300) interfund receivable from the Water and Sewer Improvements 2012 CO Bond Fund (381), and the corresponding payable, in the amount of \$7,200,000.00 is to be recognized in anticipation of this repayment.

SECTION THREE. That the sum of \$7,100,000.00 is hereby appropriated from the Water and Sewer Improvements 2012 CO Bond Fund (381) Unappropriated Fund Balance (5650) to the Raw Water Project (8975).

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., 2011, 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:
THudson
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL, CITY MANAGER

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: 4098-12 for Center Pivots

Purpose:

Approval of a resolution authorizing the purchase of two center pivots for use at the Spraberry Farm operation.

Recommended City Council Action:

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

\$152,364.00 Water and Sewer Fund

Discussion:

These pivots are for replacement of two older units at the farm and are used for the distribution of effluent water. There are approximately 27 pivots in use and we replace two per year. We received a single bid. Lamesa Irrigation has been the single bidder for center pivots since 2008. The total reflects a deduction of \$400.00 for trade-in of old pivot parts not salvaged by the City.

Therefore, please consider approval of a resolution authorizing the purchase of the pivots from Lamesa Irrigation Company of Lamesa, Texas for a total of \$152,364.00.



THE CITY OF MIDLAND

CONTRACT

Contract No.4098-12

THIS CONTRACT, effective the 14th day of December, 2011, by and between the City of Midland, hereinafter referred to as the "Owner", and Lamesa Irrigation Company, hereinafter referred to as the "Contractor", is made for the following considerations:

1. **Cost:** Total Proposal: \$ 152,364.00 DOLLARS
2. **Scope of Work:** The Contractor shall perform all work described for Replacement of Center Pivots of this Contract in the following documents, attached hereto and incorporated herein by reference for all legal purposes.

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

3. **Owner:** The words "Owner's Representative" or "representative" shall mean Stuart Purvis or his 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 Owner to act in any particular capacity under this Contract.

4. **The Owner'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. Owner'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. Owner'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 Owner 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 Owner's Representative when presented with a written work order signed by the Owner's Representative, subject, however, to the right of the Contractor to require written confirmation of such extra work order by the Owner. 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 OWNER AND ALL OF THE OWNER'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 OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8.1. THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE OWNER AND ALL OF THE OWNER'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 OWNER, THE OWNER'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 OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8.2. THE CONTRACTOR AGREES THAT HE WILL INDEMNIFY AND SAVE THE OWNER 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 OWNER 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 OWNER 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 OWNER 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 approximately 30 to 45 calendar days after release to proceed.

If the Contractor should fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree as part of the consideration for the awarding of this contract, the Owner may withhold permanently from Contractor's total compensation, the sum of _____ N/A _____ Dollars (\$_____), not as a penalty but as liquidated damages for the breach of the contract as herein set forth for each calendar day that the Contractor shall be in default after the time stipulated for completing the work.

9.1. **TIME IS OF THE ESSENCE IN THIS CONTRACT.**

10. **Clean Up:** Contractor shall promptly remove from Owner's premises all materials condemned by the Owner'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 Owner, Owner 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 Owner shall give notice of observed defects with reasonable promptness.

12. **Remedy:** The Owner 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 Owner 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 Owner, which will protect the Owner 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 Owner 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. **Payment:** After all work is completed by the Contractor, and the Owner has inspected and approved that work, the Owner shall within thirty-one (31) days thereafter issue payment to the Contractor in the amount of the contract and subsequent verified Change Orders. The Owner shall be the final judge of when 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.

16. **No Third Party Beneficiary:** The Owner'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.

17. **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 OWNER, 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 OWNER AND THE CONTRACTOR. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

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

18. **Sovereign Immunity:** By executing this contract the Owner is not waiving its right of sovereign immunity. The Owner is retaining its immunity from suit. The Owner is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

19. **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 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.

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

All insurance required pursuant to this Contract, except for Worker's Compensation Insurance, shall name the Owner as an additional insured on a claims occurred basis. All insurance required

pursuant to this Contract, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the Owner.

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

"The City of Midland is included as an additional insured, on 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."

Owner 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. Owner shall not be required to provide any insurance whatsoever pursuant to this Contract.

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).

IMPORTANT NOTICE

If for any reason your insurance agency or provider cannot supply the endorsements on the certificate EXACTLY as shown in the above paragraph entitled "Insurance" and on the included example, a letter from the provider shall be included with the certificate with those reasons stated.

You must carry Worker's Compensation Insurance to be considered 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.

20. **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 Owner. The issue on whether or not to grant consent to an assignment is in the sole discretion of the Owner.

21. **RELEASE: NOTWITHSTANDING ANY OTHER PROVISIONS, CONTRACTOR HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES OWNER, OWNER'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 OWNER'S NEGLIGENCE.

22. **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.

23. **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 Owner; 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 Owner and Contractor, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Owner 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 Owner. 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 Owner does not have the power to direct the order in which the work is done. The Owner 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.

24. **Notice of Alleged Breach; Statutory Prerequisites:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Contract, Contractor or his legal representative, shall give the City Manager, or any other reasonable official of the

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

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

25. **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

Contract No: 4098-12

OWNER, 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: Contract No.4098-12

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of Lamesa Irrigation Company, 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 _____, 2011.

Notary Public, State of Texas



CITY OF MIDLAND
PURCHASING DIVISION
BID REQUEST

DATE: 10/27/2011

PAGE: 01

(THIS IS NOT AN ORDER)

BID NO: 4098-12

OPENING TIME: 11:00 AM

OPENING DATE: 11/16 /2011

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

BIDS WILL BE RECEIVED IN THE OFFICE OF THE City Secretary, Suite 330
 UNTIL 11:00 A.M. 11/ 16 /2011, FOR GOODS AND SERVICES DESCRIBED BELOW WHICH WILL BE DELIVERED
 TO: Spraberry Farm, 11501 FM 1379, Midland, Texas

ITEM NO.	QTY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
	1		Pivot Irrigation Systems and parts for the Spraberry Farm in accordance with the attached cost summary, specifications and contract.		
				TOTAL	152,364.00

NOTICE TO BIDDERS:

1. FAILURE TO RESPOND WITH EITHER A BID OR "NO BID" WILL SUBJECT YOUR FIRM TO REMOVAL FROM THE BID LIST FOR THIS TYPE OF MATERIAL, EQUIPMENT OR SUPPLY ITEM.
2. SEALED BIDS FAXED DIRECTLY TO THE CITY WILL BE REJECTED. FAX BIDS MAY BE SENT THROUGH A 3RD PARTY FOR SEALED DELIVERY TO THE CITY. PLEASE CALL FOR MORE INFORMATION.

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

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

COMPANY NAME: Lamesa Irrigation
 ADDRESS 1609 N. Hwy 87
 CITY Lamesa ST Tx ZIP 79331
 PHONE NO. 806-872-5479 FAX NO. 806-872-2615
 EMAIL lamesairrig@pics.net

CASH DISCOUNT: 0 % 0 DAYS

DELIVERY CAN BE MADE Approx 30, 45 days

AUTHORIZED SIGNATURE [Signature]

PLEASE READ CONDITIONS FOR BIDDING ON BACK BEFORE SUBMITTING

Exhibit "A"



On-line responses will not be allowed for this solicitation. Please print these documents and submit your bid in a sealed envelope to:

Mailing Address:

The City Secretary's Office
City of Midland
P. O. Box 1152
Midland, TX 79702

OR

Physical Address:

The City Secretary's Office
City of Midland
300 N. Loraine, Suite 330
Midland, TX 79701

CONTACT INFORMATION

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 OR FAX: (432) 685-0523
P.O. Box 1152 E-Mail: purchasing@midlandtexas.gov
Midland, TX 79702

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.

City of Midland - Cost Summary Sheet

BID # 4098-12 FOR: Center Pivot Irrigation Systems OPENING: 11/16/2011			Lamesa Irrigation 1609 N Hwy 87 Lamesa, TX 79331 Terry Coleman 806 872 5479	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL
		Disassemble and remove old systems and Supply and install the following:		
1	1	993.04 foot Center Pivot # 13-2 w/auto reverse		69,931.00
		Brand Zimmatic		
		Model		
2	1	993.04 foot Center Pivot # 14-2 w/auto reverse		69,931.00
		Brand Zimmatic		
		Model		
3	2	Lot Pivots -trade in	-200.00	- 400.00
4	20	3/4 HP Motors with capps for Zimatic Pivots	173.60	3,472.00
		Brand		
		Model		
5	20	Wheel Gear Boxes with short shaft	265.00	5,300.00
		Brand		
		Model		
6	10	Motors and Center Drive Combos for Zimatic Pivots	413.00	4,130.00
		Brand		
		Model		
Total :				\$152,364.00
Pivot Delivery:				

CITY OF MIDLAND

ADDENDUM

BID # 4098-12

Pivot Irrigation Systems

TO ALL BIDDERS ON THE SUBJECT BID:

ADDENDUM # 1

DATE: November 7, 2011

The following changes have been made to the specifications. Please make note of these changes and incorporate them in your bid.

1. Please discard the specifications sent with the original RFB and replace it with the attached specs.
2. The City will salvage all salvageable parts (tries, motors, center drive, gear box, tower box, collector rings & elbow, sprinklers, services cord to motor, drive shaft and end drain)

PLEASE RETURN THIS ADDENDUM WITH YOUR BID BY THE CLOSING DATE.

All other terms and conditions shall remain the same.

Lamesa Irrigation
Company Name
Terry Coleman
Bidder Authorized Signature
Terry Coleman
Please Print Above Name

11-15-11
Date
806-872-5479
Phone

THE CITY OF MIDLAND

SPECIFICATION

021-9810

For
Center Pivot Replacement

1. SCOPE

The work to be performed under this section consists of supplying the center pivot irrigation equipment, parts, electrical equipment, instrumentation, and accessories as specified herein. The irrigation equipment supplied shall form a complete and operational irrigation system in the quantities specified on the request for bid. Installation and final assembly will be performed by the successful bidder

2. 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

Email: purchasing@midlandtexas.gov

All vendors on the bid list will then be notified of the questions and presented an answer. Information provided by other City personnel shall not be considered binding.

3. DEFINITIONS

3.1. OWNER

City of Midland

3.2. CONTRACTOR

Successful Bidder

4. DOCUMENTS

Contract

Exhibit A - These specifications, Proposal or Cost Summary

Exhibit B – Insurance requirements

Exhibit C – Bonding Requirements

Exhibit D – Wage Schedule

5. REFERENCES

Abbreviations used in the specifications and contract documents are defined as follows:

AAMA Architectural Aluminum Manufacturers Association

AASHTO American Association of State Highway and Transportation Officials

ACI American Concrete Institute

AFBMA	Anti-Friction Bearing Manufacturer's Association
AGA	American Gas Association
AGMA	American Gear Manufacturer's Association
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
APA	American Plywood Association
ASCE	American Society for Civil Engineers
ASME	American Society for Mechanical Engineers
ASSE	American society for Sanitary Engineers
ASTM	American society for Testing and Materials
AWG	Average Wire Gauge
AWPA	American Wood Products Association
AWWA	American water Works Association
CISPI	Cast Iron Soil Pipe Institute
CRSI	Concrete reinforcing Steel Institute
CS	Commercial Standard
Fed Spec	Federal Specifications
IBBM	Iron Body, Bronze Mounted
IEEE	Institute of Electrical and Electronics Engineers
IFI	Industrial Fasteners Institute
IPS	Iron Pipe Size
MIL	Military Specification
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
NPT	National Pipe Thread
OSHA	Occupational Safety and Health Administration
PCI	Pre-stressed concrete Institute
SAE	society of Automotive Engineers
SSPC	Steel Structures Painting Council
UL	Underwriters' Laboratories
US	U. S. Bureau of Standards
USBR	U. S. Bureau of Reclamation

6. REQUIREMENTS

Vendor shall comment in the right margin as to whether or not his bid meets or exceeds the minimum specification shown. Please explain how it exceeds or falls short of the requirement. Use blue or Black ink if completed by hand or typewriter. A separate sheet may be used as long as each item is identified

and the sheet(s) are signed.

Requirement	Vendor Comment
6.1. <u>PERMITS/COMPLIANCE WITH LAW</u>	
6.1.1. Permits and Licenses:	
6.1.1.1. The Contractor shall, at his expense, obtain all permits and licenses necessary for the performance of the contract, and give all necessary notices, pay all fees required by law, and comply with all laws, ordinances, rules and regulations governing the Contractor's performance of the work. (Call 685-7390 for permit information.)	
6.1.2. Taxes:	
6.1.2.1. Portions of the contract qualify for exemption pursuant to the provisions of the Texas Limited Sales, Excise and Use Tax Act. (Refer to Texas Tax Code, Title 2, Subtitle E, Chapter 151, Subchapter H, Subsections 151.309, 151.311 and 151.3111.)	
6.1.2.2. Tax Exemption Certificate.	
The Contractor may obtain a sales tax exemption certificate from the City of Midland upon request from the Purchasing Office.	
6.1.2.3. All labor performed on the project, all materials incorporated into the project and other costs such as overhead allocation qualify for the exemption. However, equipment, parts for equipment, and tools purchased for use on the project, but are not incorporated may not qualify for the exemption.	
6.1.2.4. Contractor shall be responsible for the determination of what portion, if any, of the contract has taxes due and payment of said taxes. DO NOT BILL ANY SALES OR USE TAX TO THE OWNER.	
6.2. <u>GENERAL</u>	
6.2.1. Award	
6.2.1.1. If the Contract is awarded, it may 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.	
6.2.1.2. 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.	
6.2.2. Bid Validity Period	
6.2.2.1. Unless otherwise stated, bids shall be valid for a minimum of 90 days.	
6.3. <u>Project requirements:</u>	
6.3.1. GENERAL DESCRIPTION OF THE WORK:	
6.3.1.1. The work to be performed under these specifications and subsequent Contract, consists of dismantling and removing existing irrigation equipment and furnishing and installing the center pivots turnkey in locations as directed by the Owner (The City). The units being replaced are listed on the <i>Request for Bid</i> . See the Center Pivot Schedule Paragraph 6.5.6 on page 12 for more information.	

6.3.2. LAND FOR CONSTRUCTION PURPOSES.

- 6.3.2.1. The Contractor will be permitted to use available land belonging to the Owner for construction purposes and for the storage of materials and equipment.
- 6.3.2.2. The location, scheduled time that it may be used and the extent of use shall be coordinated with the Owner.

6.3.3. NOTICES TO OWNERS AND AUTHORITIES.

- 6.3.3.1. When it is necessary to deny access by Owners or tenants to their property, or when any utility service connection must be interrupted, Contractor shall give notices sufficiently in advance to enable the affected persons to make provisions therefore.

6.3.4. UNFAVORABLE CONSTRUCTION CONDITIONS.

- 6.3.4.1. During unfavorable weather, wet ground, or other unsuitable construction conditions, the Contractor shall confine his operations to work which will not be affected adversely by such conditions.
- 6.3.4.2. No portion of the work shall be constructed under conditions which would adversely the quality or efficiency thereof, unless special means or precautions are taken by Contractor to perform the work in a proper manner.

6.3.5. Applicable Codes.

- 6.3.5.1. References to local codes in these specifications, contract documents or any of the related exhibits, shall mean codes used, required, or adopted by the City of Midland, Texas.

6.3.6. REFERENCE STANDARDS

- 6.3.6.1. Reference to the standards of any technical society, organization, or association, or to codes of local or state authorities, shall mean the latest standard code, specification, or tentative standard adopted and published at the date of receipt of bids, unless specifically stated otherwise.

6.4. Center Pivot Irrigation System

6.4.1. SCOPE

- 6.4.1.1. The work to be performed under this section consists of supplying the center pivot irrigation equipment, parts and accessories as specified herein.
- 6.4.1.2. The irrigation equipment supplied shall form a complete and operational irrigation system.

6.4.2. GENERAL

- 6.4.2.1. The center pivot irrigation equipment shall be used to irrigate crops at the Spraberry Ranch site with effluent pumped from the Terminal Storage Reservoir.
- 6.4.2.2. The irrigation equipment shall be designed to provide the most uniform application of effluent possible.
- 6.4.2.3. The equipment shall consist of low pressure drop nozzle center pivot
-

irrigation systems. Each unit shall be a complete hot dip galvanized, electric, self propelled, self aligning, gear driven irrigation system.

6.4.2.4. The center pivot equipment shall be able to withstand a wind load equivalent to a 90 mph wind directed perpendicular to the axis of the equipment with a 1:1 safety factor.

6.4.2.5. An oil filled pressure gauge shall be furnished and installed in the riser at each pivot location and shall be suitable for use over the range of operating pressures of each unit.

6.4.2.6. Equipment furnished and installed under this specification shall be fabricated, assembled, erected, and placed in the proper operating condition in full conformity with drawings, specifications, engineering data, instructions and recommendations of the equipment manufacturer unless otherwise noted by the Engineer.

6.4.2.7. The center pivot irrigation equipment shall be manufactured by Valmont, Raincat, Reinke, Lindsay, or Zimmatic meeting these minimum specifications.

6.4.2.7.1. No other manufacturers will be acceptable unless approved in writing prior to opening of bids.

6.4.2.8. One operator's manual shall be provided for each system.

6.4.3. GENERAL EQUIPMENT STIPULATIONS

6.4.3.1. The General Equipment Stipulations shall apply to all equipment furnished under this specification.

6.4.4. Power Supply

6.4.4.1. The power supply to the center pivot assembly is 480 volts, 60 Hz, 3 phase. A control power transformer shall be provided with the equipment to supply 120 volt, single phase, or any other control voltage required for the operation of the system.

6.4.5. Structural Design

6.4.5.1. The center pivot spans shall be of the bow-string truss design using the water line in compression and a fixed length tension rod (of high tension steel) as a tension member. Each truss shall form a structurally sound span between the vertical wheel base supports under normal operating conditions and field topography. Truss rods shall be ¾" with manufacturer's standard heavy duty under truss braces.

6.4.6. Pivot Assembly

6.4.6.1. The pivot assembly shall consist of four (4) legs of 4" x 4" x 3/8" angle iron with four (4) 2" x 2" x 3/16" angle braces on all four sides. An adjustable ring lock elbow shall be included connection to the first span must be flexible to allow for grade changes on the first tower.

6.4.6.2. Wheel Base – Minimum wheel base for the center pivot system shall be 156 inches. Maximum span length is 160 feet.

6.4.7. Span Connectors

6.4.7.1. All span connectors shall be of the pinned-hinge, uni-knuckle, or ball and socket type of connection allowing for free horizontal, vertical, and rotational movement about the connection for the field topography

6.4.7.2. All span connections shall be outside the water line creating an unobstructed flow path.

6.4.8. Span Couplers

6.4.8.1. The span coupling shall consist of a belted neoprene/rubber boot with screw clamp.

6.4.8.2. The span coupler shall form a watertight joint under normal operating conditions and be replaceable without disassembly of the span connector.

6.4.9. Speed of Rotation

6.4.9.1. The minimum rotation time @ 100% speed shall be a full circle (360°) in 18 hours. The speed shall be based on the radii shown in the center pivot schedule to the last drive wheel and the specified combination of drive motor, gear box and tire size.

6.4.10. DRIVE MOTORS AND GEAR BOXES

6.4.10.1. Drive motors shall :

6.4.10.1.1. operate from 3 phase 480 volt, 60 Hz electrical power;

6.4.10.1.2. be manufactured and warranted by the irrigation system manufacturer;

6.4.10.1.3. be sealed against moisture and dust contamination;

6.4.10.1.4. be located at the approximate center of each self-propelled tower;

6.4.10.1.5. be designed specifically for center pivot applications and shall comply with applicable provisions of the NEMA and IEEE Standards; and,

6.4.10.1.6. rated for a continuous duty cycle and have inherent overload protection.

6.4.10.1.6.1. Drive motors shall be limited to a maximum current draw of 1.8 amps and shall be rated for a minimum of $\frac{3}{4}$ HP.

6.4.10.1.6.2. Ball bearings shall be double sealed.

6.4.10.1.6.3. Motor leads shall run in $\frac{3}{4}$ " conduit and extend up the tower leg 3 to 4 feet.

6.4.10.1.7. Each self-propelled tower shall be driven by a gear drive and motor located at the center of the tower and a single reduction worm gear box located at each wheel.

6.4.10.1.7.1. The steel hubs shall be mounted directly on the wheel gear box output shaft.

6.4.10.1.7.2. Wheel gear boxes shall be either Valley, Zimmatic or approved equal and shall have a 5 year /5,000 hour warranty, minimum.

6.4.10.1.7.3. The gear drive system shall develop torque adequate to propel the system up 15 percent slopes, and at the same time cross over 12" high

ridges between rows, but not less than 36,000 inch pounds continuous, and capable of 120,000 inch pounds of instantaneous torque.

6.4.10.1.8. The wheel gear box shall:

- 6.4.10.1.8.1. have a minimum reduction ratio of 50:1;
- 6.4.10.1.8.2. have a minimum output shaft diameter of 2¼”;
- 6.4.10.1.8.3. have a built-in lubricant expansion chamber;
- 6.4.10.1.8.4. be sealed against moisture and dust contamination;
- 6.4.10.1.8.5. be specifically designed for center pivot irrigation systems;
- 6.4.10.1.8.6. have bearings with an average life of no less than 15,000 hours (computed per AFBMA); and,
- 6.4.10.1.8.7. be supplied filled with oil to the normal operating level which shall submerge all bearings.
 - 6.4.10.1.8.7.1. The lubrication shall be suitable for an operating period of at least 20,000 hours or 5 years, whichever occurs first, and shall meet AGMA Grade 7C specifications.
- 6.4.10.1.9. Cross shafts with universal joints connecting the drive motors with the gear boxes shall be adequately sized to deliver the maximum operating torque and shall be shielded to prevent contact with the garments of operating personnel.

6.4.11. Rims

- 6.4.11.1. All rims shall be of proper size for the tires furnished and shall be hot dip galvanized to ASTM 123 specifications.

6.4.12. Tires

- 6.4.12.1. All tires shall be new four ply rated 14.9 x 24, high flotation type tire with a tractor grip design.

6.4.13. SPAN CLEARANCE

- 6.4.13.1. The center pivot spans shall be of standard profile design with ground clearance of 8 foot minimum and 10 foot maximum as measured on a level surface.

6.4.14. Drain Plugs

- 6.4.14.1. Each system shall be equipped with drain plugs which will automatically drain the system when not under operating pressure.

6.4.15. FLUSH VALVE

- 6.4.15.1. Each system shall be equipped with a manually operated flush valve (4 inch minimum) located on each end tower.
 - 6.4.15.1.1. The valve and discharge piping shall be braced to the end tower.
 - 6.4.15.1.2. The valve shall be 5 feet above the ground and the discharge shall be directed away from the operator.

6.4.16. NOZZLE DROPS

6.4.16.1. Nozzle drops shall be spaced as required for the nozzles furnished.

6.4.16.1.1. Unused collars shall be plugged.

6.4.16.1.2. Drops shall be of sufficient lengths to discharge the water (effluent) at the specified height above the ground surface as directed by the Owner.

6.4.16.1.3. They shall have minimum 12 inch furrow arms (gooseneck), and ¾ inch "Polydrop" extension tubes.

6.4.16.1.4. Each drop shall be equipped with a plastic ball, cut-off valve above each nozzle.

6.4.17. ELECTRICAL

6.4.17.1. The center pivot shall be furnished and installed in accordance with all applicable local and National Electrical Code requirements.

6.4.17.2. The system shall include a complete and operational control package consisting of all equipment and devices necessary to operate the system as described in these specifications.

6.4.17.3. All control panels shall be readily accessible to the maintenance personnel.

6.4.17.3.1. They shall be totally waterproof.

6.4.17.3.2. Entrances into, exits from, and penetrations of the enclosure shall be made using sealing type hubs to reduce the possibility of collection of water or other contaminants at the point of connection and shall also be made in such a manner as to preserve the minimum NEMA rating of the enclosure

6.4.17.3.3. Dimensions of the enclosures shall not be less the maximum dimensions of the enclosed equipment plus the required electrical clearances as specified in the National Electrical Code.

6.4.17.3.4. Enclosures shall be made of fiberglass and shall have doors covering the controls to prevent vandalism.

6.4.17.3.5. Doors shall have non-corroding hinges or other means of attachment.

6.4.17.3.6. Locking mechanisms shall also be provided on the master control panel

6.4.18. MASTER CONTROL PANEL

6.4.18.1. A master control panel shall be furnished and located at the center pivot riser pad.

6.4.18.2. The master control panel shall include, but not be limited to the following controls and feature:

6.4.18.2.1. A nameplate stating the design voltage, phase and frequency of the incoming power supply and the amperage per phase which shall be the ampacity of the main thermal magnetic circuit breaker.

6.4.18.2.2. Electrically actuated misalignment mechanism to render the system inoperable if misalignment of the system occurs.

6.4.18.2.3. Percentage timer for the end self-propelled tower controlling speed of

rotation.

6.4.18.2.4. Manual and automatic reversing control mechanism shall be provided.

6.4.18.2.4.1. The automatic reversing mechanism shall permit travel of the pivot through an arch of rotation as specified.

6.4.18.3. Momentary power interruption restart circuit to restart the pivot after a time delay when power is restored.

6.4.18.3.1. This control shall not override the misalignment feature for more than 5 seconds.

6.4.18.4. An elapsed time meter which will accumulate total of hours of operating time.

6.4.18.5. Transformers capable of handling voltage reductions required for all functions of the control system.

6.4.18.5.1. Transformers shall be of the isolation type with proper over-current protection for the transformers, conductors, and control devices they serve.

6.4.18.5.2. All control circuits shall operate at 100 volts AC.

6.4.18.5.3. All control switches shall be rated at 600 volts.

6.4.19. RUN LIGHT

6.4.19.1. Run lights shall be provided for each pivot.

6.4.19.1.1. One light shall be mounted above the control panel and shall be clearly visible from a half mile distance.

6.4.19.1.2. The second light shall be mounted at the end tower.

6.4.20. TOWER ALIGNMENT CONTROL

6.4.20.1. Towers will be kept in proper alignment by a micro-switch and cam system.

6.4.20.1.1. All alignment systems shall have a backup to automatically shut down the entire center pivot should any tower become misaligned beyond normal operational limits.

6.4.20.1.2. All micro-switches shall be effectively sealed against moisture and dust contamination.

6.4.21. TOWER CONTROL BOX

6.4.21.1. Each tower shall have an auxiliary tower box to control its functions, including the following:

6.4.21.1.1. A definite purpose long life contactor rated at 30 amps, 600 volts, 7.5 hp, and for 10 million mechanical operations.

6.4.21.1.2. Micro-switch rated 600 volts.

6.4.21.1.3. On-Off switch rated at 7.5 hp, at 600 volts, and safety interlock with the control panel enclosure.

6.4.21.2. Each tower box shall be fitted with a suitable weather tight enclosure.

6.4.22. GROUNDING

6.4.22.1. All systems shall have proper grounding.

6.4.23. SAFETY SIGNS

6.4.23.1. Safety signs describing the automatic starting of the machine, grounding requirements, high voltage, caution and other pertinent safety signs shall be provided and prominently displayed.

6.4.24. COLLECTOR RING

6.4.24.1. The collector ring will be mounted on a stainless steel J tube that extends through the rotating swivel.

6.4.24.2. It shall not be an external type collector ring.

6.4.24.3. There shall be a watertight seal around the tube.

6.4.24.4. A collector ring cover with gaskets shall be provided to protect the internal electrical components against the environment

6.4.24.5. The collector ring shall consist of a minimum of 10 sliding contactors rated at 600 volts and 35 amps minimum.

6.4.24.6. To assure positive contact of the brushes to the contact point, leaf springs shall be used.

6.4.24.7. Slip rings shall be seamless and not more than 4 inches in diameter.

6.4.25. CONDUCTORS

6.4.25.1. Conductors in the irrigation cable shall be a minimum of 14 AWG, copper, type THWN, stranded for s for all control circuits;

6.4.25.2. at least 18 AWG, copper type THWN, stranded for low current signal carrying circuit;

6.4.25.3. and a minimum of no. 10 AWG, copper, type THWN stranded for all three phase motor power conductors.

6.4.25.4. Conductors used to connect or interconnect to or between components within an enclosure shall be rated for 300 volts AC minimum for circuitry utilizing 300 volts or less and for 600 volts minimum for circuits utilizing voltages from 300 to 600 volts AC

6.4.25.5. Cable jacketing shall be resistant to sunlight, moisture, and corrosion.

6.4.25.5.1. It should also provide mechanical protection, flexibility and be suitable for operation within a temperature range of 15° F and 140° F.

6.4.25.6. All conductors shall be color coded for proper identification, and this coding shall be uniform throughout the entire system.

6.5. MATERIAL

6.5.1. GENERAL

6.5.1.1. All products and materials shall be new and unused.

6.5.1.2. After delivery to the site all materials shall be suitably stored and protected

against damage, vandalism, and the Contractor's construction operations.

- 6.5.1.3. Any material that becomes damaged prior to acceptance by Owner shall be rejected and replaced at the Contractor's expense.

6.5.2. WATER LINE PIPE

- 6.5.2.1. All water line pipe shall be of the nominal diameters (OD) required to provide the amount of water (effluent) called for in the CENTER PIVOT SCHEDULE, hot dip galvanized to the latest ASTM 123 specifications and have a minimum 0.115" wall thickness.

- 6.5.2.2. Water line pipe shall have ¾ inch collars at 40 inch centers in the top of the pipe to provide for future LEPA operations.

- 6.5.2.3. Design calculations shall be provided to prove the hydraulic design.

- 6.5.2.4. Piping shall be formed from a ISI/SAE 1010 coil sheet or approved equal.

6.5.3. STRUCTURAL MEMBERS

- 6.5.3.1. All structural members including span braces, tower supports, base beams, miscellaneous bolts, mounting brackets, truss rods, span trusses, and miscellaneous stiffeners shall be hot dip galvanized to the latest ASTM 123 specifications.

- 6.5.3.2. The minimum amount of zinc shall be 2.0 oz/ sq. foot average.

- 6.5.3.3. Truss rods shall be one piece and of a fixed length with a minimum diameter of ¾ inch.

- 6.5.3.4. All Welding of structural members shall be done in accordance with the best welding practices as outlined by the American Welding Society (AWS) and performed by qualified welders.

- 6.5.3.5. Vertical tower support legs shall be constructed of four 3"x 4" x ¼" angles bolted to a 6-5/8" x 11 gauge tubular non-towable mobile base.

- 6.5.3.6. Legs must have a minimum of five tie braces.

- 6.5.3.7. Corrosion resistant lock nuts or lock washers shall be used at all bolted connections on the tower supports, base beams, span braces, span trusses and truss rods.

- 6.5.3.8. All fasteners used on the system shall be grade 5 zinc coated or better.

6.5.4. SPAN LAYOUT

- 6.5.4.1. The center pivot spans shall be laid out from the center pivot riser tower to a radius shown in the pivot schedule as follows:

- 6.5.4.1.1. Spans shall be laid out in a manner that no tire track shall be within 25 feet of any obstruction located in the irrigation area or as far away from obstruction as practically possible.

- 6.5.4.1.2. The maximum span length shall be 146 feet for 8 inch pipe and 160 feet for 6-5/8 inch pipe.

- 6.5.4.1.3. The pipe diameter of the end-boom on all units shall be at least 5 inches.

6.5.4.1.4. The maximum length of the end-boom shall be 40.0 feet.

6.5.4.1.5. The diameter of the center riser pipe shall be 8 inches on all center pivot irrigation units. Riser shall have a poly seal gasket for high and low pressure.

6.5.5. NOZZLES

6.5.5.1. Nozzles shall be Senniger Orlando or approved equal

6.5.5.2. These nozzles shall be mounted on single polydrop extension tubes at an average height of 34 inches above the ground.

6.5.5.3. The first nozzle drop shall be no closer than 40 feet to the stationary pivot point tower.

6.5.5.4. The instantaneous application rate shall not exceed 2.25 inches per hour.

6.5.5.4.1. The sprinkler Package shall be computed at 90 percent application efficiency.

6.5.6. CENTER PIVOT SCHEDULE

6.5.6.1. The center pivots shall be designed for the maximum flow, maximum radius and acreage listed in the following schedule:

Unit No.	Operating Pressure	Flow (gpm)	Radius	Acres/Unit	Options	Budget Yr Replaced
2-3	25	800	1320	138	Auto Reverse	2004
2-4	23	800	1315	140	Auto Reverse	2011
3-1	21	900	1320	145	Auto Reverse W/ Spray Booms	2004
3-2	25	900	1320	139	Auto Reverse	2012
3-4	25	900	1320	138	Auto Reverse	2004
10-1	25	800	1320	125	Auto Reverse	2003
10-2	25	800	1320	120	Auto Reverse	2007
10-3	25	800	1294	115	Auto Reverse	2012
10-4	25	800	1294	120	Replace (1) joint of span pipe only	2007
10-4	25	800	1294	120	Auto Reverse	2008
11-1	25	800	1300	121	Auto Reverse	2004
11-2	25	800	1300	121	Auto Reverse	2005
11-3	25	800	1300	121		2006
11-4	25	800	1300	121		2003
12-1	25	800	1130	57	Auto Reverse	2005
12-2	25	800	913.05	30	Auto Reverse	2009
13-1	25	800	1316	124	Auto Reverse	2002
13-2	25	800	1008	36	Auto Reverse	2010
13-3	25	800	1325	63		1984
14-1	25	800	1320	126	Auto Reverse	2011
14-2	25	800	1008	35	Auto Reverse	2010
14-3	25	800	924	61		2007
14-4	25	800	1144.64	98		2009
15-1	25	800	1085	84	Auto Reverse	2006
15-2	25	800	1318	123	Auto Reverse	2003
15-3	25	800	1325	63	Auto Reverse	2008
Schumann	25	800	1280	118	Auto Reverse	2005

.Removed the * since we are not doing end guns anymore.

6.5.6.2. Contractor shall include with submittals what pressure at the given flow rate and nozzle type/ spacing will be required. Up to 35 psig is available.

6.5.6.3. The Owner will select which center pivots will be replaced first.

6.5.7. EQUIPMENT CONNECTION:

6.5.7.1. Seamless, 8 inch high pressure, aluminum irrigation pipe with a minimum wall thickness of .064 inches shall be used for connecting the center pivot irrigation equipment to the existing riser valve openers.

6.5.7.2. A line valve and a gravel screen shall be furnished and installed in each connecting pipe.

6.5.7.3. All valves and pipe shall be provided with quick disconnect ring lock assemblies.

6.5.8. LINE VALVE

6.5.8.1. Line valve bodies shall be made of 12 gauge galvanized steel and shall be designed to withstand an internal pressure of 100 psig. Line valves shall be operated by a tee handle arrangement which adjusts the position of an internal flap.

6.5.8.2. Line valves shall be operated by a tee handle arrangement which adjusts the position of an internal flap.

6.5.8.3. Valves shall be capable of sealing a 50 psig shutoff head.

6.5.8.4. Line valves shall be as manufactured by the Pierce Company or approved equal.

6.5.9. GRAVEL SCREENS

6.5.9.1. Gravel screens shall be provided in 20 gauge galvanized iron with 3/32 inch openings.

6.5.9.2. The screens shall be of the ring type for insertion in 8 inch pipe and shall be 3 feet long.

6.5.9.3. Gravel screens shall be as manufactured by Tri-Matic, Inc. or approved equal.

6.5.10. DRAWINGS AND DATA

6.5.10.1. The successful bidder (Contractor) shall submit complete specifications, data and catalog cuts or drawings covering each item of equipment furnished to the Owner for approval.

6.5.10.2. Data and specifications for each item shall include, but not be limited to the following:

6.5.10.2.1. Center Pivot Irrigation Equipment

6.5.10.2.1.1. Name of the Manufacturer

6.5.10.2.1.2. Type and Model Number

6.5.10.2.2. Nozzles

6.5.10.2.2.1. Name of Manufacturer

6.5.10.2.2.2. Type and Model Number

6.5.10.2.2.3. Spacing

6.6. ELECTRICAL

6.6.1. SCOPE

6.6.1.1. This section covers the installation of electrical equipment furnished under the other sections; and furnishing and installing all additional equipment and materials needed for the electrical requirements of these specifications and contract.

6.6.2. CODES AND PERMITS:

6.6.2.1. All work shall be performed and all materials shall be in accordance with the National Electrical Code and applicable local regulations and ordinances.

6.6.2.2. The Contractor shall, at his own expense, arrange for and obtain all necessary permits, inspections, and approval by the proper authorities in local jurisdiction of such work.

6.6.3. RELATION TO OTHER WORK

6.6.3.1. Electrical work shall be performed to conform with the construction schedule and progress of other trades.

6.6.3.2. Electrical apparatus on all equipment shall be handled, set in place, connected, checked out, serviced and placed in readiness for proper operation to the satisfaction of the Owner and Engineer, all within the scope of work intended under this section.

6.7. REVIEW OF EQUIPMENT AND MATERIALS

6.7.1. All Materials and equipment shall be submitted for review.

6.7.2. Each sheet of descriptive literature submitted shall be clearly marked to identify the material or equipment as follows:

6.7.2.1. Equipment and materials descriptive literature and drawings shall show the specification paragraph for which the equipment applies.

6.7.2.2. Sheets or drawings showing more than the particular item under consideration shall have crossed out all but the pertinent description of the item for which review is requested.

6.7.2.3. Equipment and materials descriptive literature not readily cross referenced with the drawings or specifications shall be identified by a suitable notation.

6.7.2.4. Schematics and connecting diagrams for all electrical equipment shall be submitted for review.

6.7.2.4.1. A manufacturer's standard connection diagram or schematic showing more than one scheme of connection will not be accepted, unless it is clearly marked to show the intended connections.

6.8. POWER SERVICES ENTRANCES

6.8.1. Power services for this project have been provided under a previous contract.

6.9. GENERAL PROCEDURE

6.9.1. Electrical work shall be performed in accordance with the following except as otherwise specified or indicated on the drawings.

6.9.2. SETTING OF EQUIPMENT

6.9.2.1. All equipment shall be installed level and plumb.

6.9.3. SEALING OF EQUIPMENT

6.9.3.1. All openings into equipment shall be screened or sealed as required to prevent the entrance of rodents and insects the size of wasps and mud-daubers.

6.9.4. INSTALLATION OF CONDUIT

6.9.4.1. A conduit shall be routed from each center pivot unit stub-up conduit previously installed to each center pivot unit control panel.

6.9.4.2. A pull box, as specified herein, shall be mounted on the existing stub up conduit with the new conduit routed from the pull box.

6.9.4.3. The conduit installed shall be the same size as the existing stub up conduit.

6.9.4.4. Conduit installation shall conform to the following requirements:

6.9.4.4.1. Terminations and connections of rigid steel conduit shall be threaded.

6.9.4.4.2. Conduits shall be reamed, free of burrs, and terminated with conduit bushings.

6.9.4.4.3. Exposed rigid conduit shall be installed parallel to structural members and surfaced.

6.9.4.4.4. Conduit shall be rigidly supported by galvanized hardware and framing materials including nuts and bolts.

6.9.4.4.5. Conduit connections to sheet metal enclosures shall be securely fastened by locknuts inside and outside.

6.9.4.4.6. Conduits shall be capped during construction to prevent entrance of dirt, water and trash.

6.9.5. SEALING OF CONDUITS

6.9.5.1. After cable has been installed and connected, conduit ends shall be sealed by Johns-Mansville "Duxseal" or approved equal, forced into conduits to a minimum depth equal to the conduit diameter.

6.9.6. INSTALLATION OF CABLE

6.9.6.1. Cable for this project as provided under a previous contract.

6.9.6.2. The cable shall be routed from the pull box at the center pivot unit stub-up conduit to the center pivot unit control panel in conduit as specified herein.

6.9.6.3. Cable connections at the center pivot control panel shall be as

recommended by the center pivot supplier.

6.9.6.4. Care shall be taken to protect the cable and avoid kinking of conductors, cutting or puncturing the jacket, contamination from oil or grease, or damage in any manner.

6.9.6.5. Cable installation shall conform with the following requirements:

6.9.6.5.1. Stranded conductor cable shall be terminated by lugs, cup washers or pressure type connectors

6.9.6.5.2. Stranded cable shall not be wrapped around screw type terminals.

6.9.6.5.3. Cable shall not be pulled tight against bushings nor pressed heavily against enclosures

6.9.6.5.4. cable pulling lubricants shall be as recommended by the cable manufacturer for that particular type cable.

6.9.6.5.5. Cables in vertical risers shall be supported Kellems woven grips or approved equal where necessary to prevent heavy loading on cable connectors because of the weight of the cable.

6.9.7. INSTALLATION OF GROUNDING MATERIALS

6.9.7.1. Electrical system grounding and equipment grounding shall be installed in compliance with the National Electrical Code and shall conform to the following applicable requirements.

6.9.7.1.1. All ground conductors shall be bare, soft drawn, copper cable or bar, not smaller than 12 AWG.

6.9.7.1.2. Ground cable splices and joints which will be inaccessible upon completion of construction shall be made with the "Cadweld" process or approved equal.

6.9.7.1.3. Ground connections to equipment and ground buses shall be by ground lugs or clamps.

6.9.7.1.4. Connections to enclosures not provided with ground busses or terminals shall be by clamp type lugs added under permanent assembly bolts or under new bolts drilled and added through enclosures or by grounding locknuts or bushings.

6.9.7.1.5. Ground conductors on equipment shall be formed to the contour of the equipment and firmly supported.

6.9.7.1.6. All Ground connection hardware, bolts and nuts shall be high strength, high conductivity copper alloy.

6.9.7.1.7. Ground rods shall be 5/8 inch by 8 foot, Copperweld or approved equal.

6.9.7.1.8. A ground rod shall be driven at each center pivot control panel for connection of grounding conductors.

6.10. JUNCTION BOXES

6.10.1. Boxes shall be constructed of PVC or fiberglass.

6.10.2. Box sizes, thickness, and installation details shall comply with the National

Electrical Code.

6.10.3. Bolt-on junction box covers 3'0" square or larger, or heavier than 25 pounds, shall have a rigid handle.

6.10.4. Covers larger than 3'0" by 4'0" shall be split.

6.10.5. Pull boxes shall be NEMA Type 3R

6.11. RIGID CONDUIT

6.11.1. Unless otherwise specified, all raceways shall be heavy wall, galvanized, PVC coated rigid steel conduit, ANSI C80.1.

6.11.2. PVC coated steel conduit shall be as manufactured by Robroy Industries or approved equal.

7. SUBMITTALS

7.1. LAYOUT DATA

7.1.1. Contractor shall keep neat and legible notes of measurements and calculations made by him in connections with the layout of the Work.

7.1.2. Copies of such data shall be furnished to the Owner for use in checking Contractor's layout as provided under lines and grades.

7.1.3. All such data considered of value to Owner will be transmitted to Owner with other records upon completion of the Work.

7.2. CONSTRUCTION PHOTOGRAPHS

7.2.1. Owner shall be responsible for the production of all construction photographs required by Owner.

8. TEMPORARY FACILITIES

8.1. OFFICE AT SITE OF WORK

8.1.1. During the performance of the work described herein, Contractor shall maintain a suitable office at or near the site of the work which shall be the headquarters of his representative authorized to receive drawings, instructions or other communications or articles.

8.1.2. Any communication given to said representative or delivered at Contractor's office at the site of the Work in his absence shall be deemed to have been delivered to contractor.

8.1.3. Copies of the Drawings, Specifications and other contract documents shall be kept at Contractor's office at the site of the work and available for use at all times.

8.2. WATER

8.2.1. Potable water is not available at the site.

8.2.1.1. Contractor shall supply water for potable and sanitary facilities at his own expense.

8.2.2. Construction Water

8.2.2.1. Secondary effluent water will be available and shall be coordinated with the Owner's field personnel.

8.2.2.2. This supply of non-potable water shall be furnished without charge.

8.3. POWER

8.3.1. Contractor shall provide all power for heating, lighting, operation of Contractor's plant or equipment, or any other use by Contractor.

8.4. TELEPHONE SERVICE

8.4.1. Contractor shall make all necessary arrangements and pay all installation charges for telephone lines at his office at the site.

8.5. SANITARY FACILITIES

8.5.1. Contractor shall furnish temporary sanitary facilities at the site, as provided herein, for the needs of all construction workers and others performing work or furnishing services on the project.

8.5.2. Sanitary facilities shall be of reasonable capacity, properly maintained through the construction period, and obscured from public view to the greatest practical extent.

8.5.3. If toilets of the chemically treated type are used, at least one toilet will be supplied for each 20 men.

8.5.4. Contractor shall enforce the use of such sanitary facilities by all personnel at the site.

8.6. MAINTENANCE OF TRAFFIC

8.6.1. Contractor shall conduct his work to interfere as little as possible with public travel.

8.6.2. Whenever it is necessary cross, obstruct or close roads, public or private, Contractor shall provide and maintain suitable and safe bridges, detours, or other temporary expedients for the accommodation of public and private travel, and shall give reasonable notice to owner's of private roads before interfering with them.

8.6.3. Such maintenance of traffic will not be required when Contractor has obtained permission from the owner and tenant of private property, or from the authority having jurisdiction over public property involved, to obstruct traffic at the designated point.

8.7. FENCES

8.7.1. All existing fences affected by the Work shall be maintained by Contractor until completion of the Work

8.7.2. Fences which interfere with construction operations shall not be relocated or dismantled until permission is obtained from the owner of the fence, and the period the fence may be left relocated or dismantled has been agreed upon.

8.7.3. Gates shall be kept closed and locked at all times when not in use.

8.8. SECURITY

8.8.1. Contractor shall be responsible for the protection of the site, and all Work, materials, equipment and existing facilities thereon, and material in the salvage yards against vandals and other unauthorized persons.

8.8.2. No claim shall be made against Owner by reason of any act of an employee or trespasser, and contractor shall make good all damage to Owner's property resulting from his failure to provide security measures as specified.

8.8.3. Security measures shall include such additional security fencing, barricades, lighting, watchman services, and other measures as required to protect the site.

8.9. ACCESS ROADS

8.9.1. All access roads used by the Contractor shall be within the construction areas

8.9.2. Construction traffic across uncleared areas will not be permitted.

8.9.3. Existing roads may be used.

8.9.4. If the Contractor must have a road across an uncleared area outside the construction area, the Contractor must receive permission from the Owner.

8.10. PARKING

8.10.1. Owner will direct Contractor to suitable parking areas for the use of all construction workers and others performing work or furnishing services in connection with the Project, as required to avoid any need for parking personal vehicles where they may interfere with public traffic, Owner's operations, or construction activities.

8.11. POLLUTION CONTROL

8.11.1. Contractor shall prevent the pollution of drains and watercourses by sanitary wastes, sediment, debris and other substances resulting from construction activities.

8.11.2. No sanitary wastes will be permitted to enter any drain or watercourse.

8.11.3. Reasonable measures shall be taken to prevent sediment, debris or other such materials from entering any drain or watercourse.

9. GENERAL EQUIPMENT STIPULATIONS

9.1. SCOPE

9.1.1. All equipment furnished and installed under these specifications and relative contract documents shall conform to the general stipulations set forth in this section except as otherwise specified in other sections of the specifications.

9.2. COORDINATION

9.2.1. Contractor shall coordinate all details of the equipment with other parts of the work, including verification that all structures, piping, wiring, and equipment components are compatible.

9.2.2. Contractor shall be responsible for all structural and other alterations in the

Work required to accommodate equipment differing in dimensions or other characteristics from that contemplated in contract drawings or specifications.

9.3. MANUFACTURER'S EXPERIENCE

- 9.3.1. Unless specifically named in the specifications, a manufacturer shall have furnished equipment of the type and size specified which has been in successful operation for not less than the past five years.

9.4. WORKMANSHIP AND MATERIALS

- 9.4.1. Contractor shall guarantee all equipment against faulty or inadequate design, improper assembly, or erection, defective workmanship or materials, and leakage, breakage, or other failure.
- 9.4.2. Materials shall be suitable for the service conditions.
- 9.4.3. All equipment shall be designed, fabricated and assembled in accordance with the best modern engineering and shop practice.
- 9.4.4. Individual parts shall be manufactured to standard sizes and gauges so that repair parts, furnished at any time, can be installed in the field.
- 9.4.5. Like parts of duplicate units shall be interchangeable.
- 9.4.6. New equipment shall not have been in service at any time prior to delivery, except as required by tests.
- 9.4.7. Except as otherwise specified, structural and miscellaneous fabricated steel used in equipment shall conform to AISC standards.
- 9.4.8. All structural members shall be designed for shock or vibratory loads.
- 9.4.9. Unless otherwise specified, all steel which will be submerged, all or in part, shall be at least ¼ inch thick.

9.5. LUBRICATION

- 9.5.1. Equipment shall be adequately lubricated by systems which require attention no more frequently than weekly during continuous operation.
- 9.5.2. Lubrication systems shall not require attention during startup and shutdown and shall not waste lubricants.
- 9.5.3. Lubricants of the type recommended by the equipment manufacturer shall be provided in sufficient quantity to fill all lubricant reservoirs and to replace all consumption during testing, startup and operation prior to acceptance by the Owner.
- 9.5.4. Lubricant facilities shall be convenient and accessible.
- 9.5.5. Oil drains and fill openings shall be easily accessible from the normal operating area or platform.
- 9.5.6. Drains shall allow for convenient collection of waste oil in containers, from the normal operating area or platform without removing the unit from its normal installed position.

9.6. ELEVATION

- 9.6.1. Since the elevation of the site is approximately 2600 feet, all equipment

furnished shall be designed to meet stipulated conditions and to operate satisfactorily at this elevation.

9.7. ELECTRIC MOTORS

9.7.1. Unless otherwise specified, motors furnished with equipment shall meet the following requirements:

9.7.1.1. Designed and applied in accordance with NEMA, ANSI, IEEE, AFBMA, and NEC for the duty service imposed by the driven equipment, such as frequent starting, intermittent overlaid, high inertia, mounting configuration, or service environment.

9.7.2. Rated for continuous duty at 40° C ambient, unless the application is well recognized for intermittent duty service as a standard industry practice.

9.7.3. Insulated with Class A, Class B, class F, or Class H insulation and designed for a service factor of 1.00, 1.15, or greater.

9.7.4. When operating at a service factor load, maximum observable temperature rise of insulation and motor parts, as determined by resistance or thermometer methods, shall not exceed the NEMA allowable limits for the type of motor, the type of enclosure, and the particular application with regard to continuous and intermittent duty.

9.7.5. To ensure long motor life, nameplate horsepower, regardless of service factor, shall be at least 115 percent of the maximum load imposed by the driven equipment.

9.7.6. Designed for full voltage starting

9.7.7. De-rated, if required, for the altitude at which the equipment is installed.

9.7.8. Clamp type grounding terminal shall be installed inside the motor conduit box

9.7.9. External conduit boxes shall be oversized at least one size larger than NEMA standards.

9.7.10. Totally enclosed motors shall have a continuous moisture drain which also excludes insects

9.7.11. Bearings shall be either oil or grease lubricated.

9.7.11.1. Manufacturer's standard motor may be supplied on integrally constructed, packaged assemblies such as appliances, tools, unit heaters, and similar equipment specified by model number, in which case a redesign of the unit would be required to furnish motors, of other than the manufacturer's standard design.

9.7.11.2. However, in all cases, totally enclosed motors are preferred and shall be furnished if offered by the manufacturer as a standard option

9.7.12. Totally enclosed motors shall be furnished on all equipment.

9.8. SAFETY GUARDS

9.8.1. All moving or rotating parts shall be covered on all sides by a safety guard.

9.8.2. Safety guards shall be fabricated from 16 USS gauge or heavier galvanized

or aluminum clad sheet steel or ½ inch mesh galvanized expanded metal.

9.8.3. Each guard shall be designed for easy installation and removal.

9.8.4. All necessary supports and accessories shall be supplied for each guard

9.8.5. Supports and accessories, including bolts, shall be galvanized.

9.9. SPECIAL TOOLS AND ACCESSORIES

9.9.1. Equipment requiring periodic repair and adjustment shall be furnished complete with all special tools, instruments, and accessories required for proper maintenance.

9.9.2. Equipment requiring special devices for lifting or handling shall be furnished complete with those devices.

9.10. SHOP PAINTING

9.10.1. All steel and iron surfaces shall be protected by suitable paint or coatings applied in the shop.

9.10.2. Surfaces which will be inaccessible after assembly shall be protected for the life of the equipment.

9.10.3. Exposed surfaces shall be finished smooth, thoroughly cleaned, and filled as necessary to provide a smooth uniform base for painting.

9.10.4. Surfaces to be painted after installation shall be shop painted with one or more coats of primer which will adequately protect the equipment until finish coats are applied.

9.10.5. Electric motors, speed reducers, starters and other self-contained or enclosed components shall be shop primed or finished with high grade oil resistant enamel suitable for coating in the field with alkyd enamel.

9.10.6. Coatings shall be suitable for the environment where the equipment is installed.

9.10.7. Shop primer for steel and iron surfaces shall be Cook "391-N-142-Clorocon Barrier Coat", Koppers "No. 10 Inhibitive Primer", Mobil "13-R-28 Chromox Primer", or Tnemec "77 Chem-Prime". Any other coating process shall be approved in writing prior to the bid opening.

9.10.8. Machined, polished and non ferrous surfaces which are not to be painted shall be coated with a rust preventive compound, Houghton "Rust Veto 344" or Rust-Oleum "R-9" or other approved equal.

9.11. PREPARATION FOR SHIPMENT

9.11.1. All equipment shall be suitably packaged to facilitate handling and protect against damage during transit and storage.

9.11.2. All equipment shall be boxed, crated, or otherwise completely enclosed and protected during shipment, handling and storage.

9.11.3. All equipment shall be protected from exposure to the elements and shall be kept thoroughly dry at all times.

9.11.4. Painted surfaces shall be protected against impact, abrasion, discoloration and other damage.

- 9.11.5. All painted surfaces which are damaged prior to acceptance of equipment, shall be repainted to the satisfaction of the Engineer.
- 9.11.6. Grease and lubricating oil shall be applied to all bearings and similar items
- 9.11.7. Each item of equipment shall be tagged or marked as identified in the delivery schedule or on the drawings.
- 9.11.8. Complete packing lists and bills of material shall be included with each shipment.

10. MEASUREMENT AND PAYMENT

10.1. SCOPE

- 10.1.1. This section covers methods of measurement and payment for items of work under these specifications and contract documents.

10.2. GENERAL

- 10.2.1. The bid price shall cover all work required by these specifications and contract documents:
- 10.2.2. All costs in connection with the proper and successful completion of the Work, including furnishing all materials, equipment, supplies and appurtenances; providing all construction plant, equipment and tools; and performing all necessary labor and supervision to fully complete the Work, shall be included in the completely installed price bid per 1320 foot Center Pivot System.

10.3. CENTER PIVOT IRRIGATION EQUIPMENT

- 10.3.1. The price bid for the center pivot irrigation equipment shall be based on the furnishing and installing all new center pivot irrigation equipment including all costs for piping, controls, riser tower, structural components, self-propelled towers with drive motors and gear boxes, tires, nozzles, emergency stops, accessories and appurtenances, and all other costs of the center pivot irrigation system.

11. SITE HOUSE KEEPING

11.1. DAILY:

- 11.1.1. Contractor shall at all times keep the premises free from accumulations of waste materials and rubbish.
- 11.1.2. Contractor shall provide adequate trash receptacles about the site and shall be promptly empty the containers when filled.
- 11.1.3. Volatile wastes shall be properly stored in covered metal containers and removed daily.
- 11.1.4. Wastes shall not be buried or burned on the site except as specified herein.
- 11.1.4.1. Disposal of wastes into waterways is not acceptable.

11.2. END OF PROJECT

- 11.2.1. All wastes shall be removed from the site and disposed of in a manner complying local, state and federal pollution laws.
- 11.2.2. Adequate cleanup shall be a condition for recommendation of progress payments when applicable.

11.2.3. Contractor shall coordinate any salvage operations and storage with the Owner.

12. QUALITY ASSURANCE

Owners Representative or his designate my inspect any or all phases of the work performed. Rejected work shall be corrected before any payment is made for the project.

13. BID WAIVERS:

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

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

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

B. 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).

Lamesa Irrigation
Company Name
Terry Coleman
Authorized Signature
Terry Coleman
Print Above Name

806-872-5479
Phone
806-872-2615
Fax
11-15-11
Date

mesairrig@pics.net
Email Address

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 Oblige.

*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 HEAVY CONSTRUCTION as of September 3, 2010 General Decision: TX100001

<u>Classification</u>	<u>Rate/hr</u>	<u>Fringes</u>
Air Tool Operator	9.05	
Asphalt Distributor Operator	10.46	
Asphalt Heater Operator	11.21	
Asphalt Paving Machine Operator	9.38	
Asphalt Raker	9.53	
Asphalt Shoveler	7.33	
Batching Plant Weigher	11.15	
Broom or Sweeper Operator	8.01	
Bulldozer Operator	10.88	
Carpenter	10.10	
Concrete Finisher-Paving	11.25	
Concrete Finisher Structures	10.03	
Concrete Paving Saw Operator	15.00	
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel Operator	11.94	
Crusher, Screen Plant Operator	9.00	
Electrician	19.00	
Flagger	7.29	
Form Builder/Setter-Structures	10.01	
Form Setter - Paving & Curb	9.43	
Foundation Drill Operator, Truck Mounted	18.00	
Front End Loader Operator	10.04	
Laborer - Common	8.25	
Laborer Utility	9.62	
Mechanic	14.05	
Milling Machine Operator, Fine Grade	12.20	
Motor Grader Operator Rough	14.36	

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 VENDOR COMPANY	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: center;">COMPANIES AFFORDING COVERAGE</th> </tr> <tr> <td style="width: 30%;">COMPANY LETTER A</td> <td>COMPANY NAME</td> </tr> <tr> <td>COMPANY LETTER B</td> <td></td> </tr> <tr> <td>COMPANY LETTER C</td> <td></td> </tr> <tr> <td>COMPANY LETTER D</td> <td></td> </tr> <tr> <td>COMPANY LETTER E</td> <td></td> </tr> </table>	COMPANIES AFFORDING COVERAGE		COMPANY LETTER A	COMPANY NAME	COMPANY LETTER B		COMPANY LETTER C		COMPANY LETTER D		COMPANY LETTER E	
COMPANIES AFFORDING COVERAGE													
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	
					[ANY ONE FIRE]	50000*
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS ☐ GARAGE LIABILITY	ABC123456789	00/00/00	00/00/00	MED. EXPENSE	5000*
					[ANY ONE PERSON]	
					COM'S SINGLE LIMIT	250000*
					BODILY INJURY	
	EXCESS LIABILITY ☐ UMBRELLA FORM ☐ OTHER THAN UMBRELLA FORM				[EACH PERSON]	
					BODILY INJURY	
					[PER ACCIDENT]	
A	WORKERS' COMP AND EMPLOYERS' LIAB	ABC123456789		00/00/00	PROPERTY DAMAGE	
A					EACH OCCURRENCE	
					AGGREGATE	
					(STATUTORY LIMITS)	
A		ABC123456789		00/00/00	EACH ACCIDENT	100000*
					DISEASE-POL. LIMITS	500000*
A		ABC123456789		00/00/00	DISEASE-EACH EMP.	100000*
	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.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE EXECUTION OF A
CONTRACT FOR THE PURCHASE AND
INSTALLATION OF TWO (2) CENTER PIVOT
IRRIGATION SYSTEMS FOR USE AT THE CITY'S
SPRABERRY FARM FROM THE SOLE BIDDER,
LAMESA IRRIGATION COMPANY, OF LAMESA,
TEXAS, AT A TOTAL COST OF \$152,364.00**

WHEREAS, the City Manager approved plans and specifications and authorized advertisement for bids for the supply and installation of two (2) center pivot irrigation systems for use at the City's Spraberry Farm; and

WHEREAS, Bid No. 4098-12 was opened on November 16, 2011, with the lowest and most responsible bid, which was also the only bid, being submitted from Lamesa Irrigation Company as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes;

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

SECTION ONE. That the City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a contract for the purchase and installation of the above listed center pivot irrigation systems from Lamesa Irrigation Company, at an estimated total price not to exceed \$152,364.00, said contract being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay Lamesa Irrigation Company for said center pivot irrigation systems from funds available in the Fiscal Year 2011 – 2012 Water and Sewer Fund (300) Utilities (300) Spraberry Farm (0315) Irrigation Equipment (8425) budget account upon proper receipt of invoices or statements approved by the City Manager.

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

City of Midland at a regular meeting on the _____ day of _____, A.D., 2011, by
the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland - Bid Tabulation

BID NO.: 4098-12 FOR: Pivot Irrigation Systems CLOSES: 11/16/2011			Lamesa Irrigation 1609 N Hwy 87, Lamesa, TX 79331 mesairig@pics.net Terry Coleman (806)872-5479	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL
		Please see notes following this list.....		
1	1	993.04' Center Pivot #13-2 w/auto reverse	\$69,931.00000	\$69,931.00
		Brand/Model	Zimmatic	
2	1	933.04' Center Pivot #14-2 w/auto reverse	\$69,931.000	\$69,931.00
		Brand/Model	Zimmatic	
3	2	Lot Pivots - Trade In	(\$200.000)	(\$400.00)
4	20	3/4 HP Motors with capps for Zimmatic Pivots	\$173.600	\$3,472.00
5	20	Wheel Gear Boxes with short shaft	\$265.000	\$5,300.00
6	10	Motors and Center Drive Combos for Zimmatic Pivots	\$413.000	\$4,130.00
		Delivery	Approx 30-45 Days	
TOTALS:				\$152,364.00
Discount if all awarded to your company...Discounted Total:			\$	152,364.00

Bidding Summary:

6 Bid requests were issued.

1 Bids listed above

0 NO BIDS were received.

5 Bidders did not respond.

Consolidated Pipe & Tube, Cater & Co Irrigation, Valley Irrigation & Pump Services, Morton Irrigation, Massey Irrigation



City Council Agenda

Approved For Agenda:
THudson
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL, CITY MANAGER

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: 4268-12 for Side Wheel Roll Irrigation System

Purpose:

Approval of a resolution authorizing the purchase of spare parts and four complete side wheel roll irrigation systems for use at the Spraberry Farm operation.

Recommended City Council Action:

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

\$68,720.00 Water and Sewer Fund

Discussion:

We are recommending the low bidder, Mesa Irrigation. The side wheel roll irrigation systems will be assembled by City personnel.

Therefore, please consider approval of a resolution authorizing the purchase of the side wheel roll irrigation systems and parts from Mesa Irrigation Company of Lamesa, Texas for a total of \$68,720.00.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE PURCHASE OF
FOUR COMPLETE SIDE-WHEEL ROLL IRRIGATION
SYSTEMS AND SPARE PARTS FOR USE AT THE
SPRABERRY FARM FACILITIES FROM MESA
IRRIGATION, OF LAMESA, TEXAS, AT A TOTAL
COST OF \$68,720.00**

WHEREAS, the City Manager approved plans and specifications and authorized advertisement for bids for four complete side-wheel roll irrigation systems and spare parts for use at the Spraberry Farm Facilities; and

WHEREAS, Bid No. 4268-12 was opened on November 9, 2011, with the lowest and most responsible bid being submitted by Mesa Irrigation of Lamesa, Texas, at a total cost of \$68,720.00, as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes;

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

SECTION ONE. That the City Manager is hereby authorized and directed to purchase four complete side-wheel roll irrigation systems with spare parts for use at the Spraberry Farm Facilities as specified in the bid tabulation, from Mesa Irrigation of Lamesa, Texas, at an estimated total price not to exceed \$68,720.00.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay Mesa Irrigation from funds available in the Fiscal Year 2011 – 2012 Water and Sewer Fund (300) Utilities (300) Spraberry Farm (0315) Irrigation Equipment (8425) budget account upon proper receipt of invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D. , 2011, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland - Bid Tabulation

BID NO.: 4268-12 FOR: Side Wheel Roll Irrigation System CLOSES: 11/9/011			Mesa Irrigation 1609 N Hwy 87 Lamesa, TX 79331 Julian Coleman (806)872-5479		Carter & Company Irrigation PO Box 777 Seminole, TX 79360 Paul Ogden (432)758-2053	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL	COST EA.	TOTAL
Please see notes following this list.....						
1	4	Complete New Sidewheel Systems complete with 5/32" nozzles for plant farm	\$14,895.00000	\$59,580.00	\$17,750.000	\$71,000.00
2	10	5" x 20' Torque pipe for SWR, w/sprinkler, riser and leveler For Sprberry	\$198.00000	\$1,980.00	\$215.000	\$2,150.00
3	20	5" x 40' Standard SWR pipe complete w/wheel, sprinkler, risers, etc	\$333.00000	\$6,660.00	\$365.000	\$7,300.00
4	1	Freight	500	\$500.00	\$575.000	\$575.00
TOTALS:				\$68,720.00		\$81,025.00
	Discount if all awarded to your company....Discounted Total:		\$	68,720.00	5%	\$ 76,973.75

Bidding Summary:

3 Bid requests were issued.

2 Bids listed above

0 NO BIDS were received.

1 Bidders did not respond.
Consolidated Pipe& Tube



City Council Agenda

Approved For Agenda:
THudson
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL, CITY MANAGER

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: 4254-12 for Water Meters with Encoders

Purpose:

Approval of a resolution authorizing the execution of a master agreement for the purchase of water meters with encoders.

Recommended City Council Action:

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

\$128,809.00 Warehouse Fund

Discussion:

We are using these meters to automate the water meter reading process. We are recommending purchasing other than low bid because of delivery and service problems with the low bidder, Badger Meter. Also, the meters from Western Industrial are designed to work with the MXU's we purchased recently. This should also reduce the manhours it would take to install the meters and MXU's because alterations will not be necessary as they would be to install the water meters from the low bidder. The meter purchases will be facilitated by the execution of a master agreement and will be delivered and paid for throughout the fiscal year on an as needed basis.

Therefore, please consider approval of a resolution authorizing the issuance of an annual master agreement to Western Industrial Supply of Odessa, Texas for an estimated cost of \$128,809.00.

MIDLAND
Purchasing Division
Master Agreement

4254-12

For

Water Meters with encoder registers

THIS AGREEMENT, made this 14th day of December, 2011, by and between the City of Midland, Texas, a home rule municipal corporation, hereinafter referred to as "City", and Western Industrial Supply, LLC, hereinafter referred to as "Company".

1. Company agrees to sell Water Meters with encoder registers listed in the attached Cost Summary, as submitted by Company, which shall conform to the City's specifications set forth in that request, being incorporated herein and made a part of this agreement for all purposes.

Total Projected Cost: \$128,809.00

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

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

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

4. Such Water Meters with encoder registers shall be delivered to the City's Municipal Warehouse, 1602 E. Orchard Lane, Building #4, Midland, Texas. Freight and delivery charges are included in the purchase prices stated above.

5. The term of this agreement shall be for a period of 1 year(s) commencing on December 14, 2011, and terminating on December 13, 2012 unless sooner terminated as provided in this agreement. The City may at its option, renew this agreement for a period of one additional year. In order to exercise this option, the City must give Company notice of its intent to renew not less than 30 days prior to the expiration of this agreement.

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

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

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

of completion of the agreement, as above provided, exceeds the agreement price.

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

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

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

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

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

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

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

10. **RELEASE:** NOTWITHSTANDING ANY OTHER PROVISION, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE

TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

11. **Independent Contractor:** It is expressly understood and agreed that Company shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the City; that Company shall have exclusive control of, and the exclusive right to control the details of the services and work to be performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between City and Company, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Company. No person performing any of the work and services described hereunder by Company shall be considered an officer, agent, servant or employee of the City. Further, it is specifically understood and agreed that nothing in this agreement is intended or construed as creating a "Community of Pecuniary Interest" or an "Equal Right of Control" which would give rise to vicarious liability.

Company shall be an independent contractor under this agreement and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. The City does not have the power to direct the order in which the work is done. The City shall not have the right to control the means, methods or details of Company's work. Company shall assume exclusive responsibility for the work. Company is entirely free to do the work in its own way.

12. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES

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

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

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

14. **Sovereign Immunity:** By executing this agreement, the City is not waiving its right of Sovereign immunity. The City is retaining its immunity from suit. The City is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

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

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

Western Industrial Supply, LLC

By _____

Please Print Name

Please Print Title

CITY OF MIDLAND, TEXAS

By _____
Courtney B. Sharp, City Manager

ATTEST:

APPROVED AS TO FORM:

Amy M. Turner, City Secretary

Keith Stretcher, City Attorney

Corporate Acknowledgment: Master Agreement No. 4254-12

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2011.

Notary Public, State of Texas

City of Midland - Cost Summary

BID NO.: 4254-12 FOR: Water Meters w/encoder Registers CLOSES: 11/9/2011			Western Industrial Supply 2103 W 42nd Street Odessa, TX 79764 Michael Clinton (800)747-1914	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL
		Please see notes following this list.....		
1	150	5/8" water meters w/encoder registers	\$87.03000	\$13,054.50
		Brand Name	AccuStream TRPL	
2	500	1" water meters w/ encoder registers	\$147.030	\$73,515.00
		Brand Name	AccuStream TRPL	
3	50	1 1/2" water meters w/encoder registers	\$393.400	\$19,670.00
		Brand Name	AccuStream TRPL	
4	50	2" water meters w/encoder registers	\$451.390	\$22,569.50
		Brand Name	Rz Omni TRPL	
		Delivery	1-4 wks ARO	
TOTALS:				\$128,809.00
Discount if all awarded to your company... Discounted Total:			\$	128,809.00



432.685.7320
Fax 432.686.1601

300 N. Loraine
P.O. Box 1152
Midland, TX 79702

Interoffice Memorandum

Date: November 17, 2011
To: Regina Stephenson
From: Tony Goyang *TG*,
Subject: AMR Water Meters – BID # 4254-12

This memo is to follow up on my recommendation for the subject water meters with Automated Encoders.

Badger Meter, Inc was the overall low bidder on Bid # 4245-12. Based on our recent experience with Badger's service and support, it will be in the best interest of City of Midland to go along with the other bid offered by Western Industrial Supply.

Last year, Badger Meters was the low bidder on 5/8" and 1" meters. Below are some of the issues we encountered with Badger Meters, Inc.

1. Delivery was late. Approximately 6 months after order.
2. Over 150 meters did not work.
3. No response from the Badger's Agent in a reasonable time. He lives in San Antonio.
4. The Agent tried to resolve the issue over the phone, and was unsuccessful.
5. When he finally showed up, we pulled some of the meters to test at our meter shop. The meters did not work. So he requested that we ship 5 meters and the MXU'S to the Badger's headquarter lab for further test.
6. About a month later we called the Badger's Agent to inquire about the status of our meters but didn't hear from him until we found out that he was no longer with the company.
7. Finally, our meters were shipped back to us early September 2011, with no solutions or explanations.

We currently have over 150 Badger Meters with Automated Encoders that we read manually thus causing additional reading time. Western Industrial Supply has a local representative and has been more reliable in supporting their products.

RESOLUTION NO.

RESOLUTION APPROVING THE PURCHASE OF SEVEN HUNDRED AND FIFTY (750) WATER METERS OF VARIOUS SIZES, ALL WITH ENCODER REGISTERS, FROM WESTERN INDUSTRIAL SUPPLY, L.L.C., OF ODESSA, TEXAS, AT A TOTAL COST OF \$128,809.00; THERE WAS ONE OTHER BIDDER WHO SUBMITTED A BID OF \$99,690.00 BUT IT IS THE CITY MANAGERS RECOMMENDATION THAT SAID BID DID NOT MEET SPECIFICATIONS AND SHOULD BE REJECTED; AND ADOPTING THE CITY MANAGER'S RECOMMENDATION

WHEREAS, the City Manager approved plans and specifications and authorized advertisement for bids for seven hundred and fifty (750) water meters of various sizes, all with encoder registers; and

WHEREAS, Bid No. 4254-12 was opened on November 9, 2011, with the most responsible bid, which was not the lowest bid, being submitted from Western Industrial Supply, L.L.C., of Odessa, Texas, at \$128,809.00 as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

WHEREAS, there was one other bidder, Badger Meter, Inc., who bid \$99,690.00 for said meters; and

WHEREAS, it is the recommendation of the City Manager that the bid submitted from Badger Meter, Inc., did not meet bid specifications and should therefor be rejected;

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

SECTION ONE. That the City Manager is hereby authorized and directed to purchase the above listed water meters with encoders from Western Industrial Supply, L.L.C., of Odessa, Texas, at an estimated total price not to exceed \$128,809.00.

SECTION TWO. That the City Manager's recommendation that the lower bidder's water meters do not meet bid specifications and should be rejected is hereby adopted by the City Council.

SECTION THREE. That the City Treasurer is hereby authorized and directed to pay Western Industrial Supply, L.L.C., of Odessa, Texas, the sum indicated above from funds available in the Fiscal Year 2011 – 2012 Warehouse Fund (760) General Services (040) Warehouse (0760) budget account upon proper receipt of invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2011, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland - Bid Tabulation

BID NO.: 4254-12		FOR: Water Meters w/encoder Registers		CLOSES: 11/9/2011		Badger Meter, Inc 4545 West Brown Deer Road Milwaukee, WI 53223 Pamela Stokke-Ceci (800)876-3837	
		Western Industrial Supply 2103 W 42nd Street Odessa, TX 79764 Michael Clinton (800)747-1914					
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL	COST EA.	TOTAL	
Please see notes following this list.....							
1	150	5/8" water meters w/encoder registers	\$87.03000	\$13,054.50	\$70.600	\$10,590.00	
		Brand Name	AccuStream TRPL		Badger Recordall M25		
2	500	1" water meters w/ encoder registers	\$147.030	\$73,515.00	\$119.400	\$59,700.00	
		Brand Name	AccuStream TRPL		Badger Recordall M55		
3	50	1 1/2" water meters w/encoder registers	\$393.400	\$19,670.00	\$239.000	\$11,950.00	
		Brand Name	AccuStream TRPL		Badger Recordall M120 (elliptical)		
4	50	2" water meters w/encoder registers	\$451.390	\$22,569.50	\$349.000	\$17,450.00	
		Brand Name	Rz Omni TRPL		Badger Recordall Turbo 200		
		Delivery	1-4 wks ARO		Delivery Schedule included in bid		
TOTALS:				\$128,809.00		\$99,690.00	
Discount if all awarded to your company...Discounted Total:				\$	\$	\$	99,690.00

Bidding Summary:

4 Bid requests were issued.

2 Bids listed above

0 NO BIDS were received.

2 Bidders did not respond.
Neptune Technology, RG-3 Utilities



City Council Agenda

Approved For Agenda:
THudson
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL, CITY MANAGER

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: 4391-12 Telescopic Boom Lift

Purpose:

Approval of a resolution authorizing the purchase of a telescopic boom lift for the Garage Division.

Recommended City Council Action:

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

\$120,340.00 Garage Fund

Discussion:

This telescopic boom lift will be used at the Scharbauer Sports Complex and by the Parks Division to replace parking lot light bulbs, paint the upper tier of the grand stands and maintain the video scoreboard. Currently they have to rent equipment to perform this routine maintenance. This equipment is available on the Houston-Galveston Area Council (H-GAC). We are members of this cooperative and Subchapter F, Section 271.102 of the Local Government Code provides that a local government may participate in a cooperative purchasing program and that purchasing goods or services under Subchapter F satisfies any state law requiring the local government to seek competitive bids for those purchases.

Therefore, please consider approval of a resolution authorizing the purchase of a telescopic boom lift through H-GAC from Equipment Depot, Ltd of Waco, Texas, for a total cost of \$120,340.00.



CONTRACT PRICING WORKSHEET
For Catalog & Price Sheet Type Purchases

Contract
No.:

CM02-11

Date
Prepared:

11/10/2011

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.

Buying Agency:	City of Midland Fleet Services	Contractor:	Equipment Depot LTD
Contact Person:	Dennis Yates	Prepared By:	Ken Buchanan / Valarie Armstrong
Phone:	432-685-7451	Phone:	800-627-5438
Fax:	432-685-7494	Fax:	254-662-0344
Email:	dyates@midlandtexas.gov	Email:	HGACBuy@EQDepot.com

Catalog / Price Sheet Name:	CM02-11 Portable Construction & Maintenance Equipment --- D. Telescopic / Articulating Boom Lifts
General Description of Product:	Section A. Genie --- Product Code DA08

A. Catalog / Price Sheet Items being purchased - Itemize Below - Attach Additional Sheet If Necessary

Quan	Description	Unit Pr	Total
1	S-80X, 2WD, Telescopic Boom Lift, 86' Working Height, 71'-6" Horizontal Reach	100155	100155
			0
			0
			0
			0
			0
			0
			0
	Note - Platform Work Lights Included in Light Package		0
			0
			0
			0
Total From Other Sheets, If Any:			
Subtotal A:			100155

B. Unpublished Options, Accessory or Service items - Itemize Below - Attach Additional Sheet If Necessary
(Note: Unpublished Items are any which were not submitted and priced in contractor's bid.)

Quan	Description	Unit Pr	Total
1	AC Generator (110V/60Hz, 3000W) --- Air Intake Pre-Cleaner --- Engine Gauge Package	3177	3177
1	Tool Tray --- Light Package (2 chassis mounted drive & 2 platform mounted work lights)	1012	1012
1	4-Wheel Drive --- Air line to platform (1/2" inner diam.) ---	10865	10865
1	Platform 1/2 height mesh inserts with swing gate	539	539
Total From Other Sheets, If Any:			
Subtotal B:			15593

Check: Total cost of Unpublished Options (B) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).	For this transaction the percentage is:	16%
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C. Other Allowances, Discounts, Trade-Ins, Freight, Make Ready or Miscellaneous Charges

Freight from Factory	4592
Subtotal C:	4592

Delivery Date:	45 - 60 Days	D. Total Purchase Price (A+B+C):	120340
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RESOLUTION NO.

**RESOLUTION APPROVING THE PURCHASE OF A
TELESCOPIC BOOM LIFT FOR USE AT THE
SCHARBAUER SPORTS COMPLEX THROUGH THE
HOUSTON-GALVESTON AREA COUNCIL OF
GOVERNMENTS (HGAC) AT A TOTAL COST OF
\$120,340.00; AND THIS ITEM WAS NOT ADVERTISED
FOR COMPETITIVE BIDS BUT PURCHASED
THROUGH A COUNCIL OF GOVERNMENTS**

WHEREAS, the Houston-Galveston Area Council (HGAC) is a cooperative purchasing agency with which the City participates on purchases; and

WHEREAS, Equipment Depot, Ltd., has submitted a total proposed cost to the City of \$120,340.00 for the purchase of a Telescopic Boom Lift through the HGAC, as shown on the attached pricing worksheet attached hereto as Exhibit “A” and incorporated herein for all legal purposes; and

WHEREAS, the Council finds the price proposed by Equipment Depot, Ltd., through the HGAC for said Telescopic Boom Lift to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to purchase said Telescopic Boom Lift through the HGAC;

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

SECTION ONE. That the City Manager is hereby authorized and directed to purchase said Telescopic Boom Lift referred to above through the Houston-Galveston Area Council, at a total estimated cost of \$120,340.00.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay Equipment Depot, Ltd., for said Telescopic Boom Lift from funds available in the Fiscal Year 2011 – 2012 Garage Fund (750) General services (040) Garage (0752) Construction Equipment (8421) budget account upon proper receipt of invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member

_____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2011, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved For Agenda:
THudson
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL, CITY MANAGER

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: 4432-12 Renovation to Washington Park Aquatic Center

Purpose:

Approval of a resolution approving plans and specifications and authorizing advertisement for bids for the renovation of the Washington Park aquatic center.

Recommended City Council Action:

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No funding required at this time.

Discussion:

Please consider approval of a resolution approving plans and specifications and authorizing advertisement for bids for the renovation of the Washington Park aquatic center.



THE CITY OF MIDLAND

CONTRACT

Contract No.4432-12

THIS CONTRACT, effective the _____ day of _____, 20____, by and between the City of Midland, hereinafter referred to as the "Owner", 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 renovation of Washington Park Aquatic Center in the following documents, attached hereto and incorporated herein by reference for all legal purposes.

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

3. **Owner:** The words "Owner'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 Owner to act in any particular capacity under this Contract.

4. **The Owner'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. Owner'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. Owner'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 Owner 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 Owner's Representative when presented with a written work order signed by the Owner's Representative, subject, however, to the right of the Contractor to require written confirmation of such extra work order by the Owner. 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 OWNER AND ALL OF THE OWNER'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 OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8.1. THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE OWNER AND ALL OF THE OWNER'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 OWNER, THE OWNER'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 OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8.2. THE CONTRACTOR AGREES THAT HE WILL INDEMNIFY AND SAVE THE OWNER 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 OWNER 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 OWNER 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 OWNER 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.

If the Contractor should fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree as part of the consideration for the awarding of this contract, the Owner may withhold permanently from Contractor's total compensation, the sum of _____ N/A _____ Dollars (\$_____), not as a penalty but as liquidated damages for the breach of the contract as herein set forth for each calendar day that the Contractor shall be in default after the time stipulated for completing the work.

9.1. TIME IS OF THE ESSENCE IN THIS CONTRACT.

10. **Clean Up:** Contractor shall promptly remove from Owner's premises all materials condemned by the Owner'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 Owner, Owner 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 Owner shall give notice of observed defects with reasonable promptness.

12. **Remedy:** The Owner 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 Owner 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 Owner, which will protect the Owner 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 Owner 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. **Payment:** After all work is completed by the Contractor, and the Owner has inspected and approved that work, the Owner shall within thirty-one (31) days thereafter issue payment to the Contractor in the amount of the contract and subsequent verified Change Orders. The Owner shall be the final judge of when 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.

16. **No Third Party Beneficiary:** The Owner'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.

17. **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 OWNER, 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 OWNER AND THE CONTRACTOR. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

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

18. **Sovereign Immunity:** By executing this contract the Owner is not waiving its right of sovereign immunity. The Owner is retaining its immunity from suit. The Owner is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

19. **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 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.

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

All insurance required pursuant to this Contract, except for Worker's Compensation Insurance, shall name the Owner as an additional insured on a claims occurred basis. All insurance required

pursuant to this Contract, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the Owner.

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

"The City of Midland is included as an additional insured, on 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."

Owner 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. Owner shall not be required to provide any insurance whatsoever pursuant to this Contract.

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).

IMPORTANT NOTICE

If for any reason your insurance agency or provider cannot supply the endorsements on the certificate EXACTLY as shown in the above paragraph entitled "Insurance" and on the included example, a letter from the provider shall be included with the certificate with those reasons stated.

You must carry Worker's Compensation Insurance to be considered 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.

20. **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 Owner. The issue on whether or not to grant consent to an assignment is in the sole discretion of the Owner.

21. **RELEASE: NOTWITHSTANDING ANY OTHER PROVISIONS, CONTRACTOR HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES OWNER, OWNER'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 OWNER'S NEGLIGENCE.

22. **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.

23. **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 Owner; 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 Owner and Contractor, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Owner 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 Owner. 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 Owner does not have the power to direct the order in which the work is done. The Owner 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.

24. **Notice of Alleged Breach; Statutory Prerequisites:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Contract, Contractor or his legal representative, shall give the City Manager, or any other reasonable official of the

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

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

25. **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.

Contract No: 4432-12

OWNER, 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.4432-12

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 _____, 2012.

Notary Public, State of Texas

THE CITY OF MIDLAND

SPECIFICATION

Renovation of Washington Park Aquatic Center

1. SCOPE

The successful bidder will provide labor, equipment and supervision to prep, sandblast/power wash and re-plaster both the wading pool and main pool at Washington Park Aquatic Center with standard white marcite finish.

2. PURPOSE

The wading pool and the main pool are considered below industry safety standards. Furthermore, both the wading pool and the main pool do not meet federal requirements.

3. 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

Email: purchasing@midlandtexas.gov

All vendors on the bid list will then be notified of the questions and presented an answer. Information provided by other City personnel shall not be considered binding.

4. DEFINITIONS

4.1. OWNER

City of Midland

4.2. CONTRACTOR

Successful Bidder

5. DOCUMENTS

Contract

Exhibit A - These specifications, Proposal or Cost Summary

Exhibit B – Insurance requirements

Exhibit C – Bonding Requirement

Exhibit D – Wage Schedule

Exhibit E – HUD Documents

Exhibit "A"

6. REQUIREMENTS

Vendor shall comment in the right margin as to whether or not his bid meets or exceeds the minimum specification shown. Please explain how it exceeds or falls short of the requirement. Use blue or Black ink if completed by hand or typewriter. A separate sheet may be used as long as each item is identified and the sheet(s) are signed.

Requirement	Vendor Comment
6.1. <u>PERMITS/COMPLIANCE WITH LAW</u>	
6.1.1. Permits and Licenses:	
6.1.1.1. The Contractor shall, at his expense, obtain all permits and licenses necessary for the performance of the contract, and give all necessary notices, pay all fees required by law, and comply with all laws, ordinances, rules and regulations governing the Contractor's performance of the work. (Call 685-7390 for permit information.)	
6.1.2. Taxes:	
6.1.2.1. Portions of the contract qualify for exemption pursuant to the provisions of the Texas Limited Sales, Excise and Use Tax Act. (Refer to Texas Tax Code, Title 2, Subtitle E, Chapter 151, Subchapter H, Subsections 151.309, 151.311 and 151.3111.)	
6.1.2.2. Tax Exemption Certificate. The Contractor may obtain a sales tax exemption certificate from the City of Midland upon request from the Purchasing Office.	
6.1.2.3. All labor performed on the project, all materials incorporated into the project and other costs such as overhead allocation qualify for the exemption. However, equipment, parts for equipment, and tools purchased for use on the project, but are not incorporated may not qualify for the exemption.	
6.1.2.4. Contractor shall be responsible for the determination of what portion, if any, of the contract has taxes due and payment of said taxes. DO NOT BILL ANY SALES OR USE TAX TO THE OWNER.	
6.2. <u>GENERAL</u>	
6.2.1. Award	
6.2.1.1. 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	
6.2.2. Bid Validity Period	
6.2.2.1. Unless otherwise stated, bids shall be valid for a minimum of 90 days.	
6.2.3. Main pool:	
6.2.3.1. prep, sandblast/power wash and re-plaster with standard white marcite finish	
6.2.3.2. remove and replace grab ledge tile in deep end	

- 6.2.3.3. replace all existing wall steps
- 6.2.3.4. replace side suction covers to meet VGB anti-entrapment regulations
- 6.2.3.5. replace main drain covers to meet VGB anti-entrapment regulations
- 6.2.3.6. remove and replace racing lane tile
- 6.2.3.7. add all federal mandated depth markers on floor and walls
- 6.2.4. Wading pool:**
 - 6.2.4.1. prep, sandblast/power wash and re-plaster with standard white marcite finish
 - 6.2.4.2. add tile barriers around play structure
 - 6.2.4.3. add federal mandated 200 sq foot zero depth entry to southwest corner
 - 6.2.4.4. replace single main drain and install new dual VGB anti-entrapment main drains

7. SITE HOUSE KEEPING

Upon completion of work at the site, all construction debris shall be removed and disposed of in a proper manner.

8. BID WAIVERS:

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

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

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

B. 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).

Company Name

Phone

Authorized Signature

Fax

Print Above Name

Date



Contractor's Name _____

PROPOSAL Bid #4432-12

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 OWNER, 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 OWNER AND THE BIDDER.

THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

THE BIDDER AND OWNER 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 Owner, notice in writing (consisting of one original and seven copies of notice attached to a copy of this Contract) of such damages, duly verified, within one-hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages

occurred, the apparent extent thereof, the amount of damages sustained, the amount for which the 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 Owner from any liability whatsoever. The Owner is under no obligation to provide notice to Bidder that Bidder's notice is insufficient. Owner reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, 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 Owner 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 FOR BIDS IN EXCESS OF \$50,000 AND A PERFORMANCE BOND FOR BIDS OVER \$100,000. IF BOND FORMS WERE NOT INCLUDED, THEY MAY BE OBTAINED FROM THE OFFICE OF THE PURCHASING AGENT. 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).**

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

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 Oblige), 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 Oblige, 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

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

EXHIBIT "D"

PREVAILING WAGE RATE SCHEDULE HEAVY CONSTRUCTION as of September 3, 2010 General Decision: TX100001

<u>Classification</u>	<u>Rate/hr</u>	<u>Fringes</u>
Air Tool Operator	9.05	
Asphalt Distributor Operator	10.46	
Asphalt Heater Operator	11.21	
Asphalt Paving Machine Operator	9.38	
Asphalt Raker	9.53	
Asphalt Shoveler	7.33	
Batching Plant Weigher	11.15	
Broom or Sweeper Operator	8.01	
Bulldozer Operator	10.88	
Carpenter	10.10	
Concrete Finisher-Paving	11.25	
Concrete Finisher Structures	10.03	
Concrete Paving Saw Operator	15.00	
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel Operator	11.94	
Crusher, Screen Plant Operator	9.00	
Electrician	19.00	
Flagger	7.29	
Form Builder/Setter-Structures	10.01	
Form Setter - Paving & Curb	9.43	
Foundation Drill Operator, Truck Mounted	18.00	
Front End Loader Operator	10.04	
Laborer - Common	8.25	
Laborer Utility	9.62	
Mechanic	14.05	
Milling Machine Operator, Fine Grade	12.20	
Motor Grader Operator Rough	14.36	

<u>Classification</u>	<u>Rate/hr</u>	<u>Fringes</u>
Motor Grader Operator, Fine Grade	13.24	
Oiler	10.67	
Painter, Structures	11.00	
Pavement Marking Machine Operator	9.26	
Planer Operator	17.50	
Reinforcing Steel Setter, Paving	9.50	
Reinforcing Steel Setter, Structure	11.85	
Roller Operator, Pneumatic, Self Propelled	7.55	
Roller Operator, Steel Wheel, Flat Wheel/Tamping	8.66	
Roller Operator, Steel Wheel, Plant Mix Pavement	9.81	
Scraper Operator	7.78	
Servicer	8.22	
Slip Form Machine Operator	13.64	
Spreader Box Operator	10.07	
Tractor Operator, Pneumatic	8.58	
Traveling Mixer Operator	9.71	
Truck driver, lowboy-Float	11.42	
Truck driver, Single Axle, Heavy	11.00	
Truck driver, Single Axle, Light	7.55	
Truck driver, Tandem Axle, Semi-Trailer	9.02	
Wagon Drill, Boring Machine, Post Hole Driller Operator	8.86	
Welder	9.75	
Work Zone Barricade Servicer	8.64	

Welders – Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for 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(ii)).

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.

For vendor or other person doing business with local governmental entity

Page 2

This section, item 5 including subparts A, B, C & D, must be completed for each officer with whom the filer has affiliation or other relationship. Attach additional pages to this Form CIQ as necessary.

- D. Describe each affiliation or business relationship.

[illegible]

Date _____

Adopted 11/02/2005

**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: _____

**No-Bid
Response
For**

Request #: 4432-12 Washington Park Pool Renovation

If your firm has made a decision not to bid on this request, please complete this form and return to:

Office of the Purchasing Agent
City of Midland
P.O. BOX 1152
Midland, TX 79702-1152

Fax to: (432) 685-0523

or

Email: purchasing@midlandtexas.gov

Please Check all reasons below that apply:

- ☐ Cannot provide items requested.
- ☐ Cannot be competitive.
- ☐ Cannot meet the specifications in the request.
- ☐ Cannot provide the liability insurance required by the City of Midland.
- ☐ Cannot provide the Worker's Compensation Insurance required by the City of Midland.
- ☐ Cannot provide the required bonding.
- ☐ Cannot comply with the indemnification requirements.
- ☐ Job too large.
- ☐ Job too small.
- ☐ Do not wish to do business with the City of Midland.
- ☐ Other. Please explain below:

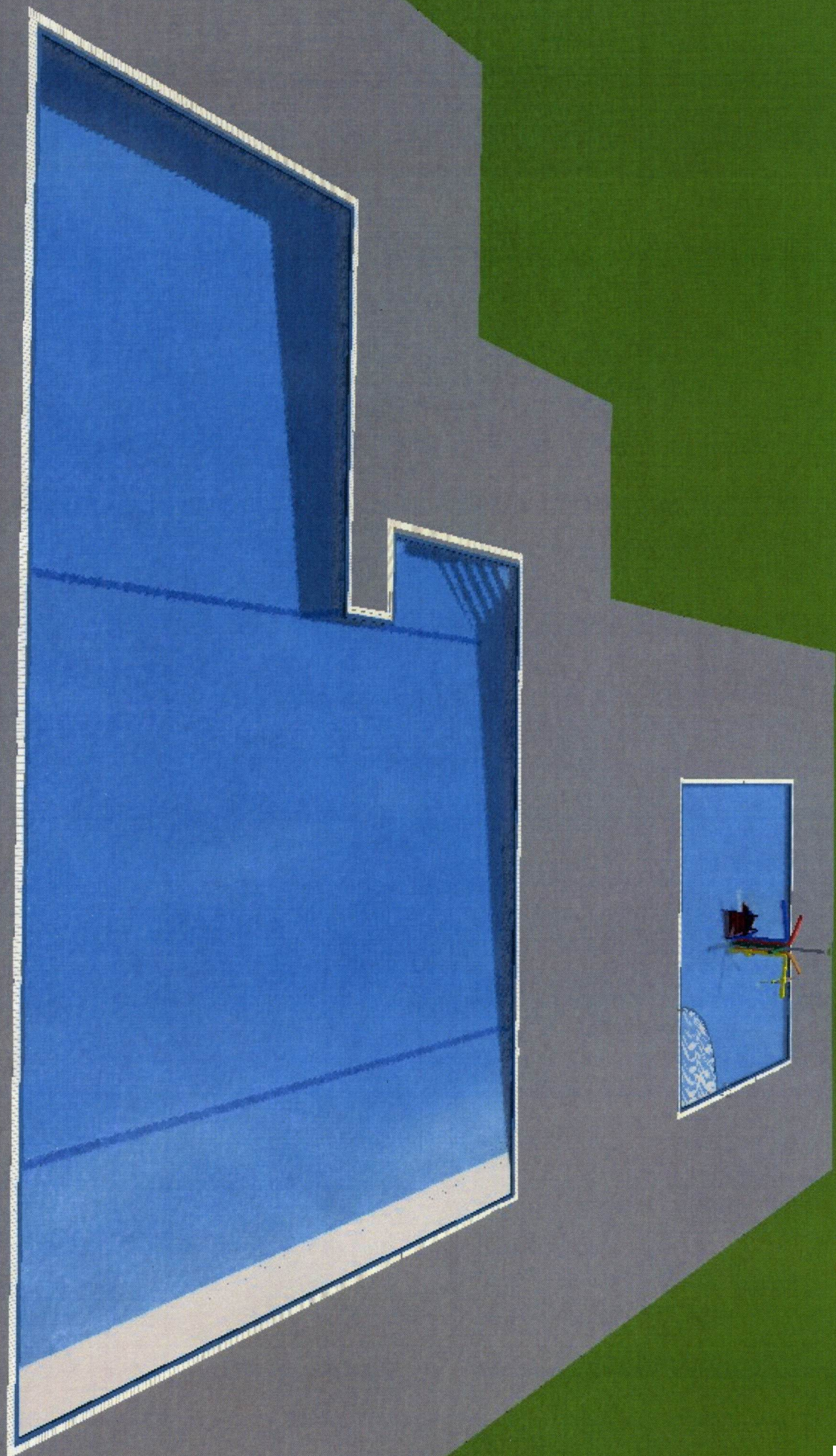
Company Name: _____

Authorized Officer or Agent Signature: _____

Telephone Number: _____ Fax: _____

Email Address: _____

**PLEASE NOTE: THIS COMPLETED FORM MAY BE FAXED TO 432-685-0523.
IT IS NOT NECESSARY TO RETURN ANY OTHER DOCUMENTS.**



CITY OF MIDLAND
Community Services Department
Interoffice Memorandum

Date: November 29, 2011
To: Tommy Hudson, Deputy City Manager
From: Tina Jauz, Community Services Director
Subject: Renovation and re-plastering of the wading pool and main pool at Washington Park Aquatic Center

The Parks and Recreation Division is seeking approval to renovate the wading pool at Washington Park Aquatic Center. In order to meet federal ADA requirements, it is necessary to add a zero depth entrance to the existing wading pool. In addition, the Division would like to seek approval to re-plaster the main pool at Washington Park. The total project will cost approximately \$140,000 for the prep, sandblast, re-plaster, and addition of the zero depth entrance to Washington Pool.

The \$140,000 would be appropriated from 2012 CO Funds.

The City of Midland will be responsible for the maintenance of the swimming pool.

RESOLUTION NO.

**RESOLUTION APPROVING PLANS AND
SPECIFICATIONS AND AUTHORIZING
ADVERTISEMENT FOR BIDS FOR THE RENOVATION
OF THE WASHINGTON PARK AQUATIC CENTER**

WHEREAS, plans and specifications have been prepared for the renovation of the Washington Park Aquatic Center (“Construction”); and

WHEREAS, the City Council finds it to be in the public interest to approve said plans and specifications for said Construction, 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 Construction referenced above 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 Construction, 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., 2011, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: DECEMBER 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: TINA JAUZ/COMMUNITY SERVICES DIRECTOR

SUBJECT: SCHARBAUER SPORTS COMPLEX MARKETING & MANAGEMENT CONTRACT

Purpose:

Approve a resolution authorizing a contract with Midland Sports, Inc. for the marketing and management of the Scharbauer Sports Complex.

Recommended City Council Action:

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

\$51,000 from the Scharbauer Sports Complex Operating Budget..

Discussion:

Beginning January 1, 2011, Midland Sports, Inc. (the Midland RockHounds) have handled management and marketing of the Scharbauer Sports Complex through a 12 month contract with the City. This fall, the 4B Board appointed a subcommittee to evaluate the contract and the work being done by the RockHounds. The Performance Measures were shared with the entire 4B Board and on November 16 they approved a recommendation to the City Council to continue with the RockHounds management and marketing.

The proposed contract is for nine months, in an effort to coincide with the City's Fiscal Year. The nine-month contract includes a payment of \$51,000. There is no increase in payment over the current year's contract. There will be no automatic renewal.

During the year, staff will manage the contract while continuing to provide all maintenance and capital improvements.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE EXECUTION OF A
PROFESSIONAL SERVICES AGREEMENT WITH
MIDLAND SPORTS, INCORPORATED, FOR
PROFESSIONAL MARKETING, PROMOTION AND
MANAGEMENT SERVICES AT THE SCHARBAUER
SPORTS COMPLEX AT A TOTAL COST OF \$51,000.00**

WHEREAS, the Midland Football-Soccer and Baseball Complex Development Corporation has recommended approval of an agreement with Midland Sports, Inc. for professional marketing, promotion and management services in connection with the Scharbauer Sports Complex (“professional services”); and

WHEREAS, Midland Sports, Inc. has agreed to perform said professional services for an estimated \$51,000.00; and

WHEREAS, the City Council finds that Midland Sports, Inc. is qualified to perform said professional services; and

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

WHEREAS, the City Council finds that Midland Sports, Inc. provides professional services for a fair and reasonable price; and

WHEREAS, the City Council finds it to be in the public interest to authorize the execution a professional services contract with Midland Sports, Inc. as the most highly qualified provider for such services based on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services;

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

SECTION ONE. That the Mayor and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a professional services agreement with Midland Sports, Inc. for said professional services. Said agreement

being on file in the office of the City Secretary referenced by the date and number of this resolution.

SECTION TWO. That the City Treasurer is hereby authorized and directed to make payments to Midland Sports, Inc. for professional services pursuant to the terms of said agreement, in an amount not to exceed \$51,000.00, upon receipt of proper invoices or statements approved by the City Manager, from funds available in the following Fiscal Year 2011 -2012 budget accounts in the following amounts:

Scharbauer Sports Complex Fund (620) Sports Complex (620) NonDepartmental (0625) Rockhounds (6186).....\$51,000.00

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., 2011, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Sylvester Cantu, Community Development Administrator

SUBJECT: Community Development Division - Annual Reports

Purpose:

INFORMATIONAL ONLY - Executive Summary of the Annual Report on Community Development Block Grant Program and the other Community Development Office's annual performance information

Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

Discussion:

Attached is a copy of the Executive Summary to the Consolidated Annual Performance and Evaluation Report (CAPER). The CAPER is a document that describes the past year's performance related to the City's Consolidated Plan for Community Development and Housing Funds. The U.S. Department of Housing and Urban Development (HUD) requires the report. I have also included a map showing the location of various projects, a table entitled CDBG Performance Profile and a statistical report on the housing programs. After the conclusion of a citizen review period that ends December 14, we must deliver the CAPER to HUD by December 29, 2011.

If there are any questions or anyone wishes to view any of the activity, I can be reached at 685-7408, in Room 410 at City Hall or by e-mail at scantu@midlandtexas.gov.

FIRST PROGRAM YEAR

EXECUTIVE SUMMARY

The Consolidated Annual Performance and Evaluation Report (CAPER) describes the progress made from October 1, 2010 to September 30, 2011 towards implementing the City of Midland's Consolidated Plan for Community Development and Housing Funds. The past year covered the first year of the current Consolidated Plan. The U.S. Department of Housing and Urban Development (HUD) requires the City to prepare a Consolidated Plan as a pre-requisite for participation in various HUD programs.

The CAPER consists of narrative text presented in a format answering numerous questions from HUD and an appendix that contains back up documents and other essential information. A general narrative section describes how activities of the past year addressed the goals and objectives of the Consolidated Plan using federal funds covered by the Plan. The Community Development Block Grant (CDBG) was the only HUD grant allocated directly to the City. Using CDBG funds the following was achieved by the City during the past year:

- 1 owner occupied home was reconstructed
- 30 minor repairs performed on owner occupied homes
- 6 first time homebuyers assisted with purchase of homes
- Purchased a lot for future affordable housing
- 12 homes were built on CDBG acquired land and became occupied by low income households
- Paving improvements on 12 blocks were completed
- Sidewalk improvements on 4 blocks were completed
- 435 seniors and 93 children received CDBG funded public services
- Clearance activity on 443 properties

An assessment of the progress made in addressing the priority needs and objectives of the Consolidated Plan is included. It is concluded that good progress is being made on most of the objectives. The narrative also contains statements about actions taken to address various federal requirements such as affirmatively further fair housing, monitoring implementation of the Plan, fostering and maintaining affordable housing, reducing lead-based paint hazards, reducing poverty and eliminating barriers to affordable housing.

The narrative then focused on specific responses to the following need areas: housing (including public housing), homeless, community development, and non-homeless special needs persons. The housing needs narrative describes in greater detail the characteristics of households/persons assisted. The community development narrative is primarily a report on accomplishments with CDBG funds. It provides an assessment of the relationship of the use of CDBG funds to the priorities and specific objectives of the Consolidated Plan. By broad category, the City expended 28% of CDBG funds on housing programs, 27% on infrastructure,

14% on public services, 4% on other community development needs and 27% for administration. The income, racial and ethnic status of persons assisted as well as the locations of CDBG projects are presented in the CAPER. The City also completed its \$244,526 American Recovery and Reinvestment Act (CDBG-R) CDBG grant. These funds were used on Walnut Lane street improvements.

Other narratives in the CDBG section include discussion on changes in program objectives, an assessment of compliance with certifications, and other CDBG issues such as explanations of program income, status of loans, and a report on housing rehabilitation. Other highlights include the CDBG financial report.

Accomplishments by CDBG funded projects are summarized on the following table and the succeeding performance profile.

2010/11 CDBG Program Accomplishments

<u>Activity</u>	<u>Accomplishments</u>	<u>Amount</u>
Mulberry Draw Area Street Paving	Street paving and alley improvements on 12 blocks were completed (includes \$16,162 CDBG-R funds).	\$107,712
Sparks Park Area Infrastructure	Engineering firm is developing plans and specifications for street paving, alley improvements and utilities on 5 blocks.	\$14,042
San Juan Area Sidewalks	Sidewalk improvements on 4 blocks in the San Juan area were completed.	\$62,925
Target Area Land Acquisition	Purchased a lot for single family housing development within the Sparks Park area.	\$11,157
Housing Reconstruction for homeowners	Reconstructed 1 home and working on two others.	\$78,384
Housing Minor Repairs for homeowners	Completed 30 minor repairs.	\$65,230
Homebuyer Assistance Program	Assisted 6 first time homebuyers with the purchase of a newly constructed home.	\$38,033
Lot Clearing Program	Lot clearing was accomplished on 443 properties.	\$26,904
Home Cleaning Program	Home cleaning services for 207 elderly/handicap clients.	\$27,000
Senior Nutrition Program	228 seniors benefited from lunch meal program at SE Senior Center.	\$42,208
Local Initiatives Child Care Program	Program matched \$65,807 in Federal funds to assist with care of 93 children.	\$29,466
CDBG Administration	Conducted by the Community Development Office.	\$183,884
	Total:	\$686,945

CDBG Performance Profile

	<u>2010/11</u>	<u>2009/10</u>	<u>2008/09</u>
CDBG Grant	\$991,086	\$913,081	\$900,331
Program Income	\$150,221	\$175,933	\$156,083
Available Funds (includes prior grants)	\$1,961,470	\$2,130,888	\$2,045,376
Expenditures	\$670,783	\$1,359,786	\$1,003,702
% By Major Category (2010/11 actual)			
Housing (\$192,804)	28.7%	49.5%	47.3%
Public Infrastructure (\$168,517)	25.1%	27.1%	21.9%
Public Facility (\$0)	0.0%	0.0%	0.0%
Public Services (\$98,674)	14.7%	7.3%	11.5%
Other (\$26,904)	4.0%	4.8%	3.1%
Administrative (\$183,884)	27.4%	11.3%	16.2%
% in Local Target Areas		69.6%	37.6%
Accomplishments			
Homebuyers Assisted	6	7	3
Homes Rehabilitated/Reconstructed	1	2	5
Housing Minor Repairs	30	51	32
Streets Paved - # of Blocks	0	0	0
Sidewalks Improved - # of Blocks	0	0	14
Public Facility Improved	0	0	0
Public Service Beneficiaries	528	545	473
Parcels Purchased	1	37	8
Lots Cleared	443	373	211
Structures Demolished	0	11	14
Direct Beneficiaries by Race	576	617	519
White	58.7%	51.9%	47.8%
Black	40.1%	48.1%	52.0%
Other or Multi-Race	1.2%	0.0%	0.2%
Direct Beneficiaries - Hispanic	32.8%	25.1%	26.4%
Direct Beneficiaries by Income	555	617	519
Under 30% of City Median	61.8%	67.2%	66.1%
30% - 50% of City Median	21.0%	26.9%	22.7%
50% - 80% of City Median	15.6%	5.9%	11.2%

Note: ARRA funds are not included in the above.

CITY OF MIDLAND COMMUNITY DEVELOPMENT OFFICE

Housing Programs Activity

	<u>2004/2005</u>	<u>2005/2006</u>	<u>2006/2007</u>	<u>2007/2008</u>	<u>2008/2009</u>	<u>2009/2010</u>	<u>2010/2011</u>
Total Public Funds Expended	\$393,907	\$742,477	\$534,748	\$270,412	\$483,648	\$534,399	\$200,148
Homebuyer Assistance Program (HAP) – Preowned Homes							
# of Households Assisted	4	1	0	2	0	0	0
Funds Expended	\$13,212	\$4,000	\$0	\$0	\$0	\$0	\$0
HAP – New Homes							
# of Households Assisted	6	14	4	3	8	10	6
Funds Expended	\$62,154	\$99,248	\$29,400	\$22,128	\$89,003	\$185,815	\$48,033
Owner Minor Repairs							
# of Jobs Completed	42	73	0	22	32	51	30
Funds Expended	\$27,590	\$126,797	\$0	\$17,915	\$56,523	\$115,111	\$73,731
Owner Major Projects							
# of Jobs Completed	7	11	9	2	5	2	1
# of Reconstructions	0	10	8	2	4	2	1
Valuations Prior to Work	\$147,400	\$130,550	\$118,700	\$18,390	\$125,690	\$39,220	\$28,110
CDBG Funds Expended	\$196,798	\$387,030	\$289,715	\$160,708	\$327,783	\$233,473	\$78,384
Other Funds Expended	\$94,153	\$125,402	\$215,633	\$69,661	\$10,339	\$0	\$0
Loan Payments Received	\$149,725	\$171,957	\$176,052	\$168,953	\$153,483	\$175,933	\$148,721
CDBG Loan Portfolio	\$773,482	\$893,443	\$1,015,536	\$920,690	\$891,245	\$795,591	\$748,094

2010/2011 CDBG ACTIVITY BY CENSUS TRACT



Legend

CDBG Activity

- Home Buyer
- New Homes
- Reconstruction
- Sidewalk
- Street Paving
- Arterial
- Collector
- Interstate & State Highway
- Residential

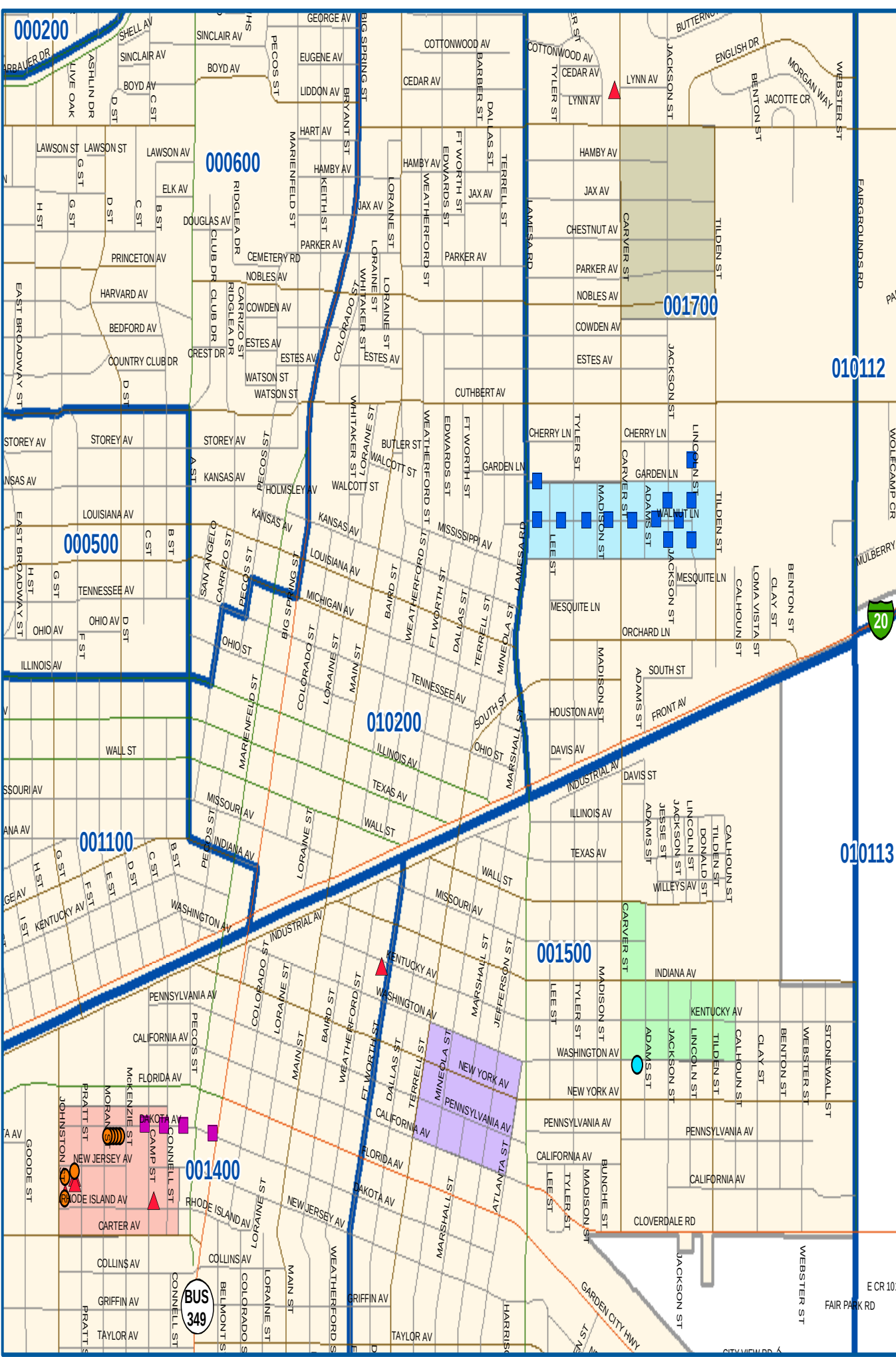
Target Areas

- Bradford
- Washington
- San Juan
- Mulberry
- Sparks
- Census Tract 2010
- City Limit



NOVEMBER 8, 2011
STEVE BAKER

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BUS
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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Land annexation

Purpose:

To receive Council direction regarding a property owner request for annexation.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no financial impact to the City associated with this request though it will lead to future development opportunities within the city limits.

Discussion:

Staff received a letter from Mr. Mike Black and Mr. Lee Crump, property owners, requesting that the City consider annexing approximately 25 acres of land in order to facilitate additional development. The land is located at the northwest corner of the intersection of Briarwood Avenue and Holiday Hill Road, adjacent to the Bush Tennis Center which is currently being developed.

Staff supports this request and is seeking Council authorization to initiate the annexation process.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Land annexation

Purpose:

To receive Council direction regarding a property owner request for annexation.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

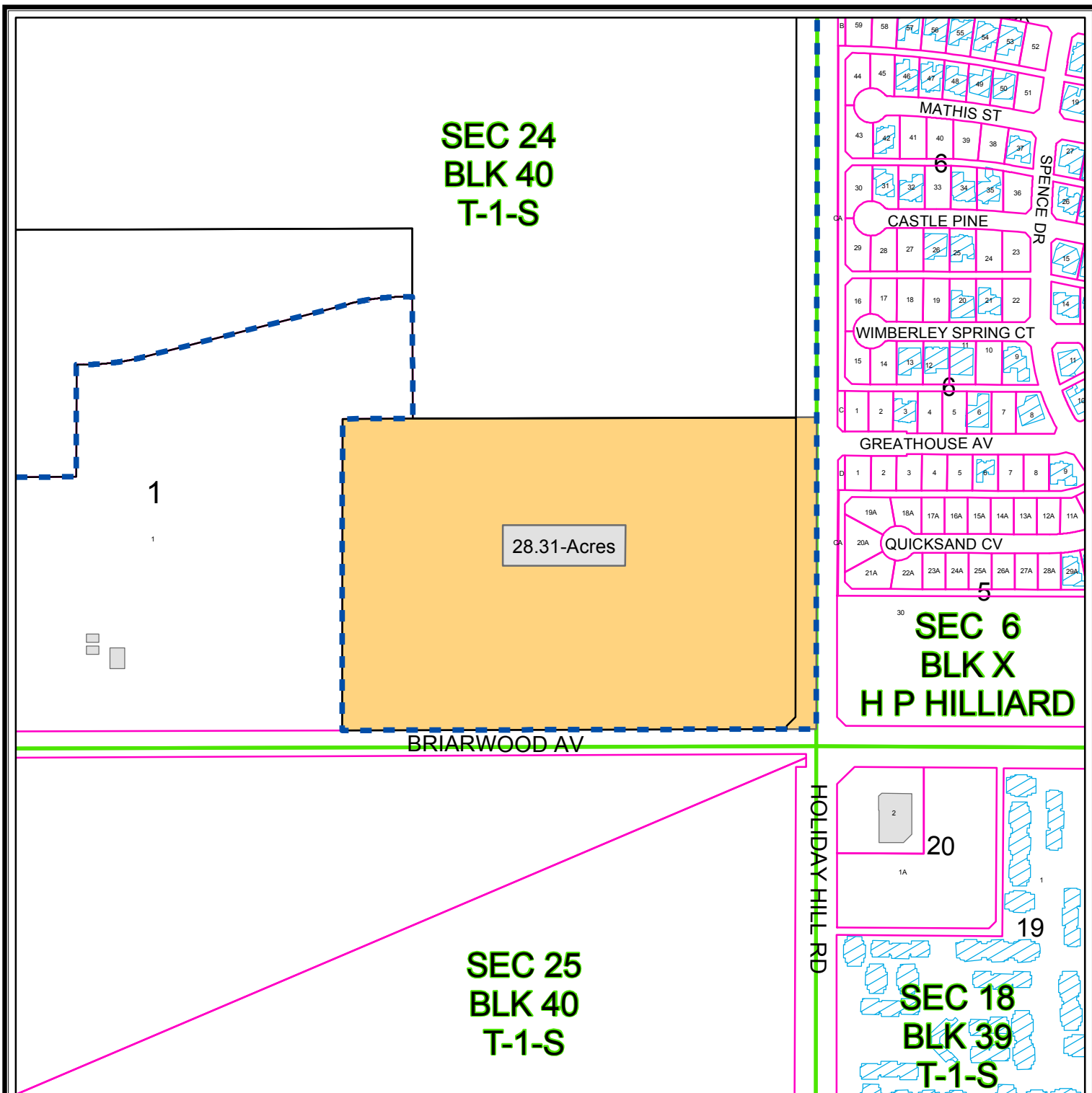
Fiscal Impact:

There is no financial impact to the City associated with this request though it will lead to future development opportunities within the city limits.

Discussion:

Staff received a letter from Mr. Mike Black and Mr. Lee Crump, property owners, requesting that the City consider annexing approximately 28 acres of land in order to facilitate additional development. The land is located at the northwest corner of the intersection of Briarwood Avenue and Holiday Hill Road, adjacent to the Bush Tennis Center which is currently being developed.

Staff supports this request and is seeking Council authorization to initiate the annexation process.



PROPOSED ANNEXATION MAP

M - 11 - 024

Scale: 1" = 400'

Consider a request for the annexation of a 28.31-acre tract of land out of Section 24, 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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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Gary Saunders, Transportation Manager

SUBJECT: Resolution–Transportation Management Area (TMA) Designation

Purpose:

To approve a resolution in support of changing our MOTOR MPO designation from a Non-Transportation Management Area (NON-TMA) to a Transportation Management Area (TMA) designation.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no fiscal impact to the City associated with supporting the designation change.

Discussion:

The City of Midland has received a request from the MOTOR MPO to approve a resolution of support for changing from a Non-Transportation Management Area (NON-TMA) designation to a Transportation Management Area (TMA) designation. This change has been requested due to the combined populations of Ector and Midland Counties exceeding 200,000. The population growth of Ector and Midland Counties has continued to substantially decrease the distance between the city limits of Midland and Odessa.

The designation of the MOTOR MPO as a TMA will better fit the current population growth of the area and the desire of the communities to take a more active role in transportation planning and development.

Staff recommends approval of this resolution.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS IN SUPPORT OF THE MOTOR MPO MOVING FROM A NON-TRANSPORTATION MANAGEMENT AREA (NON-TMA) DESIGNATION TO A TRANSPORTATION MANAGEMENT AREA (TMA) DESIGNATION; AND, DIRECTING STAFF TO REQUEST AND OBTAIN THE NECESSARY CORRESPONDENCE FROM THE GOVERNOR OF THE STATE OF TEXAS, ALONG WITH A FORMAL LETTER OF REQUEST FROM THE MOTOR MPO TO THE UNITED STATES DEPARTMENT OF TRANSPORTATION REQUESTING SAID DESIGNATION

WHEREAS, the Ector and Midland Counties have had a combined population of over 200,000 since 1990, according to US Census Bureau data and the combined population of the two counties has grown substantially from 222,545 in 1990, to 274,002 in 2010; and

WHEREAS, the populations of Ector and Midland Counties has grown and the distance between them has decreased substantially, with the distance between the city limits of Midland and Odessa ranging from 2.35 miles to 1.8 miles between SH 191 and BI 20/Hwy 80, and;

WHEREAS, the growth has led to overlapping political boundaries and shared services, including; a portion of the City of Odessa in Midland County, campuses of the University of Texas Permian Basin located in Ector and Midland Counties, changes in Texas statute to allow for joint investment in shared economic development projects and shared tax base, designation as a joint metropolitan statistical area in 1990 and as a combined statistical area in 2000, a joint transit board, and a combined metropolitan planning organization; and

WHEREAS, the unified efforts with regard to transportation planning and services have not worked, due to the lack of a 1,000 persons per square mile population density in the outlying areas of both cities and the small gap between the two cities, and the lack of updated boundary information to account for the less than 3 mile jump between the two cities, the Midland-Odessa area does not automatically qualify as a transportation management area (TMA); and

WHEREAS, the majority of development between the two cities is related to

commercial and industrial developments along with continued oil and gas exploration; and

WHEREAS, the large amount of the land mass in this area located between the two is part of the Midland International Airport, associated general aviation services, the City of Midland Entrada Business Park, the Colorado River Municipal Water District water supply reservoir, Union Pacific Rail facilities, Fed-Ex Freight, Southwest Freight, United States Postal Encoding Facility, Texas State Guard Armory and Facilities, Commemorative Air Force Museum and Hangars, governmental offices for the Texas Region 18 Education Services Center, Texas Workforce Development Board, Permian Basin Regional Planning Commission, and U.S. Border Patrol, as well as, the University of Texas Permian Basin Center for Energy and Economic Diversification and Performing Arts Center, thus significantly reducing this particular area to ever reach the 1,000 people per square miles residential threshold; and

WHEREAS, the area between the two cities does not constitute a large residential population, but it provides a vital service to citizens of both counties and our economy, in addition, this area constitutes a transportation hub from the Midland-Odessa area, as well as, the entire region, making its inclusion vital in all area transportation planning; and

WHEREAS, the area between the two cities is also the intersection and local connection of two national high priorities corridors, as well as, Interstate 20, and a major arterial of the Union Pacific Railroad from Long Beach/Los Angeles to Dallas; and

WHEREAS, the Development of this area for industrial and transportation purposes serves the highest and best use for the area and region, the resulting lack of population density in this small area should not exclude Ector and Midland Counties from being designated as a Transportation Management Area; and

WHEREAS, the designation of the MOTOR MPO as a Transportation Management Area or TMA would better fit with the current population growth of the area and the desire of the communities to take a more active role in transportation planning and development; and

WHEREAS, the Council finds it to be in the public interest to support the Motor MPO Moving From a Non-Transportation Management Area (NON-TMA) Designation to a Transportation Management Area (TMA) Designation;

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

SECTION ONE. That the Policy Board of the MOTOR MPO, per the applicable provisions under federal law, to request the United States Secretary of Transportation to designate the MOTOR MPO as a Transportation Management Area.

SECTION TWO. That the Policy Board further directs staff to request and obtain the necessary correspondence from the Governor of the State of Texas, along with a formal letter of request from the MOTOR MPO to the Secretary of the United States Department of Transportation requesting this designation.

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., 2011, 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

**RESOLUTION OF SUPPORT FOR MOTOR MPO DESIGNATION AS A
TRANSPORTATION MANAGEMENT AREA (TMA)**

WHEREAS, Since 1990, Ector and Midland Counties have had a combined population of over 200,000 according to US Census Bureau data and the combined population of the two counties has grown substantially from 225,545 in 1990, to 274,000 in 2010; and

WHEREAS, As the populations of Ector and Midland Counties has grown the distance between them has decreased substantially, with the distance between the city limits of Midland and Odessa ranging from 2.35 miles to 1.8 miles between S.H. 191 and BI. 20/Hwy. 80, and

WHEREAS, This growth has led to overlapping political boundaries and shared services, including; a portion of the City of Odessa in Midland County, campuses of the University of Texas Permian Basin located in Ector and Midland Counties, changes in Texas statute to allow for joint investment in shared economic development projects and shared tax base, designation as a joint metropolitan statistical area in 1990 and as a combined statistical area in 2000, a joint transit board, and a combined metropolitan planning organization; and

WHEREAS, Despite the unified efforts with regard to transportation planning and services, due to the lack of a 1,000 persons per square mile population density in the outlying areas of both cities and the small gap between the two cities, and the lack of updated boundary information to account for the less than 3 mile jump between the two cities, the Midland-Odessa area does not automatically qualify as a transportation management area (TMA) ; and

WHEREAS, The majority of development between the two cities is related to commercial and industrial developments along with continued oil and gas exploration; and

WHEREAS, The large amount of the land mass in this area located between the two is part of the Midland International Airport, associated general aviation services, the City of Midland Entrada Business Park, the Colorado River Municipal Water District water supply reservoir, Union Pacific Rail facilities, Fed-Ex Freight, Southwest Freight, United States Postal Encoding Facility, Texas State Guard Armory and Facilities, Commemorative Air Force Museum and Hangars, governmental offices for the Texas Region 18 Education Services Center, Texas Workforce Development Board, Permian Basin Regional Planning Commission, and U.S. Border

Patrol, as well as, the University of Texas Permian Basin Center for Energy and Economic Diversification and Performing Arts Center, thus significantly reducing the ability of this particular area to ever reach the 1,000 people per square mile residential threshold; and

WHEREAS, The area between the two cities does not constitute a large residential population, but it provides a vital service to citizens of both counties and our economy. In addition, this area constitutes a transportation hub for the Midland-Odessa area, as well as, the entire region, making its inclusion vital in all area transportation planning; and

WHEREAS, This area between the two cities is also the intersection and local connection of two national high priorities corridors, as well as, Interstate 20, and a major arterial of the Union Pacific Railroad from Long Beach/Los Angeles, California to Dallas, Texas; and

WHEREAS, Development of this area for industrial and transportation purposes serves the highest and best use for the area and region, the resulting lack of population density in this small area should not exclude Ector and Midland Counties from being designated as a Transportation Management Area; and

WHEREAS, The designation of the MOTOR MPO as a Transportation Management Area or TMA would better fit with the current population growth of the area and the desire of the communities to take a more active role in transportation planning and development, therefore, be it

RESOLVED, The Midland County Commissioners Court supports the request of the MOTOR MPO, per the applicable provisions, to the United States Secretary of Transportation to designate the MOTOR MPO as a Transportation Management Area, and be it further

RESOLVED, That the Midland County Commissioners Court requests the Governor of the State of Texas, make a formal request to Secretary LaHood asking for this designation.

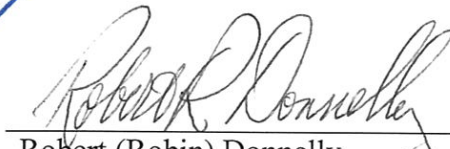
PASSED AND APPROVED BY THE MIDLAND COUNTY COMMISSIONERS COURT
ON THIS THE 17 DAY OF NOVEMBER 2011.



Michael R. Bradford
County Judge



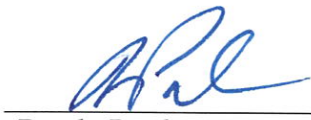
Jimmy Smith
Commissioner Precinct 1



Robert (Robin) Donnelly
Commissioner Precinct 2



Luis Sánchez
Commissioner Precinct 3



Randy Prude
Commissioner Precinct 4

Attest:



Cheryl Becker
County Clerk





May 26, 2011

Wright Office Complex
9601 Wright Drive, Suite 1
Midland, Texas 79706

Mailing Address:
PO Box 60916
Midland, Texas 79711
Office 432.617.0129
Fax 432.617.0165
www.motormpo.com

Policy Board Members

Chair
Ector County Judge
Susan Redford

Vice-Chair
Midland County Commissioner
Robin Donnelly

Odessa City Councilman
Dean Combs

Midland City Councilman
Jerry F. Morales

TxDOT Odessa District
Engineer
Mike C. McAnally

The Honorable Rick Perry
Governor of Texas
P.O. Box 12428
Austin, Texas 78711

Dear Governor Perry:

The Midland-Odessa area is currently represented by a single metropolitan planning organization, the MOTOR MPO. While the population of the area the MPO currently plans for is well over 200,000, and has been for some time, unlike most MPO areas over 200,000, due to the lack of population density between the two cities, our area is not currently designated as Transportation Management Area or TMA.

We have recently reviewed this situation and feel that pursuit of a TMA designation by request of the MPO to U.S. Secretary of Transportation Ray LaHood would likely be beneficial to the area as a whole.

Currently, this area ranges from 2.3 miles to just over a mile between the Midland and Odessa city limits.

The low density area (under 1000 people per square mile) between the two cities, is a largely industrial area, that while important to our economic engine and serves as an employment center for a large percentage of our workforce, is not planned for residential development.

In addition, the majority of this low density landmass is part of the Midland International Airport, associated general aviation services, the City of Midland Entrada Business Park, the Colorado River Municipal Water District water supply reservoir, Union Pacific Rail facilities, Fed-Ex Freight, Southwest Freight, United States Postal Encoding Facility, Texas State Guard Armory and Facilities, Commemorative Air Force Museum and Hangers, governmental offices for the Texas Region 18 Education Services Center, Texas Workforce Development Board, Permian Basin Regional Planning Commission, and U.S. Border Patrol, as well as, the University of Texas Permian Basin Center for Energy and Economic Diversification and Performing Arts Center, thus significantly reducing the of this particular area to ever reach the 1,000 people per square mile residential threshold.

Solving Midland and Odessa's Transportation Challenges

This move would align our area with similar areas over 200,000 in population, like Amarillo and Lubbock, and be more reflective of the population. During the last five years, Midland-Odessa has grown at the same rate as our state, and a TMA designation would open the door to better planning options, more local control, and additional funding categories than we currently have to meet growing demand.

In addition, under the proposed Reauthorization Act currently being considered by Congress, MPO's not designated as TMA's would be eliminated, thus taking away the Midland-Odessa area's ability to have designated representatives from our local government entities continue to have a voice and a vote on project selection and prioritization of future transportation funds in the area.

While we understand there will be additional requirements, such as federal certification of our TMA, we feel the ability to retain local control and input is essential to the Midland-Odessa area's long term future.

The process for designation by the US Secretary of Transportation requires a letter of request from the current MOTOR MPO and an accompanying letter from you as Governor of our state, requesting this designation as a Transportation Management Area (TMA).

Recently, the MPO Policy Advisory Committee passed the enclosed resolution to begin this process. In addition, we have also included a resolution of support from the Midland-Odessa Transportation Alliance, in support of this move. I know previously, The Vice Chairman of our MPO, Midland County Commissioner Robert Donnelly, and James Beauchamp from MOTRAN discussed this item with Colin Parrish from your office, as well.

In order, to assemble a packet for submission to Secretary Ray LaHood, we are requesting a letter from you to the Secretary of Transportation, in support of our request for this designation.

We appreciate your consideration of our request and hope to hear back from you shortly. If you or your staff have any questions, please feel free to contact me anytime.

Sincerely,

A handwritten signature in cursive script, reading "Susan M. Redford". The signature is written in dark ink and is positioned above the typed name and title.

Susan Redford
Chair, MOTOR MPO
County Judge, Ector County



P. O. Box 60816 • Midland, Texas 79711
(432) 563-6240 • FAX (432) 563-1288

RESOLUTION OF SUPPORT FOR MOTOR MPO DESIGNATION AS A TRANSPORTATION MANAGEMENT AREA

WHEREAS, Since 1990, Ector and Midland Counties have had a combined population of over 200,000 according to US Census Bureau data and the combined population of the two counties has grown substantially from 225,545 in 1990, to 274,002 in 2010; and

WHEREAS, As the populations of Ector and Midland Counties has grown the distance between them has decreased substantially, with the distance from the city limits of Midland to Odessa ranging from 2.35 miles to 1.8 miles between SH 191 and BI 20/Hwy 80; and

WHEREAS, This growth has led to overlapping political boundaries and shared services, including; a portion of the City of Odessa in Midland County, campuses of the University of Texas Permian Basin located in Ector and Midland Counties, changes in Texas statute to allow for joint investment in shared economic development projects and shared tax base, designation as a joint metropolitan statistical area in 1990 and as a combined statistical area in 2000, a joint transit board, and a combined metropolitan planning organization; and

WHEREAS, Despite the unified efforts with regard to transportation planning and services, due to the lack of a 1,000 persons per square mile population density in the outlying areas of both cities and the small gap between the two cities, and the lack of updated boundary information to account for the less than 3 mile jump between the two cities, the Midland-Odessa area does not automatically qualify as a transportation management area (TMA); and

WHEREAS, The majority of development between the two cities is related to commercial and industrial developments along with continued oil and gas exploration; and

WHEREAS, The large amount of the land mass in this area located between the two is part of the Midland International Airport, associated general aviation services, the City of Midland Entrada Business Park, the Colorado River Municipal Water District water supply reservoir, Union Pacific Rail facilities, Fed-Ex Freight, Southwest Freight, United States Postal Encoding Facility, Texas State Guard Armory and Facilities, Commemorative Air Force Museum and Hangers, governmental offices for the Texas Region 18 Education Services Center, Texas Workforce Development Board, Permian Basin Regional Planning Commission, and U.S. Border Patrol, as well as, the University of Texas Permian Basin Center for Energy and Economic Diversification and Performing Arts Center, thus significantly reducing the ability of this industrial area to reach the 1,000 people per square mile population threshold; and

WHEREAS, The area between the two cities does not constitute a large residential population it provides a vital service to citizens of both counties and our economy. In addition, this area constitutes a transportation hub for the Midland-Odessa area, as well as, the entire region, making its inclusion vital in all area transportation planning; and

WHEREAS, This area between the two cities is also the intersection and local connection of two national high priorities corridors, as well as, Interstate 20, and a major arterial of the Union Pacific Railroad from Long Beach/Los Angeles to Dallas; and

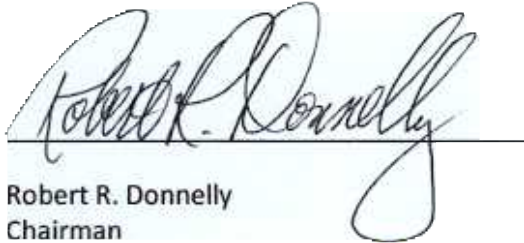
WHEREAS, Development of this area for industrial and transportation purposes serves the highest and best use for the area and region, the resulting lack of population density in this small area should not exclude Ector and Midland Counties from being designated as a Transportation Management Area; and

WHEREAS, The designation of the MOTOR MPO as a Transportation Management Area or TMA would better fit with the current population growth of the area and the desire of the communities to take a more active role in transportation planning and development, therefore, be it

RESOLVED, The Midland-Odessa Transportation (MOTRAN) Alliance, fully supports the decision by the MOTOR MPO Policy Board to seek designation as a Transportation Management Area, and, be it further

RESOLVED, That a copy of this resolution be prepared and presented to the MOTOR MPO to be placed with their requests to the Governor of the State of Texas and United States Secretary of Transportation Ray LaHood.

Passed on this, the 18th day of May, 2011, by the Board of Directors of the MOTRAN Alliance.


Robert R. Donnelly
Chairman



RESOLUTION NO. 16-05-2011

A RESOLUTION IN SUPPORT OF THE MOTOR MPO MOVING FROM A NON-TRANSPORTATION MANAGEMENT AREA (NON-TMA) DESIGNATION TO A TRANSPORTATION MANAGEMENT AREA (TMA) DESIGNATION; AND, DIRECTING STAFF TO REQUEST AND OBTAIN THE NECESSARY CORRESPONDENCE FROM THE GOVERNOR OF THE STATE OF TEXAS, ALONG WITH A FORMAL LETTER OF REQUEST FROM THE MOTOR MPO TO UNITED STATES DEPARTMENT OF TRANSPORTATION SECRETARY LA HOOD REQUESTING SAID DESIGNATION

WHEREAS, Since 1990, Ector and Midland Counties have had a combined population of over 200,000 according to US Census Bureau data and the combined population of the two counties has grown substantially from 225,545 in 1990, to 274,002 in 2010; and

WHEREAS, As the populations of Ector and Midland Counties has grown the distance between them as decreased substantially, with the distance between the city limits of Midland and Odessa ranging from 2.35 miles to 1.8 miles between SH 191 and BI 20/Hwy 80, and

WHEREAS, This growth has led to overlapping political boundaries and shared services, including; a portion of the City of Odessa in Midland County, campuses of the University of Texas Permian Basin located in Ector and Midland Counties, changes in Texas statute to allow for joint investment in shared economic development projects and shared tax base ,designation as a joint metropolitan statistical area in 1990 and as a combined statistical area in 2000, a joint transit board, and a combined metropolitan planning organization; and

WHEREAS, Despite the unified efforts with regard to transportation planning and services, due to the lack of a 1,000 persons per square mile population density in the outlying areas of both cities and the small gap between the two cities, and the lack of updated boundary information to account for the less than 3 mile jump between the two cities, the Midland-Odessa area does not automatically qualify as a transportation management area (TMA); and

WHEREAS, The majority of development between the two cities is related to commercial and industrial developments along with continued oil and gas exploration; and

WHEREAS, The large amount of the land mass in this area located between the two is part of the Midland International Airport, associated general aviation services, the City of Midland Entrada Business Park, the Colorado River Municipal Water District water supply reservoir, Union Pacific Rail facilities, Fed-Ex Freight, Southwest Freight, United States Postal Encoding Facility, Texas State Guard Armory and Facilities, Commemorative Air Force Museum and Hangers, governmental offices for the Texas Region 18 Education Services Center, Texas Workforce Development Board, Permian Basin Regional Planning Commission, and U.S. Border Patrol, as well as, the University of Texas Permian Basin Center for Energy and Economic Diversification and Performing Arts Center, thus significantly reducing the of this particular area to ever reach the 1,000 people per square mile residential threshold; and

WHEREAS, The area between the two cities does not constitute a large residential population, but it provides a vital service to citizens of both counties and our economy. In addition, this area constitutes a transportation hub for the Midland-Odessa area, as well as, the entire region, making its inclusion vital in all area transportation planning; and

WHEREAS, This area between the two cities is also the intersection and local connection of two national high priorities corridors, as well as, Interstate 20, and a major arterial of the Union Pacific Railroad from Long Beach/Los Angeles to Dallas; and

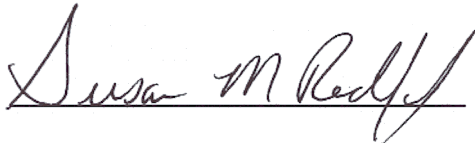
WHEREAS, Development of this area for industrial and transportation purposes serves the highest and best use for the area and region, the resulting lack of population density in this small area should not exclude Ector and Midland Counties from being designated as a Transportation Management Area; and

WHEREAS, The designation of the MOTOR MPO as a Transportation Management Area or TMA would better fit with the current population growth of the area and the desire of the communities to take a more active role in transportation planning and development, therefore, be it

RESOLVED, The Policy Board of the MOTOR MPO, per the applicable provisions under federal law, to request the United States Secretary of Transportation to designate the MOTOR MPO as a Transportation Management Area, and, be it further

RESOLVED, That the Policy Board further directs staff to request and obtain the necessary correspondence from the Governor of the State of Texas, along with a formal letter of request from the MOTOR MPO to Secretary LaHood requesting this designation.

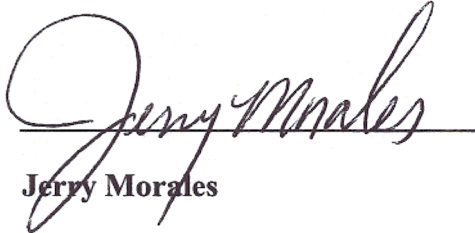
**PASSED AND APPROVED BY THE MOTOR POLICY BOARD ON THIS THE
16TH DAY OF MAY, 2011.**



Susan Redford, Chairman



Robin Donnelly, Vice Chairman



Jerry Morales



Dean Combs

Mike McAnally



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Gary Saunders, Transportation Manager

SUBJECT: The Texas State Independent Living Council – Grant Support

Purpose:

To support a grant request from The Texas State Independent Living Council (SILC) to the Texas Department of Transportation. This grant would increase employment opportunities and improve transportation services for individuals with disabilities in rural counties.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Information

Fiscal Impact:

N/A

Discussion:

The City of Midland has received a request from The Texas State Independent Living Council (SILC) to support their grant request to the Texas Department of Transportation. This grant would increase employment opportunities and improve transportation services for individuals with disabilities living in rural portions of Midland County.

As per The Texas State Independent Living Council (SILC), the grant will be designed to improve quality of life for disabled citizens through enhancement incentives, therefore providing long term-benefits throughout the county.

Staff recommends support of this grant proposal.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

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

SUBJECT: Consider a motion on a request by West Company of Midland for Stadium Addition (Toyota of Midland), to approve items requested for deferral, and to waive the associated public improvement guarantee. This subdivision is generally located at the northeast corner of the intersection of West Loop 250 and Network Dr. (District #4 - Trost).

Purpose:

To recommend approval for deferral of the following items:

Sidewalk Improvements	\$11,707.00
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Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Total value of deferral (recommended items)	\$11,707.00
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Staff will be working with council, in the near future, to develop a policy to trigger when the deferred improvements will be required to be constructed.

Discussion:

The Stadium Addition (Toyota of Midland) is located on the east side of West Loop 250 north of Network Dr.

West Company of Midland is proposing to defer the construction of sidewalk along Network Dr. Below is a summary of the deferral request along with a discussion of public improvements related to the development of land associated with this plat:

Deferral Request

1. Sidewalk: The applicant is requesting deferral of sidewalk construction along the south side of the property adjacent to Network Dr. This request is appropriate due to the lack of existing sidewalks in the vicinity of the project.

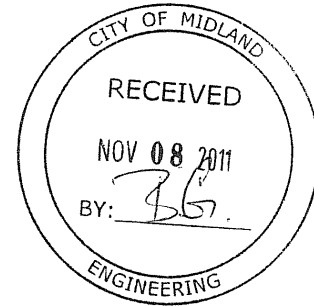
Public Improvements

1. Water Distribution: City of Midland water service is available and accessible.
2. Wastewater Collection: City of Midland wastewater service is available and accessible.
3. Paving: All streets adjacent to the subject property have been paved to the City of Midland standard.
4. Drainage: A master drainage plan for the Stadium Addition has been previously approved. Drainage facilities are currently complete and in-place. Development of the subdivision must be in conformance with the approved drainage study.

Attached is a location map, along with a deferral justification, and cost estimate from West Company of Midland.



110 W. Louisiana Ave. Suite. 110
MIDLAND TEXAS 79701-3414
OFFICE (432) 687-0865 FAX (432) 687-0868
www.team-west.com



November 8, 2011

David Beard
City of Midland Engineer
City of Midland
P. O. Box 1152
Midland, Texas 79702

RE: Toyota of Midland-Loop 250 and Network Drive

Dear Mr. Beard:

We respectfully request on behalf of our client, Toyota of Midland, for the City Council to defer the following public improvements relating to the Construction of the new Toyota Dealership located at Network Drive and the Loop 250:

(Please see exhibit for visual):

Sidewalk:

- The current project site is consistent with the surrounding project sites within the Stadium Addition subdivision. If sidewalk was required along Network Drive this would be the only property that would have sidewalk.

Total Deferral Length		509 Linear Feet
Description	Unit Cost (unit)	Total Cost
2,036- S.F. 4' Sidewalk	\$5 (SF)	\$10,180.00
Additional 15% Contingency		\$1,527.00
TOTAL		\$11,707.00

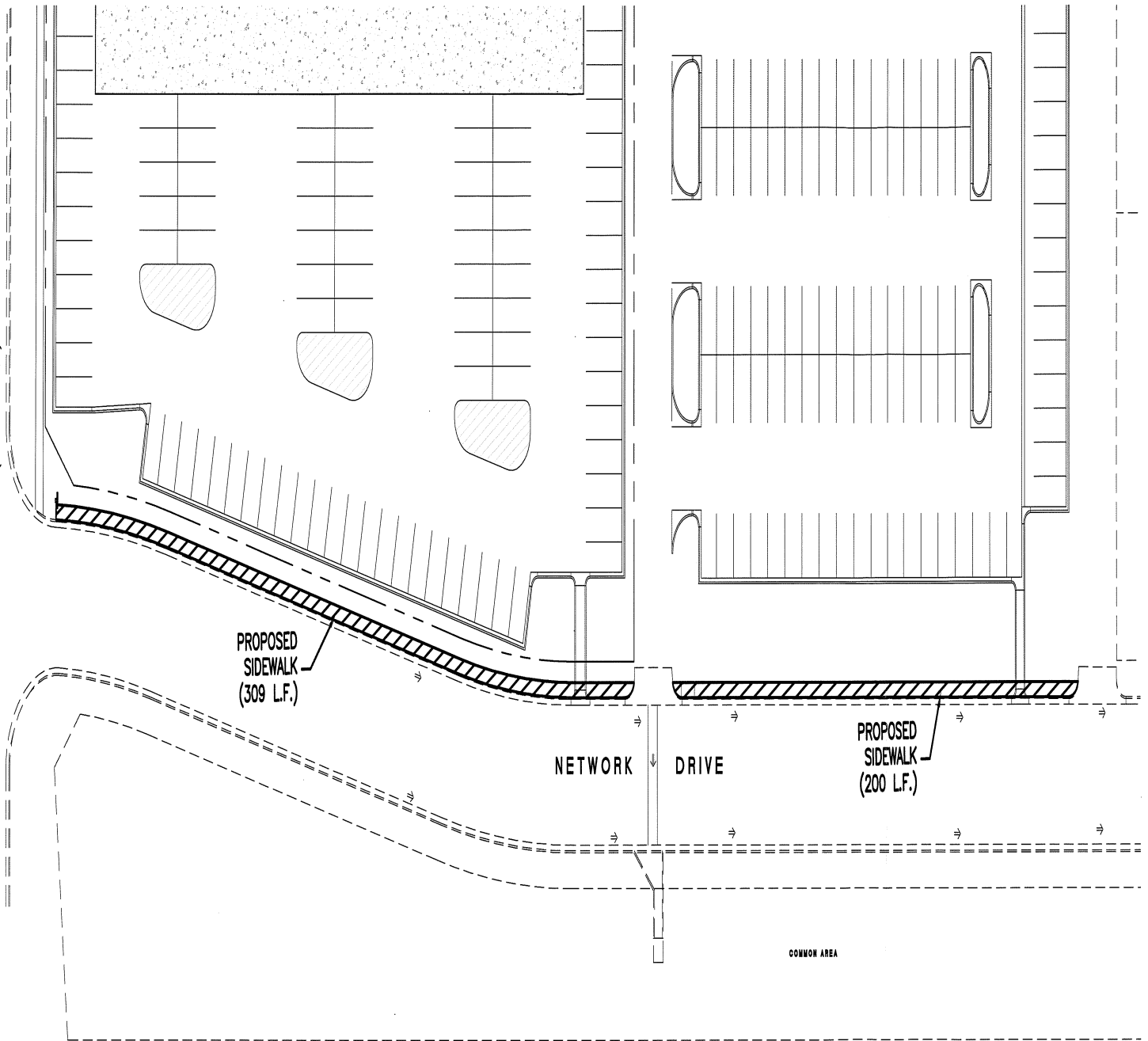
We thank you in advance for your assistance in this request.

Respectfully submitted,

Andrew L. Mellen, P.E.
West Company of Midland, Inc.



WEST LOOP 250
(350' R.O.W.)



DEFERRAL EXHIBIT

WEST COMPANY



OF MIDLAND, INC.

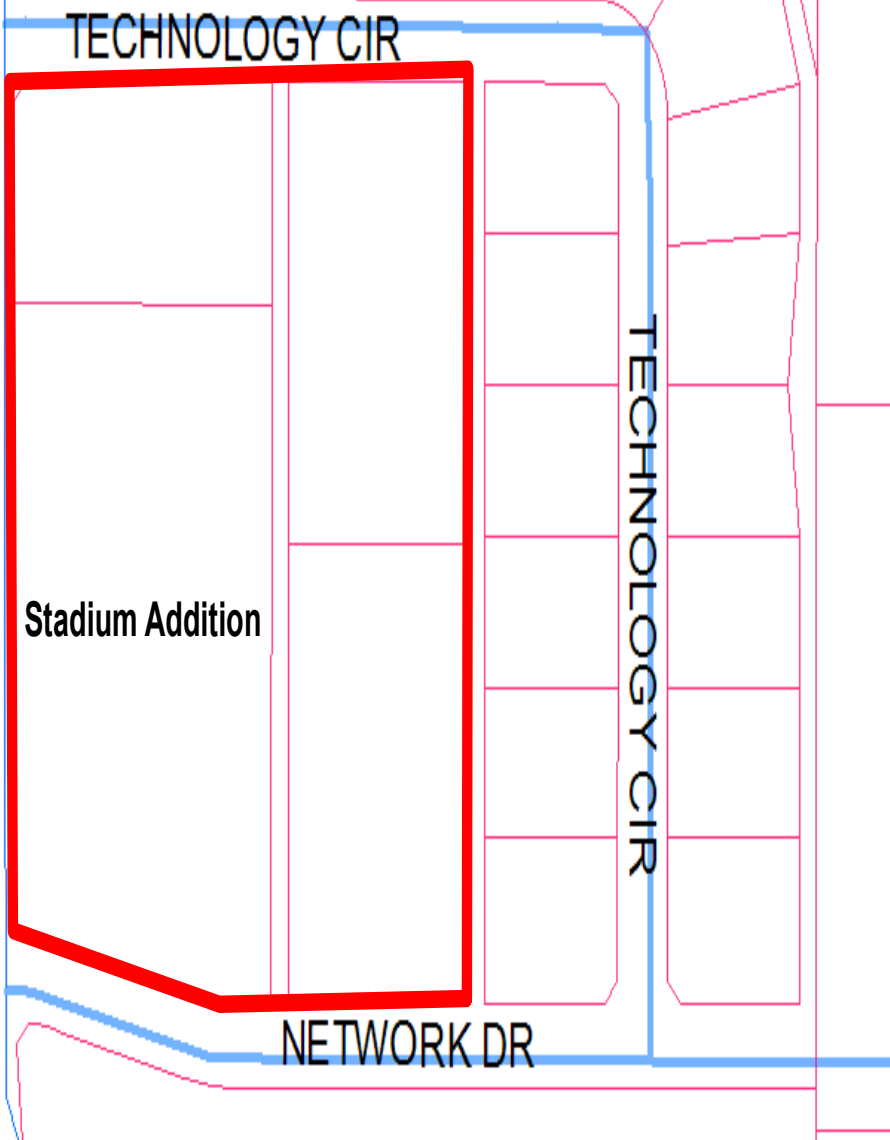
ENGINEERS - PLANNERS - SURVEYORS
REGISTRATION: FIRM 2184
110 W. LOUISIANA AVE., SUITE 110
MIDLAND, TEXAS 79701
(432) 687-0865 - FAX (432) 687-0868

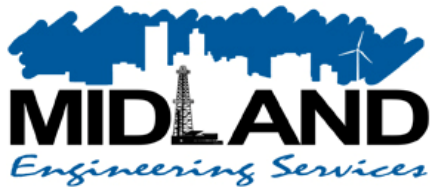
T: /CIVIL DRAWINGS/2010-0058/Exhibit/2010-0058 Deferral Exhibit.DWG

ENGINEERING DIVISION

Stadium Addition
(Toyota)

Request for Deferral





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

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

SUBJECT: Consider a motion on a request by West Company of Midland for Gateway Plaza (Section 3), to approve items requested for deferral, and to waive the associated public improvement guarantee. This subdivision is generally located at the northwest corner of the intersection of West Loop 250 and Business I-20. (District #4 - Trost).

Purpose:

To recommend approval for deferral of the following items:

Water Main Improvements	\$32,795.70
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Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

Total value of deferral (recommended items)	\$32,795.70
---	-------------

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

Discussion:

The Gateway Plaza Addition (Section 3) is located on the west side of West Loop 250 north of Business I-20.

West Company of Midland is proposing to plat the property and defer the construction of water main improvements. Below is a summary of the deferral request along with a discussion of public improvements related to the development of land associated with this plat:

Deferral Request

1. Water Distribution: The applicant is requesting deferral of water main improvements along the Loop 250 frontage. Water currently exists and accessible to all properties within the Gateway Plaza subdivision. Water service for the property associated with this plat will be served from the main in Starboard Dr. therefore construction of an additional water line to serve this or adjacent properties will not be necessary.

Public Improvements

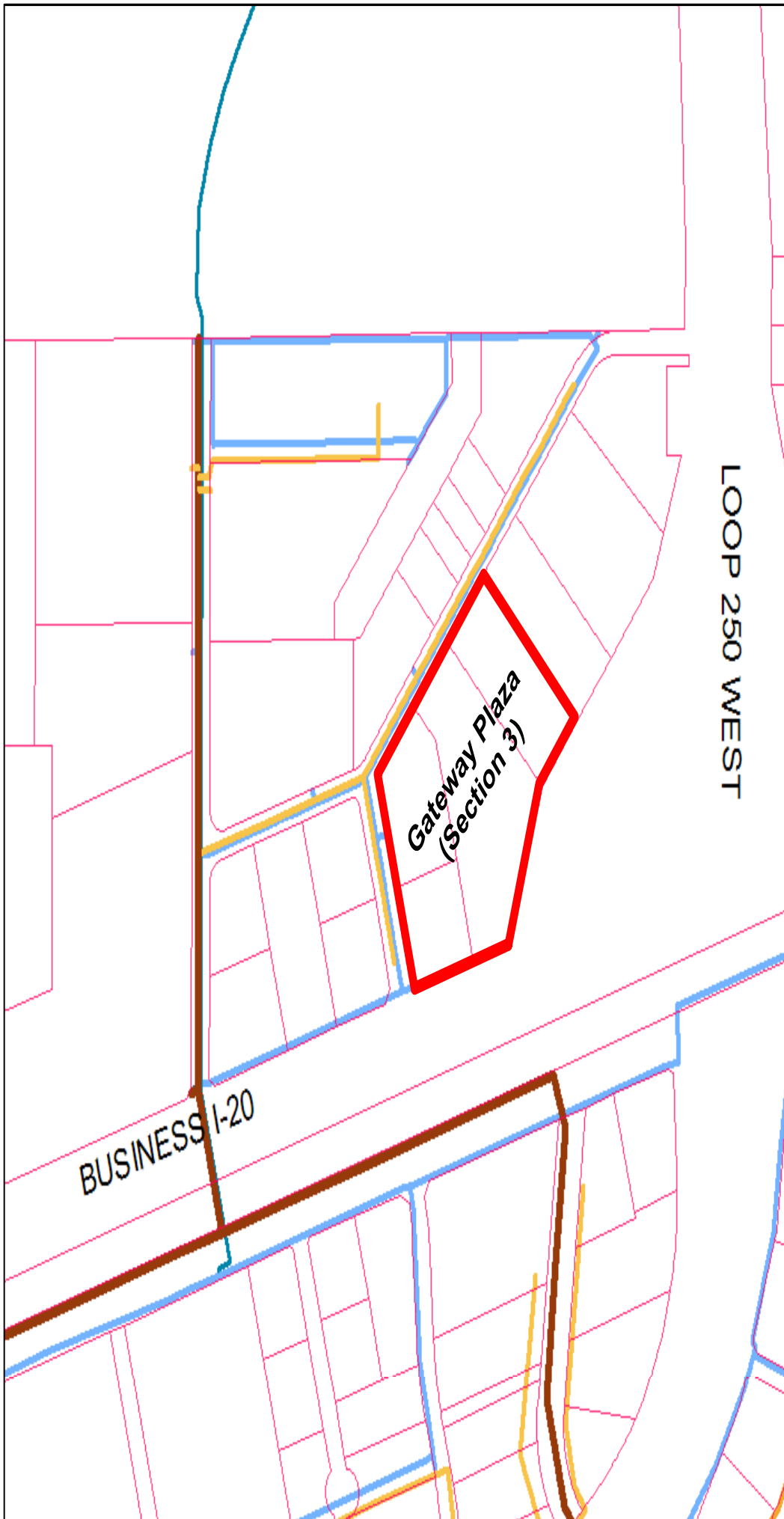
1. Wastewater Collection: City of Midland wastewater service is available and accessible.
2. Sidewalk: Sidewalks will be installed during the building construction phase.
3. Paving: All streets adjacent to the subject property have been paved to the City of Midland standard.
4. Drainage: A master drainage plan for the subdivision has been previously approved. Drainage facilities are currently complete and in-place. Development of the subdivision must be in conformance with the approved drainage study.

Attached is a location map, along with a deferral justification, and cost estimate from West Company of Midland.

ENGINEERING DIVISION

Gateway Plaza (Section 3)

Request for Deferral



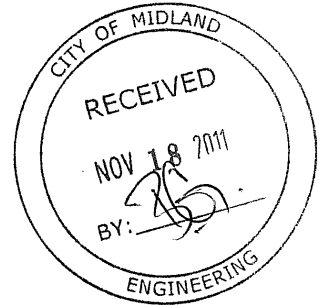
110 W. Louisiana Ave. Suite. 110
MIDLAND TEXAS 79701-3414
OFFICE (432) 687-0865 FAX (432) 687-0868
www.team-west.com

WEST COMPANY

of Midland Inc.

November 17, 2011

David Beard
City of Midland Engineer
City of Midland
P. O. Box 1152
Midland, Texas 79702



RE: Public Improvements for Gateway Plaza, Section 3

Dear Mr. Beard:

We respectfully request on behalf of our client, Jeff Benson with Cinergy Cinemas, for the City Council to defer the following public improvements relating to the Gateway Plaza, Section 3 Plat:

(Please see exhibit for visual):

Sewer:

Sewer is existing and accessible

Water:

Water is existing and accessible to all properties within the Gateway subdivision.

We have been asked to install additional 6" Water line along the TXDOT Right-of-way quoting city code to install all improvements along frontages. The Gateway subdivision already has an approved looped water distribution system for domestic use and fire.

Water Improvements

1007	L.F.	6-inch C-900 @ \$24.00/LF	\$24,168
1	E.A.	6-inch valves @\$750.00/EA	\$750
1	E.A.	C.O.M. Water Tap/Box @\$600/EA	\$600
1	E.A.	Fire Hydrants @\$3,000.00/EA	\$3,000
			\$28,518
		15% Contingency	\$4,277.70
		Water Improvement Total	\$32,795.70

Drainage:

Current Drainage has been approved by City of Midland.

Paving, Curb & Gutter and Sidewalk:

Sidewalk, Curb and Gutter

Sidewalk will be installed during construction and curb and gutter already exist.

Paving

All frontage streets Liberty and Seaboard are improved to city required sections.

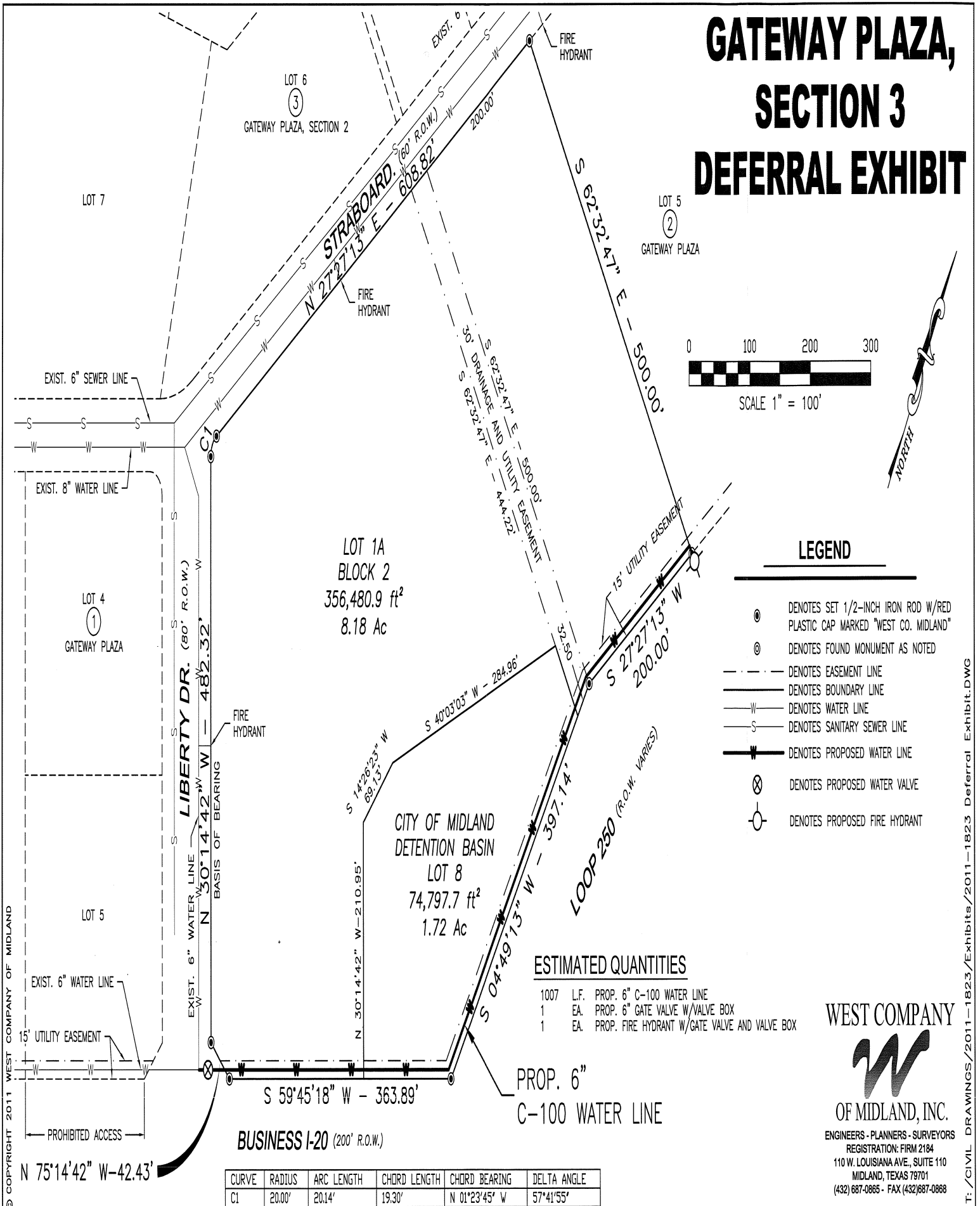
We thank you in advance for your assistance in this request.

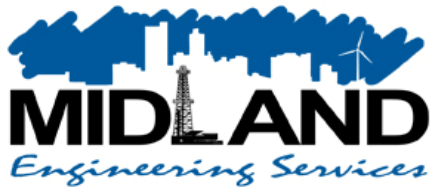
Respectfully submitted,

Andrew L. Mellen, P.E.
West Company of Midland, Inc.



GATEWAY PLAZA, SECTION 3 DEFERRAL EXHIBIT





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

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

SUBJECT: Consider a motion on a request by West Company of Midland for Witcher Addition (Lot 2 & Lot 3), to approve items requested for deferral, and to waive the associated public improvement guarantee. This subdivision is generally located at the southwest corner of the intersection of Liberator Ln. and Norden Dr. (District #4 - Trost).

Purpose:

To recommend approval for deferral of the following items:

Sidewalk Improvements	\$112,194.00
-----------------------	--------------

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

Total value of deferral (recommended items)	\$112,194.00
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Staff will be working with council, in the near future, to develop a policy to trigger when the deferred improvements will be required to be constructed.

Discussion:

The Witcher Addition (Lot 2 & Lot 3) is located at the southwest corner of the intersection of Liberator Ln. and Norden Dr.

West Company of Midland is proposing to defer the construction of sidewalks along Liberator Ln. and Norden Dr. Below is a summary of the deferral request along with a discussion of public improvements related to the development of land associated with this plat:

Deferral Request

1. Sidewalk: The applicant is requesting deferral of sidewalk construction along the north and west side of the property adjacent to Liberator Ln. and Norden Dr. This request is consistent with surrounding properties.

Public Improvements

1. Water Distribution: City of Midland water service is available and accessible.
2. Wastewater Collection: City of Midland wastewater service is available and accessible.
3. Paving: All streets adjacent to the subject property have been paved to the City of Midland standard.
4. Drainage: All the lots in this subdivision are currently developed. If any new construction is proposed, necessary drainage improvements will be addressed in the building permit review phase.

Attached is a location map, along with a deferral justification, and cost estimate from West Company of Midland.

110 W. Louisiana Ave. Suite. 110
MIDLAND TEXAS 79701-3414
OFFICE (432) 687-0865 FAX (432) 687-0868
www.team-west.com

WEST COMPANY

of Midland Inc.



November 8, 2011

David Beard
City of Midland Engineer
City of Midland
P. O. Box 1152
Midland, Texas 79702

RE: Public Improvements for Witcher Addition Lot 2, and Lot 3

Dear Mr. Beard:

We respectfully request on behalf of our client, Mr. Steve Holifield, for the City Council to defer the following public improvements relating to the Witcher Addition Plat:

(Please see exhibit for visual):

Sewer:

We are requesting deferral of any additional Sewer Lines because; Sewer is Existing and Accessible

Water:

We are requesting deferral of any additional Water Line Extensions because; Water is Existing and Accessible, in which all lots are currently on the City water System.

Drainage:

Although these lots are already improved and there is currently no plan to expand or revise construction for site Civil, the drainage will be taken care of by the individual lot owner with onsite detention during the building permit phase. Any increase in storm water runoff will be directed into a permeable basin and or other means of detention. This statement is on the Plat for informational awareness.

Paving, Curb & Gutter and Sidewalk:

Norden Drive and Liberator Lane are improved to City Standards.

Sidewalk

- The current rural subdivision is consistent with the surrounding subdivisions. If sidewalk was required this would be the only subdivision for miles that would have sidewalk.

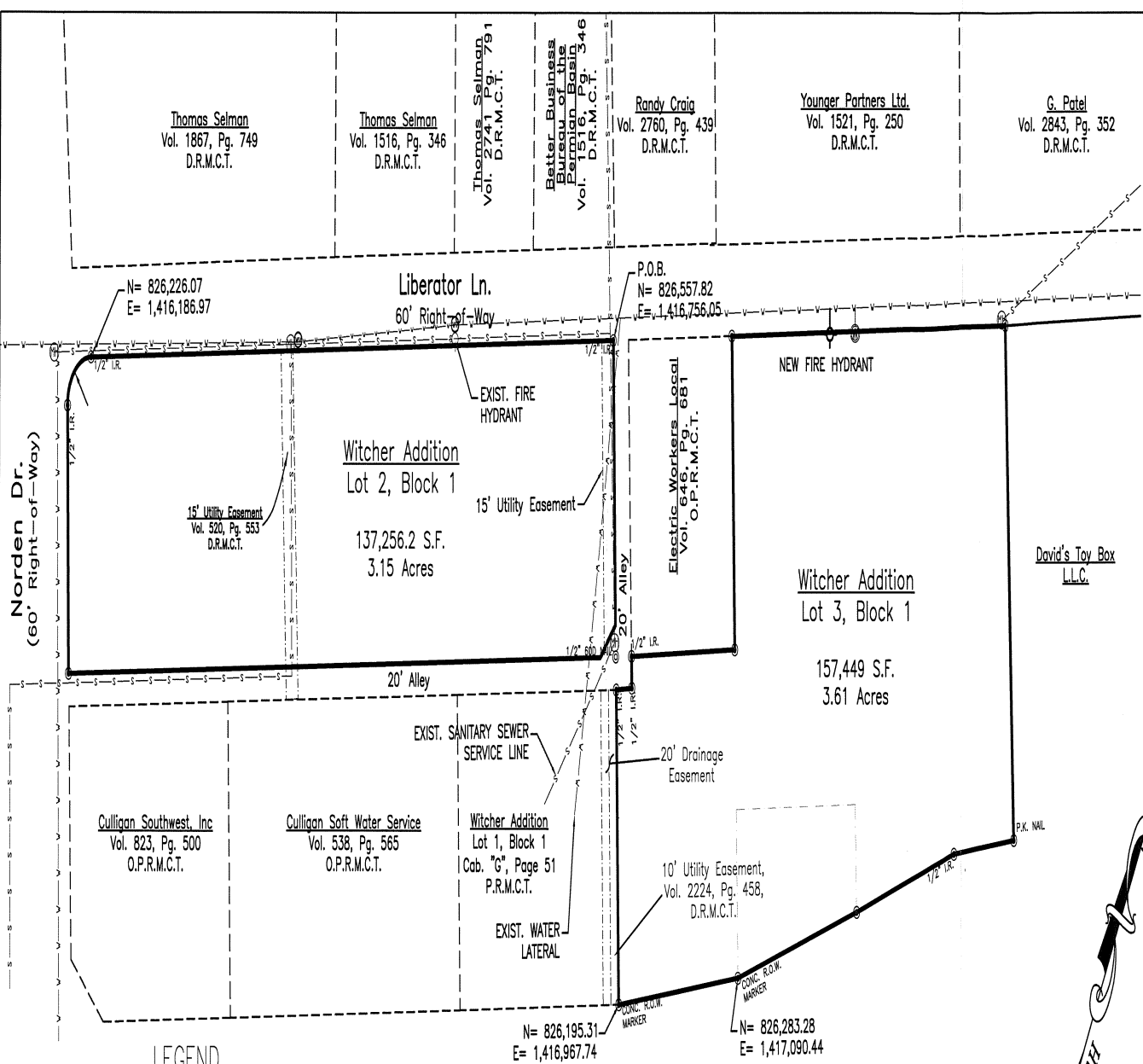
Total Project Area		3.76 acres
Description	Unit Cost	Total Cost
4,878 - 4' Sidewalk	\$5 S.F.	\$97,560
Additional 15% Contingency		\$14,634.00
TOTAL		\$112,194.00

We thank you in advance for your assistance in this request.

Respectfully submitted,

Andrew L. Mellen, P.E.
West Company of Midland, Inc.



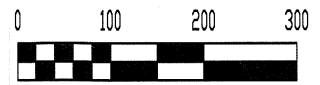


LEGEND

- ⊙ - SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- ⊙ - FOUND MONUMENT AS NOTED
- - CALCULATED CORNER
- O.P.R.M.C.T. - OFFICIAL PUBLIC RECORDS, MIDLAND CO., TX
- D.R.M.C.T. - DEED RECORDS, MIDLAND CO., TX
- P.O.B. - POINT OF BEGINNING
- P.R.M.C.T. - PLAT RECORDS, MIDLAND CO., TX
- - DENOTES BOUNDARY LINE
- - - - - DENOTES ADJACENT PROPERTY
- - - - - DENOTES EASEMENT LINE
- v—v— - DENOTES WATER LINE
- s-s-s-s- - DENOTES SEWER LINE

Business Interstate Highway 20 (U.S. Highway 80)
350' Right-of-Way

ITEM	QUANTITY	COST PER UNIT	COST
4' SIDEWALK	4,878 S.F.	\$5.00 S.F.	\$97,560.00
CONTINGENCY		15%	\$14,634.00
TOTAL			\$112,194.00



SCALE 1" = 100'

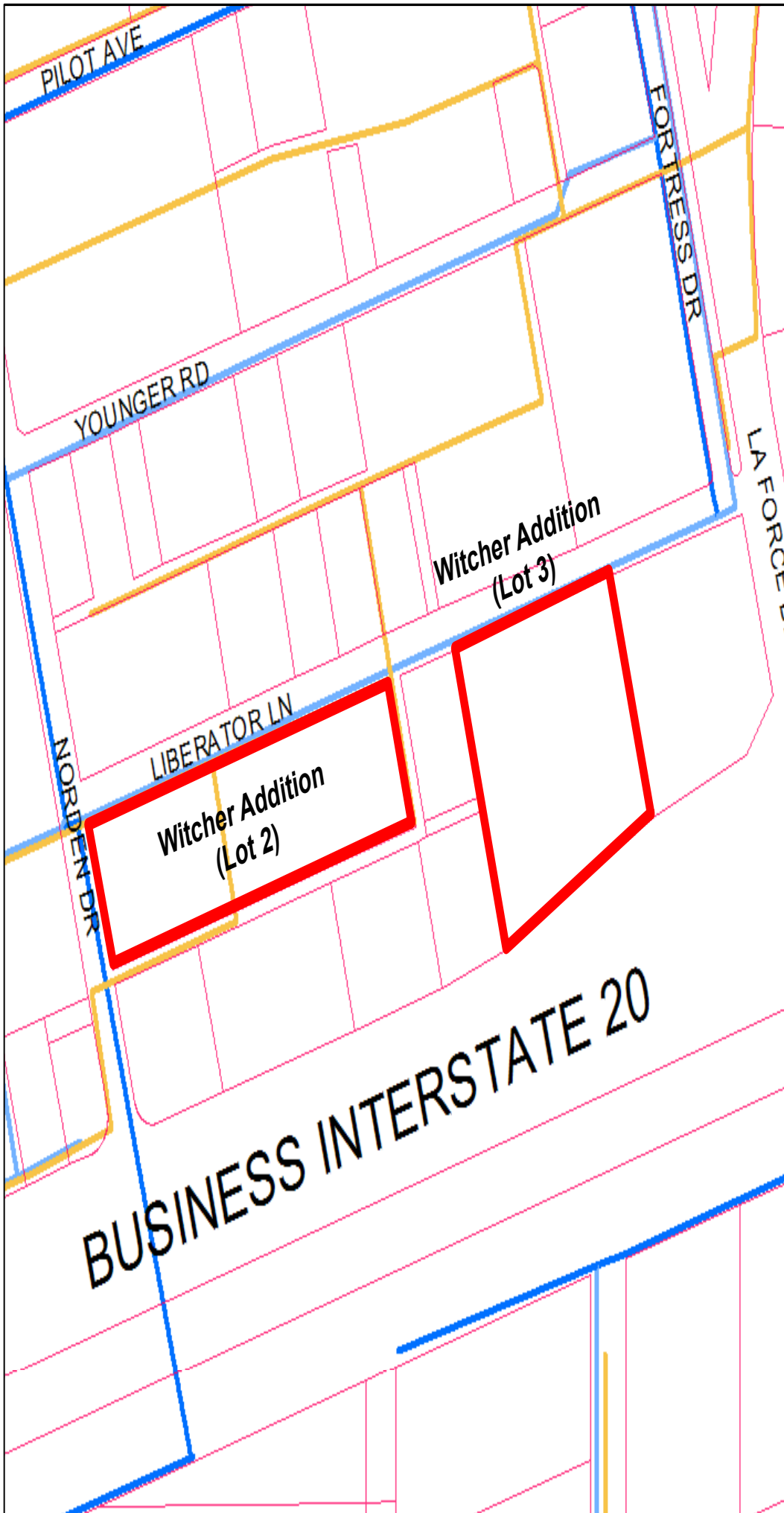
WEST COMPANY

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

DEFERRAL EXHIBIT

T: /CIVIL DRAWINGS/2011 - 0988/Exhibits/Deferral Exhibit.DWG



ENGINEERING DIVISION

**Witcher Addition
(Lot 2 & Lot 3)**

Request for Deferral





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

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

SUBJECT: Consider a resolution to assign a project number and allocate money from the General Fund for the design and construction of paving and drainage improvements for Briarwood Ave. from Holiday Hill Rd. to Heidelberg Ln. (District #4 - Trost).

Purpose:

Consider a resolution to assign a project number and allocate funds from the General Fund for the design and construction of paving and drainage improvements for Briarwood Ave. from Holiday Hill Rd. to Heidelberg Ln.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

The sum of \$36,413.13 collected through a development agreement would be re-appropriated from the General Fund to a proposed project.

Discussion:

At the October 25, 2011 council meeting, the council authorized staff to collect \$36,413.13 from the Developer of the Country Sky Addition – Section 11 for the arterial street construction adjacent to his property. The money was accepted through a development agreement and deposited into the General Fund. The approval of this resolution will allow the money collected from the development agreement to be reallocated from the General Fund to the newly created project.

RESOLUTION NO.

**RESOLUTION APPROPRIATING \$36,413 FROM THE
GENERAL FUND (001) UNAPPROPRIATED FUND
BALANCE (5650) TO THE BRIARWOOD PAVING AND
DRAINAGE IMPROVEMENTS PROJECT (8976)**

WHEREAS, the City Council finds it to be in the public interest to appropriate \$36,413 to the Briarwood Paving and Drainage Improvements Project;

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

THAT the sum of \$36,413.00 is hereby appropriated from the General Fund (001) Unappropriated Fund Balance (5650) to the Briarwood Paving and Drainage Improvements Project (8976).

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., 2011, 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:

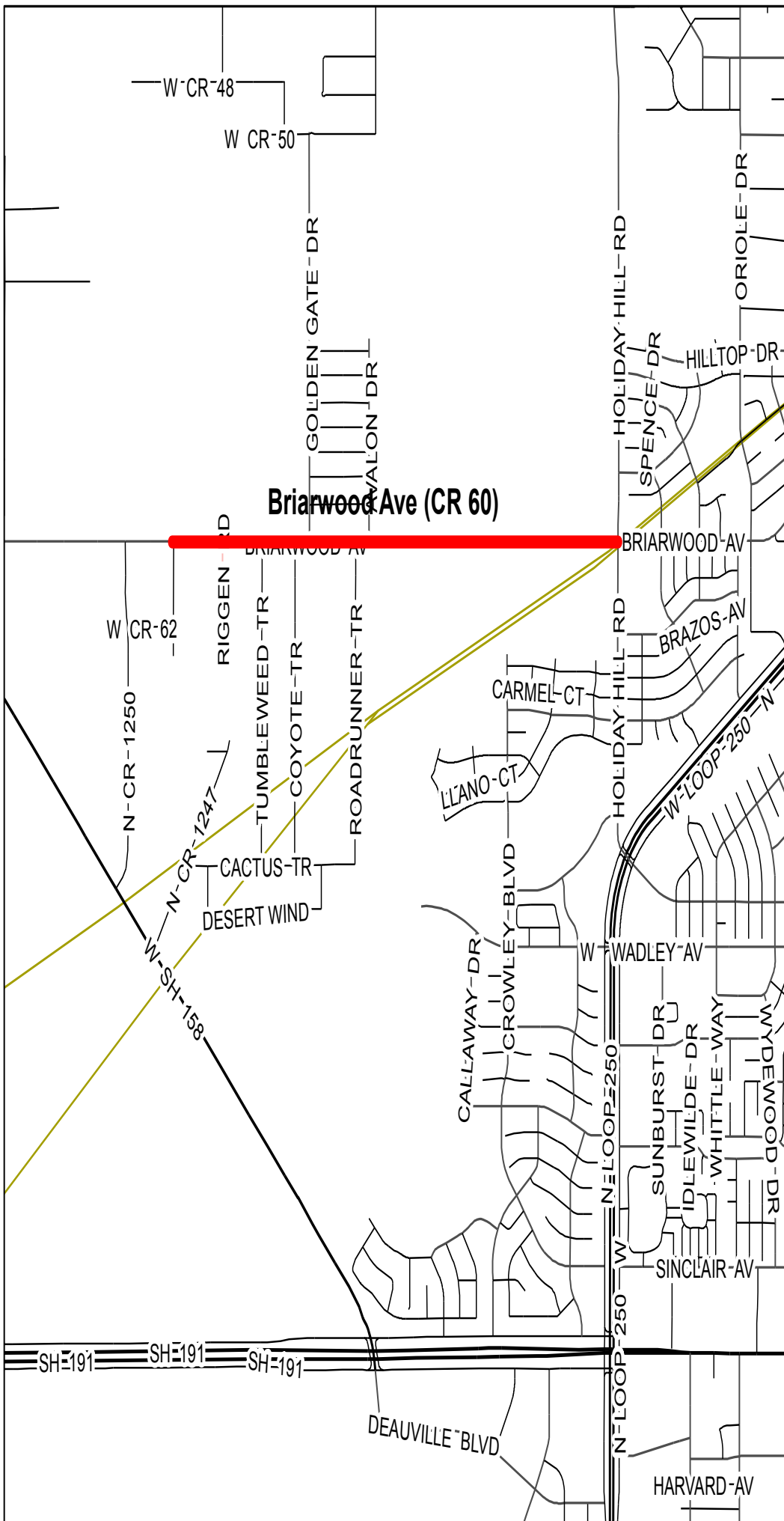
Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ENGINEERING DIVISION

Briarwood Avenue
(CR 60)





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

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

SUBJECT: Consider a resolution to assign a project number and allocate money from the General Fund for the design and construction of drainage and paving improvements for Mockingbird Ln. from Holiday Hill Rd. to Midland Dr. (District #1 - Sparks).

Purpose:

Consider a resolution to assign a project number and allocate funds from the General Fund for the design and construction of drainage and paving improvements for Mockingbird Ln., from Holiday Hill Rd. to Midland Dr.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

The sum of \$25,141.30 collected through a development agreement would be re-appropriated from the General Fund to a proposed project.

Discussion:

At the October 25, 2011 council meeting, the council authorized staff to collect \$25,141.30 from the developer of the Northview Addition – Section 12 for the arterial street construction adjacent to his property. The money was accepted through a development agreement and deposited into the General Fund. The approval of this resolution will allow the money collected from this development agreement to be reallocated from the General Fund to the newly created project.

RESOLUTION NO.

**RESOLUTION APPROPRIATING \$19,478 FROM THE
GENERAL FUND (001) UNAPPROPRIATED FUND
BALANCE (5650) TO THE MOCKINGBIRD PAVING
AND DRAINAGE IMPROVEMENTS PROJECT (8977)**

WHEREAS, the City Council finds it to be in the public interest to appropriate \$19,478 to the Mockingbird Paving and Drainage Improvements Project;

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

THAT the sum of \$19,478.00 is hereby appropriated from the General Fund (001) Unappropriated Fund Balance (5650) to the Mockingbird Paving and Drainage Improvements Project (8977).

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., 2011, 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

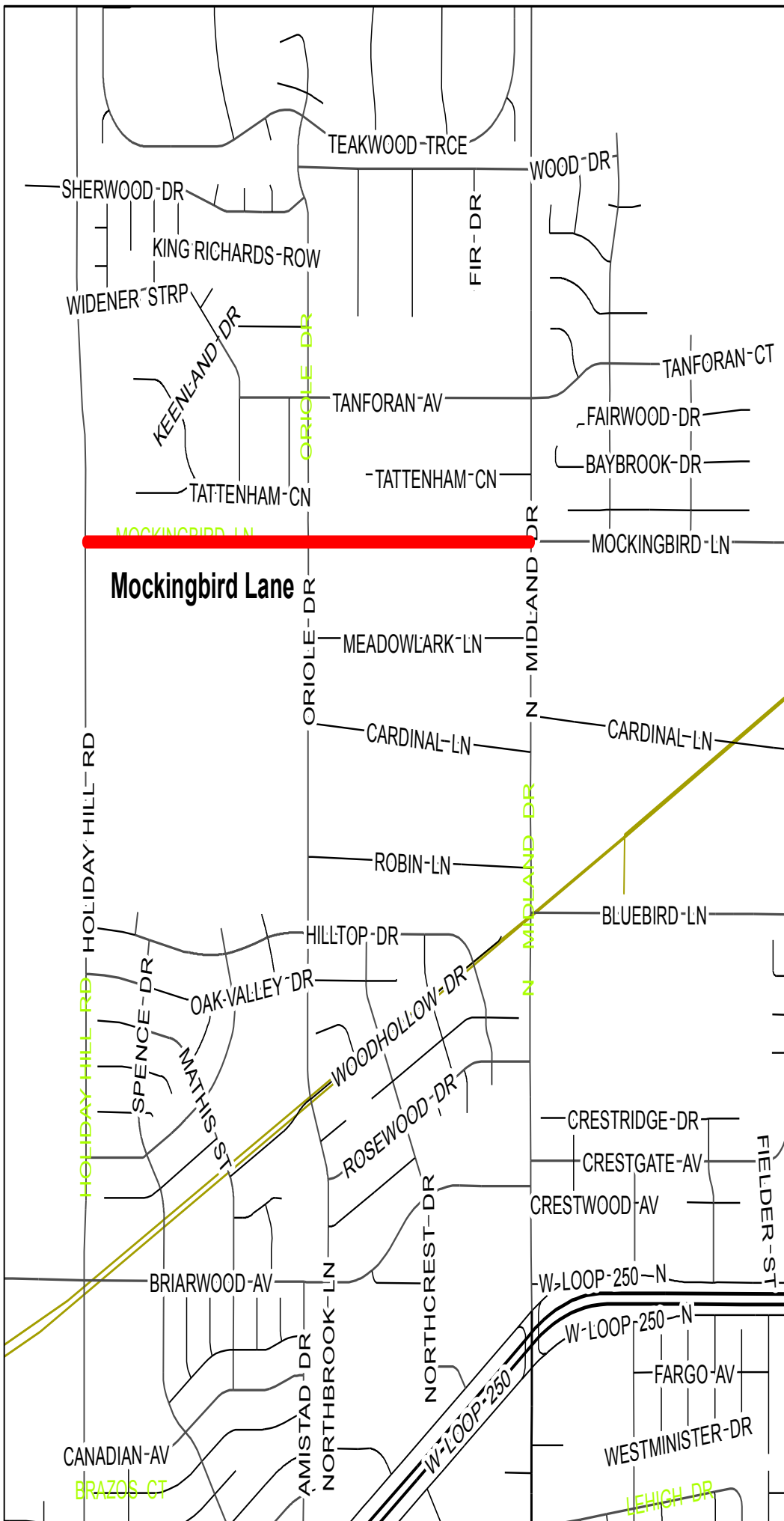
APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ENGINEERING DIVISION

Mockingbird Lane

Mockingbird Lane





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

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

SUBJECT: Consider a resolution authorizing staff to re-advertise for bids for the Ward Street Bridge project.

Purpose:

Authorize staff to re-advertise for bids for the Ward Street Bridge project. The intent of the project is to remove and replace the bridge deck, evaluate and reinforce the existing bridge structure and make improvements to protect the new structure. In addition, the Garfield bridge rail and sidewalk will be improved to promote pedestrian safety and meet ADA requirements.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Engineer's opinion of probable cost: \$570,827 (PS&C)

Funds are available in the Jal Draw Channel Lining project (D-45 / 8880).

Discussion:

This Ward Street Bridge project was advertised for bid in summer 2011. No bids were received. In an attempt to avoid the worst months for concrete construction, re-advertising the Bridge project was postponed. Staff requests authorization to readvertise the job, with an anticipated start day in Spring 2012 and a completion in Summer 2012.

Attached is a location map.

RESOLUTION NO.

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE WARD STREET BRIDGE PROJECT; SAID PROJECT WILL BE FOR THE REPLACEMENT OF THE BRIDGE DECK, REINFORCEMENT OF THE EXISTING BRIDGE STRUCTURE, IMPROVEMENTS TO PROTECT THE NEW STRUCTURE, AND IMPROVEMENTS TO BRIDGE RAILS AND SIDEWALKS

WHEREAS, plans and specifications have been prepared by the City of Midland for the Ward Street Bridge Project; and

WHEREAS, the City Council finds it to be in the public interest to approve such plans and specifications for said project and to authorize 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 as prepared by the City of Midland for the Ward Street Bridge Project are hereby approved, those plans and specifications to be on file in the City Secretary's office referenced by the number and date of this resolution.

SECTION TWO. That the City Manager, or his designee, is hereby authorized to advertise for competitive bids for said project 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., 2011, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

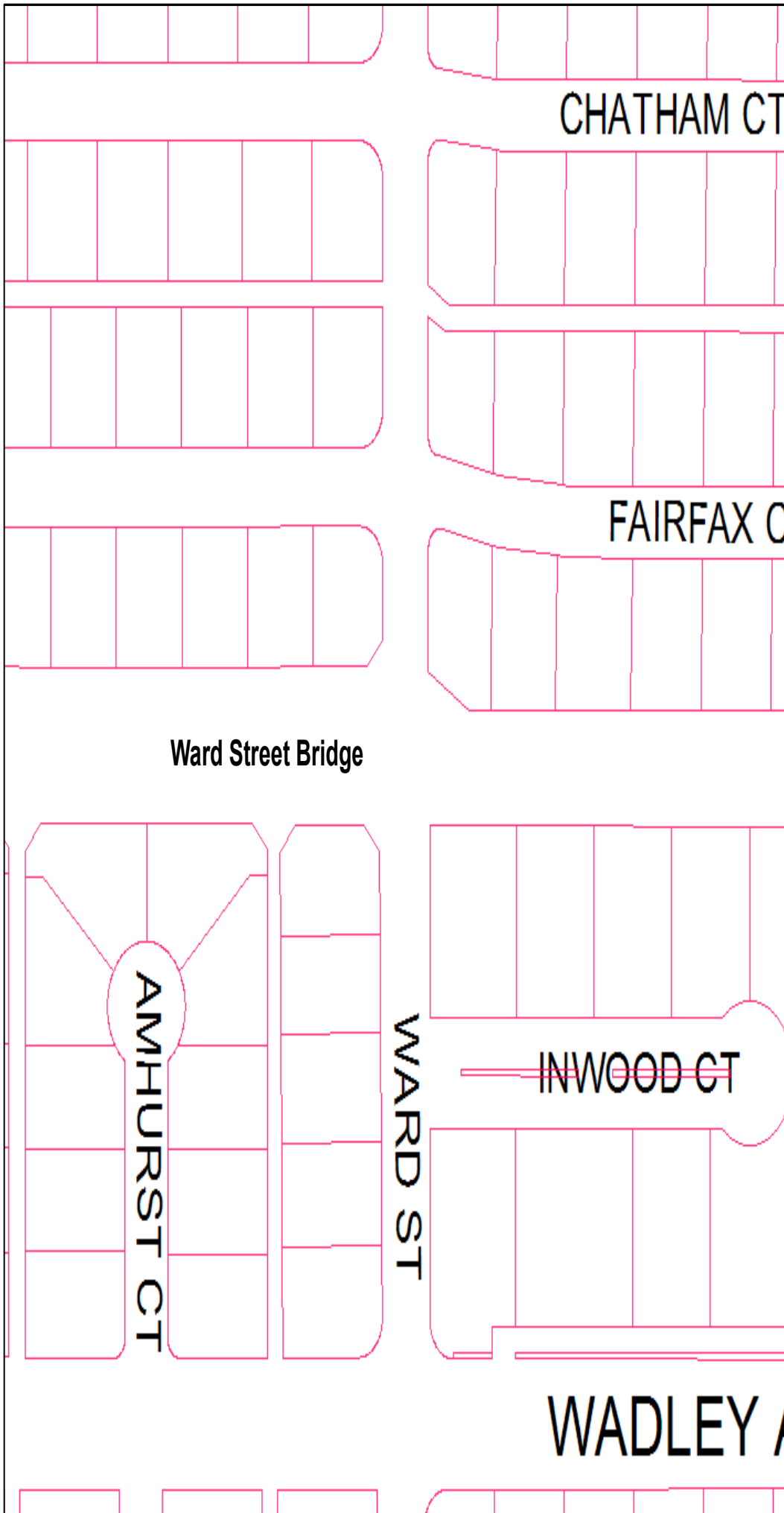
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



ENGINEERING DIVISION

Ward Street Bridge

Permission to Advertise
for Bids





DATE: December 13, 2011

To: The Honorable Mayor and City Council Members

FROM: Keith Stretcher, City Attorney

SUBJECT: Preclearance from the United States Department of Justice

The proposed resolution accepts and acknowledges preclearance from the United States Department of Justice, Civil Rights Division, regarding the City of Midland's 2011 redistricting plan for the election of individual City Council Members and the configuration of individual districts.

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

Keith Stretcher

KS/lo

RESOLUTION NO.

**RESOLUTION ACCEPTING PRECLEARANCE FROM
THE UNITED STATES DEPARTMENT OF JUSTICE,
CIVIL RIGHTS DIVISION, REGARDING THE CITY OF
MIDLAND'S 2011 REDISTRICTING PLAN FOR THE
ELECTION OF INDIVIDUAL CITY COUNCIL
MEMBERS AND THE CONFIGURATION OF
INDIVIDUAL DISTRICTS**

WHEREAS, the City of Midland submitted its Redistricting Plan to the United States Department of Justice, Civil Rights Division, on September 14, 2011; and

WHEREAS, on November 4, 2011 the United States Department of Justice, Civil Rights Division, notified the City of Midland that they had no objections to the reconfiguration of the City Council Districts submitted by the City of Midland;

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

SECTION ONE. That the City Council of the City of Midland, Texas, hereby accepts preclearance from the United States Department of Justice, Civil Rights Division, regarding the City of Midland's 2011 Redistricting Plan for the election of individual City Council Members.

SECTION TWO. That a map showing the new districts is hereby placed on file in the City Secretary's Office 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., 2011, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: December 13, 2011
TO: CITY COUNCIL/CITY MANAGER
FROM: Price Robinson, Chief of Police
SUBJECT: Appointment of Volunteers Enforcing Parking Restrictions

Purpose:

To approve and appoint the below referenced Citizens Police Academy Alumni as Volunteers Enforcing Parking Restrictions

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

None

Discussion:

Volunteer Candidates:	Joe Hathaway	Sue Miller
	Steve Baker	Don McSparran
	Amos Palma	Jerry Bechyne
	Marion Axe	Gene Washam
	Thomas Kingon	Don Lemmon

Since August 1995, the Midland Police Department's Citizens Police Academy Alumni Association has conducted the disabled parking enforcement program. The volunteers are trained on the legalities and application of the disabled parking laws. They must work in pairs, wear a distinctive uniform, and call dispatchers immediately upon any problems arising at a location. A vehicle is provided by the city, marked as a city vehicle (not a police vehicle) and having signs on the side stating "Parking Enforcement." The volunteers are prohibited from any enforcement activities while in their personal vehicles and while not paired up with another volunteer.

RESOLUTION NO.

**RESOLUTION APPOINTING INDIVIDUALS TO SERVE
AS VOLUNTEERS TO ENFORCE AUTOMOBILE
PARKING RESTRICTIONS AS AUTHORIZED BY
CHAPTER 681 OF THE TEXAS TRANSPORTATION
CODE**

WHEREAS, the Midland Police Department's Citizens Police Academy Alumni Association (CPAAA) has conducted the Disabled Parking Enforcement Program since 1995; and

WHEREAS, the volunteers are trained on the legalities and application of parking laws regarding disabled or handicapped parking; and

WHEREAS, the volunteers must work in pairs, wear distinctive uniforms as established by the CPAAA, and call dispatchers immediately upon encountering any problems when conducting parking enforcement activities; and

WHEREAS, the volunteers are provided a City vehicle (not a police vehicle) with signs on the side stating "Parking Enforcement," and are prohibited from any enforcement activities while in personal vehicles and while not paired up with another volunteer; and

WHEREAS, the City Council finds it to be in the public interest to appoint individuals to enforce parking restrictions pursuant to Texas Transportation Code Section 681.0101;

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

SECTION ONE. That each individual appointed to serve as a volunteer to enforce automobile parking restrictions regarding disabled or handicapped parking must:

1. Be a United States citizen of good moral character who has not been convicted of a felony;
2. Take and subscribe to an oath of office that the City of Midland prescribes; and
3. Successfully complete a training program of at least four hours in length developed by the City of Midland.

SECTION TWO. That an individual appointed as a volunteer to enforce such parking restrictions, is not a peace officer, has no authority other than the authority applicable to enforce such parking restrictions and may not carry a weapon while performing such duties.

SECTION THREE. That each individual appointed as a volunteer hereunder is not entitled to compensation for performing duties or to indemnification from the City of Midland for injury or property damage the person sustains or liability the person incurs in performing such duties.

SECTION FOUR. That the City of Midland is not liable for any damage arising from an act or omission of a person appointed to perform said duties.

SECTION FIVE. That the City Council approves and appoints the following individuals as volunteers to said parking restrictions as authorized by Section 681.0101 of the Texas Transportation Code:

Joe Hathaway
Sue Miller
Thomas Kingon
Gene Washam

Steve Baker
Amos Palma
Marion Axe

Don McSparran
Jerry Bechyne
Don Lemmon

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., 2011, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Stuart T. Purvis, Director of Utilities

SUBJECT: Approve Award of the Raw Water Project at the Water Purification Plant to Archer Western Construction, LLC and Appropriate Funds

Purpose:

Consider a resolution approving award of the Raw Water Project at the Water Purification Plant to Archer Western Construction, LLC and appropriate funds.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Award amount is \$7,058,965 from the Water Fund to be reimbursed through bond sales in 2012.

Discussion:

On September 27, 2011, the City Council approved advertisement for bids of the Raw Water Project. This project includes modifications to the raw water supply system, replacement of failed equipment at the Water Purification Plant, and data communications upgrades to the Paul Davis Well Field. These repairs are necessary to ensure the continued reliable supply of water to the city. Camp Dresser & McKee, Inc. is the design firm for this project.

Three (3) contracting firms submitted bids on this project. The bids ranged from \$7,058,965 to \$7,568,540. Archer Western Construction, LLC is the lowest bidder. Funds for this project were planned for in the upcoming bond sales.

The low bidder, Archer Western Construction, LLC, has successfully completed many projects of this type. They provided the lowest responsible and responsive bid and the Utility Department Staff recommend award of this project.

RESOLUTION NO.

**RESOLUTION AWARDING THE RAW WATER
PROJECT AT THE WATER PURIFICATION PLANT TO
ARCHER WESTERN CONSTRUCTION, L.L.C., AT A
TOTAL COST OF \$7,058,965.00**

WHEREAS, the Utilities Department advertised the Raw Water Project for competitive bids; and

WHEREAS, Archer Western Construction, L.L.C., has submitted the lowest and most responsible bid for the performance of said project in the total amount of \$7,058,965.00, as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

WHEREAS, the City Council finds it to be in the public interest to execute a contract with Archer Western Construction, L.L.C., for said project;

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

SECTION ONE. That the Mayor and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a contract with Archer Western Construction, L.L.C., for said project at a cost not to exceed \$7,058,965.00, said contract being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay Archer Western Construction, L.L.C., pursuant to the terms of said contract from funds available in the Raw Water Project (8970) upon receipt of proper invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2011, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland, Texas
Raw Water Project
Project No. WPP11-100/8970

BID TABULATION
BIDS RECEIVED 3:00 P.M. November 2, 2011

Item No.	Description	Archer Western Construction, LLC				Red River Construction Co.				BRB Contractors, Inc.			
		Quantity	Unit	Unit Bid Price	Total Bid Price	Quantity	Unit	Unit Bid Price	Total Bid Price	Quantity	Unit	Unit Bid Price	Total Bid Price
1	Construction of the Raw Water Project	1	L.S.	\$6,769,000.00	\$6,769,000.00	1	L.S.	\$6,816,000.00	\$6,816,000.00	1	L.S.	\$7,280,000.00	\$7,280,000.00
2	Trench Safety System	1,500	L.F.	\$3.45	\$5,175.00	1,500	L.F.	\$4.00	\$6,000.00	1,500	L.F.	\$2.50	\$3,750.00
3	Allowance for Cathodic Protection System	1	L.S.	\$86,790.00	\$86,790.00	1	L.S.	\$86,790.00	\$86,790.00	1	L.S.	\$86,790.00	\$86,790.00
4	Allowance for Cathodic Protection System Service	1	L.S.	\$6,500.00	\$6,500.00	1	L.S.	\$6,500.00	\$6,500.00	1	L.S.	\$6,500.00	\$6,500.00
5	Allowance for Concrete Tank Service	1	L.S.	\$120,000.00	\$120,000.00	1	L.S.	\$120,000.00	\$120,000.00	1	L.S.	\$120,000.00	\$120,000.00
6	Allowance for Wireless Communication Equipment and Service	1	L.S.	\$11,500.00	\$11,500.00	1	L.S.	\$11,500.00	\$11,500.00	1	L.S.	\$11,500.00	\$11,500.00
7	Allowance for Miscellaneous Work	1	L.S.	\$60,000.00	\$60,000.00	1	L.S.	\$60,000.00	\$60,000.00	1	L.S.	\$60,000.00	\$60,000.00
	TOTAL BID PRICE				\$7,058,965.00				\$7,106,790.00				\$7,568,540.00

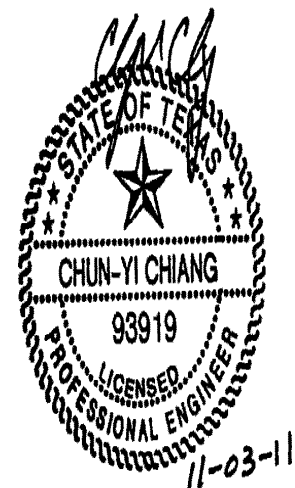


Exhibit "A"



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Stuart T. Purvis, Director of Utilities

SUBJECT: Approve Extension of the Contract with Kevin Cook for Part of Section 12, Block 37, TWP-3-S, T&P RR Co. Survey Located at the Spraberry Effluent Farm

Purpose:

Consider a resolution approving the extension of the farm lease agreement with Kevin Cook for part of Section 12, Block 37, TWP-3-S, T&P RR Co. Survey located at the Spraberry Effluent Farm.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No additional fiscal impact.

Discussion:

The lease on a part of Section 12, Block 37, TWP-3-S, T&P RR Co. Survey located at the Spraberry Effluent Farm with Kevin Cook is set to expire on April 30, 2012. Since our permit to operate these farms, along with the Water Pollution Control Plant, is set to be renewed by December 1, 2012, it is in the best interest of the City to extend this contract, under the existing terms, until December 31, 2012. This allows any changes in the terms of our permit to be incorporated into the contract as it is bid and awarded.

It is therefore recommended that this lease be extended until that time.

RESOLUTION NO.

**RESOLUTION AUTHORIZING AN AMENDMENT TO
THE EXISTING SPRABERRY FARM LEASE
EXTENSION AGREEMENT WITH KEVIN COOK,
EXTENDING THE TERM OF SAID AGREEMENT
THROUGH DECEMBER 31, 2012**

WHEREAS, the City Council, by Resolution No. 2007-117, dated April 24, 2007, authorized the execution of a Spraberry Farm Lease Extension Agreement (“Agreement”) with Kevin Cook; and

WHEREAS, the term of said Agreement will expire on April 30, 2012; and

WHEREAS, both the City and Kevin Cook wish to amend said Agreement so as to extend the term of said Agreement through December 31, 2012;

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, an amendment to the existing Spraberry Farm Lease Extension Agreement with Kevin Cook, said amendment being attached hereto as Exhibit “A” and incorporated herein for all legal purposes.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2011, 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

**ADDENDUM TO SPRABERRY FARM
LEASE EXTENSION AGREEMENT
BETWEEN THE CITY OF MIDLAND,
TEXAS, AND KEVIN COOK**

THIS ADDENDUM, entered into on this 14TH day of December, 2011, by and between the City of Midland, Texas, a Home Rule Municipal Corporation of the State of Texas, (hereinafter “Lessor”), and Kevin Cook, (hereinafter “Lessee”).

WHEREAS, the Lessor and Lessee executed a Spraberry Farm Lease Extension Agreement, which was duly authorized by Resolution No. 2007-117 of the City Council on April 24, 2007; and

WHEREAS, the term of said Agreement will expire on April 30, 2012; and

WHEREAS, the Lessor and Lessee agree to extend the term of said Agreement through December 31, 2012; and

IT IS THEREFORE AGREED that said Spraberry Farm Lease Extension Agreement is hereby amended, effective on the date when signed by the last party, as follows:

1. Paragraph “2” of the existing Spraberry Farm Lease Extension Agreement shall be amended to read as follows:

“2. The term of this lease extension agreement shall be for a period of approximately five and one half (5½) years, commencing on May 1, 2007 and ending December 31, 2012, unless terminated earlier as provided herein. The Lessor shall have the right, at its sole option, to terminate this Lease at any time, with or without cause, by giving one hundred eighty (180) days written notice to Lessee of Lessor’s election to so terminate. The parties to this agreement understand, intend and mutually agree that it is in the Lessor’s sole discretion to terminate the agreement for any or no reason after the requisite notice, without penalty to the Lessor. The parties have no expectation that the agreement will not be terminated, nor has either party received any guarantee that this agreement will not be terminated. The parties have bargained for the flexibility of terminating the agreement upon tender of the requisite notice.”

2. Except as expressly amended in this Addendum, the remaining provisions of the Spraberry Farm Lease Extension Agreement remain in full force and effect

according to the terms thereof.

LESSOR:

CITY OF MIDLAND, TEXAS

By: _____
Courtney Sharp, City Manager

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

KEVIN COOK

By: _____
Kevin Cook, Lessee

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared KEVIN COOK, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2011.

Notary Public, State of Texas

My Commission expires _____



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Stuart T. Purvis, Director of Utilities

SUBJECT: Approve a One Year Lease with Schumann Cattle Company for a 219.3 acre portion of the Plant Farm

Purpose:

Consider a resolution approving a one year farm lease agreement with Schumann Cattle Company for a 219.3 acre portion of the Plant Farm.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No additional fiscal impact. Money is in the current budget.

Discussion:

The lease on a 219.3 acre portion of the plant effluent farm with Schuman Cattle Company is set to expire on December 31, 2011. Since our permit to operate these farms, along with the Water Pollution Control Plant, is set to be renewed by December 1, 2012, it is in the best interest of the City to extend this contract, under the existing terms, until December 31, 2012. This allows any changes in the terms of our permit to be incorporated into the contract as it is bid and awarded.

It is therefore recommended that this lease be extended one year.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE EXECUTION OF A ONE-YEAR FARM LEASE AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS, AND SCHUMANN CATTLE COMPANY FOR OPERATION OF THE CONNER FARM LOCATED IN SECTION 10, BLOCK 38, TWP-2-S, T&P RY. CO. SURVEY, MIDLAND COUNTY, TEXAS;

WHEREAS, the City Council by Resolution No. 2000-381, dated November 28, 2000, authorized the execution of a Lease Agreement with Schumann Cattle Company, for operation of the Conner Farm; and

WHEREAS, said Lease will expire on December 31, 2011; and

WHEREAS, due to permitting issues, the City Council finds it to be in the public interest to authorize the execution of a one-year Farm Lease Agreement with the Schumann Cattle Company for operation of the Conner Farm, which will expire on December 31, 2012; and

WHEREAS, the City Council finds it to be in the public interest to direct the Director of Utilities to take all procedural steps necessary to have in place a new lease agreement for the Conner Farm, said agreement to take effect on or before January 1, 2013;

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

SECTION ONE. That the Mayor and City Secretary, are hereby authorized and directed to execute and attest, respectively, on behalf of the City, a one-year Farm Lease Agreement for operation of the Conner Farm, which is attached hereto and marked as Exhibit "A."

SECTION TWO. That the City Council hereby directs the Director of Utilities to take all procedural steps necessary to have in place a new lease agreement for the Conner Farm, said agreement to take effect on or before January 1, 2013.

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., 2011, 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

§

CONNER FARM LEASE AGREEMENT

This agreement is made and entered into this 14th day of December, 2011, by and between the City of Midland, Texas, hereinafter referred to as “Lessor”, and Schumann Cattle Company, hereinafter referred to as “Lessee”;

W I T N E S S E T H:

WHEREAS, Lessor owns certain land as hereinafter described, which is used in the disposal of effluent waste water through farming programs, and said Lessor is desirous of leasing to Lessee such lands for such farming operations; and

WHEREAS, Lessee will engage in farming operations on such land and desires to lease said land for such farming purposes and assist the City in the disposal of effluent waste water through farming programs;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE RIGHTS, covenants and agreements herein contained, Lessor does hereby grant, devise and let to Lessee, and Lessee does hereby hire, take and lease from Lessor the following premises, upon the following terms and conditions, to wit:

3. Lessee, in consideration of the use of the Site and the rights granted herein, does covenant and agree to pay the Lessor one-fourth (1/4) of the gross crop revenue during the term of this agreement, as determined by receipts of sale.

The payment due hereunder shall be remitted on or before February 28, 2013.

Payment shall be mailed to Lessor's Director of Utilities, P.O. Box 1152, Midland, Texas 79702.

4. Lessee shall operate and maintain one center-pivot and one side wheel roll irrigation system for use in such farming operations. The Lessee shall maintain such equipment in a good and usable condition and pay all maintenance costs necessary to keep such equipment in a good and usable condition. Lessee shall pay all power costs necessary for the operation of the irrigation systems.

5. Lessee agrees to farm and cultivate all tillable acreage at the Site in a good and farmlike manner during this lease. All plowed fields shall be maintained by Lessee in a manner that will minimize erosion.

6. Lessor shall pay the cost of fertilizer on such premises as required by Lessor's soil sample analysis. If fields are maintained in good condition, the fertilizer supplier will apply dry fertilizer using hauling/spreading equipment. If fields are too rough for fertilizer supplier's equipment, the Lessee will be responsible for fertilizer application. It is at Lessor's sole discretion to determine if the fields are too rough.

7. Lessee shall purchase all seed for crops cultivated at the Site at Lessee's sole cost.

8. Lessee shall maintain interior fencing and construct and pay for temporary fencing as may be required for operations.

9. Lessor shall deliver, at its sole discretion, effluent generated by the Lessor's wastewater treatment system to the Site. The volume of and quality of effluent furnished hereunder shall be in compliance with all provisions of permit No. 10223-001, as issued by the Texas Commission on Environmental Quality to the City of Midland, Texas, for the disposal of its effluent, and all applicable statutes, rules, regulations and ordinances. In the event that Lessee fails to have crops ready to receive such effluent, Lessor shall have the absolute right to enter upon the Site, without notice, and operate said premises in a manner so as to allow the proper discharge of such effluent upon said premises. Lessor shall have the right to discharge effluent upon said premises in excess of an amount that the Lessee requires. Lessor shall have the sole right to determine the time and the quantity of the effluent to be delivered. In any event, Lessor shall not be liable in any manner under this agreement for failure to deliver effluent or for the quality of said effluent as herein described.

10. Proceeds from any and all settlements or awards arising out of damages proximately caused by any oilfield operation, pipeline operation or related activity on the Site

shall be divided and shared between the Lessee and Lessor, with Lessee being entitled to one-half (1/2) of such proceeds and Lessor being entitled to one-half (1/2) of such proceeds. It is understood that at no time will Lessee receive any proceeds from oil and gas royalties.

11. Lessee shall not use the premises for any purpose other than that which is authorized herein without the prior written consent of Lessor. Lessee shall not, either directly or indirectly, assign all or any part of this Agreement or any interest, right or privilege herein, or sublease any part of the premises or improvements thereon, without the prior written consent of the Lessor. The issue on whether or not to grant consent to an assignment or sublease is in the sole discretion of the Lessor.

12. Lessee's obligations pursuant to this agreement shall be and stand secured by a lien upon all crops cultivated and harvested at the Site and all proceeds from their sale, that may now or hereafter be present.

13. Lessee shall act in accordance with the requirements of City of Midland Permit No. 10223-001 as issued by the Texas Commission on Environmental Quality, a copy of which has been provided to the Lessee. Failure to so act shall be deemed a breach of this agreement and therefore subject to the default provisions of Paragraph 17 herein below.

14. Lessee shall not construct underground water lines or any other permanent improvements on the premises without the prior written consent of Lessor. Such consent will not be unreasonably withheld.

15. Lessee shall maintain for the term of this agreement the following insurance policies:

- a. A worker's compensation policy in the minimum statutory amounts;
and
- b. Comprehensive General Liability and Automobile Liability insurance in minimum amounts of \$250,000 per person and \$500,000 per single occurrence of personal injury or death and \$100,000 per single occurrence of property damage or destruction.

Such insurance coverage shall show or indicate Lessor as an additional insured and shall be carried with an insurance company licensed to transact business in the State of Texas and shall provide for a waiver of subrogation as to the City in regard to all insurance coverage. Coverage must extend to all subcontractors unless proof of minimum coverage required above is submitted separately by each subcontractor not so covered.

16. **INDEMNITY - LESSEE WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND LESSOR AND ALL OF LESSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF LESSEE,** its agents or employees, or any subcontractor, arising out of, or resulting from, Lessee's use of, or activities on, the agreement premises, and Lessee will be required to pay any judgment with costs which may be obtained against Lessor or any of its officers, agents or employees, including reasonable attorney's fees.

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

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

- a. Breach, violation or failure to perform, observe or keep any covenant, agreement or term or condition of this agreement by any party obligated

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

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

c. Failure of Lessee or any of its heirs, successors or assigns to operate the property described herein in such a manner so as to allow Lessor to discharge its effluent upon the Site, and such failure continues for a period of ten (10) days after notice thereof is given by the Lessor to Lessee.

In the event of breach by Lessee, Lessor shall have the right, following sixty (60) days written notice, to reenter the site and remove Lessee, its employees and agents therefrom, without prejudice to any legal remedies which may be used for the collection of rent. All and every claim for damages by Lessee for or by reason of such reentry is hereby expressly waived. In the event of reentry, Lessor may and is hereby fully empowered to take possession and sell at the current market price any remaining crops at the Site, and apply funds received to any and all rents due or to any damages sustained by Lessee's breach.

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

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

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

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

20. 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.

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

the right to control the means, methods or details of the Lessee's work. Lessee shall assume exclusive responsibility for the work. Lessee is entirely free to do the work in its own way.

22. It is further agreed between the parties hereto that, at the expiration of this agreement, Lessee shall and will quietly and peacefully surrender and yield up the said premises, with the appurtenances thereto, unto Lessor, in as good order and repair as the same now are in, reasonable wear and tear excepted.

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

City	Company
City Manager	Schumann Cattle Company
Midland City Hall	Jody and Andy Schumann
P.O. Box 1152	P. O. Box 504
Midland, Texas 79702	Midland, Texas 79702
Phone: 915/685-7201	
Fax: 915/686-1643	

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

25. By executing this agreement the Lessor is not waiving its right of sovereign immunity. The Lessor is retaining its immunity from suit. The Lessor is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.**

26. As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this agreement, Lessee or his legal representative, shall give the City Manager, or any other reasonable official of the Lessor, 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 Lessee will settle, the

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

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

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

EXECUTED this _____ day of _____, 2011.

SCHUMANN CATTLE COMPANY,
LESSEE

By: _____
Jody Schumann

By: _____
Andy Schumann

CITY OF MIDLAND, TEXAS

By _____
W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared JODY SCHUMANN known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that s/he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of Schumann Cattle Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2011.

Notary Public, State of _____

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared ANDY SCHUMANN 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 Schumann Cattle Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2011.

Notary Public, State of _____



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Stuart T. Purvis, Director of Utilities

SUBJECT: Approve Suspension of Lease Payments for AT&T Mobility Texas, L.L.C. while the Shell Elevated Tower is being Recoated

Purpose:

Consider a resolution approving the suspension of lease payments for AT&T Mobility Texas, L.L.C. while the Shell Tower is being recoated.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Loss of lease payments of \$1,000 per month for 4 months.

Discussion:

AT&T Mobility Texas, L.L.C. has a lease for the location of their cellular equipment on the Shell Elevated Tower (Resolution 2008-205). It is required that they remove their equipment from this tower while it is stripped, repaired, and recoated. They have elected to erect a temporary tower during this time, in order to continue to provide service to their customers. Since they will not be utilizing our tower during this time, we are proposing that the lease payments be suspended. This will be for the period of January 1, 2012 through May 1, 2012. When the tower repair work is completed, the cellular equipment will be returned to the tower and lease payments from AT&T will resume.

RESOLUTION NO.

**RESOLUTION APPROVING THE TEMPORARY
SUSPENSION OF LEASE PAYMENTS FROM AT&T
MOBILITY TEXAS, L.L.C., (AT&T), FROM JANUARY
1, 2012, THROUGH MAY 1, 2012, WHILE THE SHELL
AVENUE ELEVATED WATER TOWER IS RE-COATED**

WHEREAS, the City of Midland, pursuant to Resolution No. 2008-205, entered into a lease agreement with AT&T Mobility Texas, L.L.C., (AT&T), whereby AT&T leases space on the City's elevated water tower, located on Shell Avenue, for its telecommunications equipment; and

WHEREAS, the need has arisen for the City to re-coat said elevated water tower, necessitating the temporary removal of AT&T's telecommunications equipment; and

WHEREAS, the City of Midland and AT&T have agreed that AT&T will temporarily relocate its telecommunications equipment, at AT&T's expense, while the tower is being re-coated; and

WHEREAS, the City Council finds it to be in the public interest to suspend rental payments due from AT&T under said lease agreement during the time the Shell Avenue elevated water tower is being re-coated, estimated to be from January 1, 2012, through May 1, 2012;

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

SECTION ONE. The recitals stated above are hereby adopted.

SECTION TWO. That the City Manager is hereby authorized and directed to suspend rental payments due from AT&T under the above-referenced lease agreement during the time the Shell Avenue elevated water tower is being re-coated, estimated to be from January 1, 2012, through May 1, 2012.

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., 2011, by

the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Stuart T. Purvis, Director of Utilities

SUBJECT: Approve Suspension of Lease Payments for WWC Texas RSA Limited Partnership while the Shell Elevated Tower is being Recoated

Purpose:

Consider a resolution approving the suspension of lease payments for WWC Texas RSA Limited Partnership while the Shell Tower is being recoated.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Loss of lease payments of \$675 per month for 4 months.

Discussion:

WWC Texas RSA Limited Partnership (Verizon) has a lease for location of their cellular equipment on the Shell Elevated Tower (Resolution 2004-253). It is required that they remove their equipment from this tower while it is stripped, repaired, and recoated. They have elected to erect a temporary tower during this time, to continue providing service to their customers. Since they will not be on our tower during this time, we are proposing that the lease payments be suspended. This will be for the period of January 1, 2012 through May 1, 2012. When the tower repair work is completed, the cellular equipment will be returned to the tower and lease payments from WWC Texas will resume.

RESOLUTION NO.

**RESOLUTION APPROVING THE TEMPORARY
SUSPENSION OF LEASE PAYMENTS FROM WWC
TEXAS RSA, L.P., (VERIZON), FROM JANUARY 1, 2012,
THROUGH MAY 1, 2012, WHILE THE SHELL AVENUE
ELEVATED WATER TOWER IS RE-COATED**

WHEREAS, the City of Midland, pursuant to Resolution No. 2004-253, entered into a lease agreement with WWC Texas RSA, L.P., (Verizon), whereby Verizon leases space on the City's elevated water tower, located on Shell Avenue, for its telecommunications equipment; and

WHEREAS, the need has arisen for the City to re-coat said elevated water tower, necessitating the temporary removal of Verizon's telecommunications equipment; and

WHEREAS, the City of Midland and Verizon have agreed that Verizon will temporarily relocate its telecommunications equipment, at Verizon's expense, while the tower is being re-coated; and

WHEREAS, the City Council finds it to be in the public interest to suspend rental payments due from Verizon under said lease agreement during the time the Shell Avenue elevated water tower is being re-coated, estimated to be from January 1, 2012, through May 1, 2012;

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

SECTION ONE. The recitals stated above are hereby adopted.

SECTION TWO. That the City Manager is hereby authorized and directed to suspend rental payments due from Verizon under the above-referenced lease agreement during the time the Shell Avenue elevated water tower is being re-coated, estimated to be from January 1, 2012, through May 1, 2012.

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., 2011, by

the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Nichols, Assistant City Manager

SUBJECT: Assign a Review Team for Water RFP's

Purpose:

Consider a motion on a request by Mayor Perry assigning a team comprised of Mayor Perry, Councilman Dufford, Councilman Morales, Courtney Sharp, Jim Nichols, and Stuart Purvis to review and evaluate the water RFP's recently received by the City.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The City Council passed 2 resolutions at their October 25 meeting, seeking interested parties for the delivery of potable water from any source owned or controlled by the submitter as well as from the City's T-Bar Well Field. The City advertised Requests for Proposals (RFP's) for both projects and has received submittals for our consideration.

The next step in the process is to review and evaluate the submittals to determine which proposals, if any, the City wishes to pursue further. The Mayor has requested that a review team be assigned to scrutinize the proposals. The team is to consist of Mayor Perry, Councilman Dufford, Councilman Morales, Courtney Sharp, Jim Nichols, and Stuart Purvis. Upon completion of their reviews and development of a recommendation, the team will present their findings to the Council at a future meeting.



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Beth Mosley, Administrative Services Director

SUBJECT: Amendments to Section 457(b) Plans (Deferred Compensation)

Purpose:

Amend all three of the City of Midland's Section 457(b) Deferred Compensation Plan Documents in order to conform to final regulations issued by the Internal Revenue Service with a compliance deadline of December 31, 2011.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

None.

Discussion:

Final regulations have been issued regarding the Internal Revenue Code section 457(b). The City of Midland currently offers employees the opportunity to participate in three optional 457(b) plans: Nationwide Retirement Solutions, The Hartford, and Valic. We are requesting that you approve revision of all three plans via this resolution, as required in compliance with the law. The specific acts referenced include Pension Protection Act of 2006, The Heroes Earnings Assistance and Relief Tax Act of 2008, The Worker, Retiree and Employer Recovery Act of 2008, and the Small Business Jobs Act of 2010. All of this legislation has been enacted since our plans were last revised in 2005. These changes will have very little impact on the operation of our plans.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE ADOPTION OF
REVISED AND AMENDED DEFERRED
COMPENSATION PLANS OFFERED TO EMPLOYEES
OF THE CITY OF MIDLAND, UNDER SECTION 457 OF
THE INTERNAL REVENUE SERVICE CODE IN ORDER
TO COMPLY WITH FINAL REGULATIONS WITH A
COMPLIANCE DEADLINE OF DECEMBER 31, 2011**

WHEREAS, the City Council previously adopted and established three optional Deferred Compensation Plans for all eligible City employees and elected officials, pursuant to the federal legislation permitting such plans; and

WHEREAS, such benefits act as an incentive to City employees to voluntarily set aside and invest portions of their current income to meet their future financial requirements and supplement their retirement and Social Security, at no cost to the City; and

WHEREAS, the administrators of said optional Deferred Compensation Plans are Nationwide Retirement Solutions, Inc., The Hartford, and Valic, respectively; and

WHEREAS, said plan administrators have provided the City of Midland with revised and amended plan documents, in order to comply with the recent changes in federal guidelines issued by the Internal Revenue Service with a compliance deadline of December 31, 2011 related to the City sponsored Section 457 Deferred Compensation Plans; and

WHEREAS, the administrators of said optional Deferred Compensation Plans are Nationwide Retirement Solutions, Inc., The Hartford, and Valic, respectively; and

WHEREAS, the City Council finds it in the public interest to amend and revise its Deferred Compensation Plans in order to keep such plans in compliance with federal law;

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

SECTION ONE. That the City Council hereby adopts the revised and amended Section 457 Deferred Compensation Plans administered by Nationwide Retirement Solutions Inc., The Hartford, and Valic, respectively, and their attendant investment options. The City

of Midland hereby establishes such Deferred Compensation Plans for the voluntary participation of all eligible City employees and elected officials. Said Deferred Compensation Plans to be on file in the office of the City Secretary referenced by the date and number of this resolution.

SECTION TWO. That the Director of Administrative Services is hereby authorized to execute for the City, said Deferred Compensation Plan Documents, and to act as the "Administrator" of the Plans, representing the City, and to execute such agreements and contracts as are necessary to implement the Plans. It is understood that there is to be no cost or contributions by the City to the Plans other than the incidental expenses of collecting and disbursing the employees' deferrals and other minor administrative 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., 2011, 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: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Stuart T. Purvis, Director of Utilities

SUBJECT: Approve a Right-of-Way License with Vitol Midstream, LLC North of the Plant Farm

Purpose:

Consider a resolution approving a right of way license with Vitol Midstream, LLC in Section 44, Block 38, T-1-S, T&P RR Co., Midland County, Texas. This right of way license is proposed to grant installation of a petroleum pipeline in an area north of the City's Plant Farm.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

\$11.20 per rod for a distance of 176.24 rods = \$1,973.89 annual revenue to the City

Discussion:

This right of way license is proposed as a twenty five-year license with a ten-year extension. The pipeline within this right of way is a petroleum transmission line, which connects their system to the tank farm located at Fairgrounds Road and Cloverdale Road. The line will be buried to provide a minimum of 36" of cover to natural ground. The pipeline will be centered in a 50 feet right-of-way with an additional 25 feet provided on a temporary basis for construction.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A RIGHT OF WAY LICENSE FOR THE
INSTALLATION AND MAINTENANCE OF AN OIL &
GAS PIPELINE ACROSS SECTION 44, BLOCK 38, T-1-S,
MIDLAND COUNTY, TEXAS, WITH VITOL
MIDSTREAM, L.L.C.**

WHEREAS, Vitol Midstream, LLC., has requested a Right of Way License for the installation and maintenance of an oil & gas pipeline across Section 44, Block 38, T-1-S, Midland County, Texas; and

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager to execute a Right of Way License with Vitol Midstream, LLC., for the installation and maintenance of an oil & gas pipeline across said property;

**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, on behalf of the City of Midland, a Right of Way License with Vitol Midstream, LLC., for the installation and maintenance of an oil & gas pipeline across Section 44, Block 38, T-1-S, Midland County, Texas, said Right of Way License being attached hereto as Exhibit "1" and incorporated herein for all legal purposes.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2011, 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

RIGHT OF WAY LICENSE

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF MIDLAND

THIS RIGHT OF WAY LICENSE made effective and entered into this 14th day of December, 2011, by and between THE CITY OF MIDLAND, TEXAS, a home rule municipal corporation, hereinafter called "Licensor", and VITOL MIDSTREAM LLC, a Texas limited liability company, hereinafter called "Licensee". Licensor and Licensee are sometimes herein referred to individually as a "Party" and collectively as the "Parties".

LEGAL DESCRIPTION OF CITY PROPERTIES

WHEREAS, Licensee has requested that Licensor grant a right of way license for Licensee (i) to construct, maintain and operate a pipeline on, under, over and across the City's Lands located in Section 44, Block 38 T-1-S, Midland County, Texas (ii) construct, maintain and operate a gas pipeline pig trap on 2,500 square feet tract of land shown on Exhibit A and (iii) for access to construct and maintain the facilities described in (i) and (ii) herein;

WHEREAS, Licensee desires use of those certain properties owned by the Licensor for the purposes set forth below; and

WHEREAS, It is the position of the Licensor that Licensee must obtain a license in order to use the City's Lands

WITNESSETH:

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:

1. Licensor does hereby grant unto Licensee, the right to enter upon the City's Lands, being twenty-five (25) feet on either side of the centerline described on Exhibit A for the purpose of placing, constructing, operating, repairing, maintaining, replacing and removing thereon, a maximum of two (2) petroleum products and petroleum by-products pipelines, not to exceed Twelve inches (12") in diameter, for the transportation of petroleum products, petroleum by-products and water and to further have the right of ingress and egress at convenient points for such purpose.

Said centerline for the fifty-foot (50') rights of way granted herein are shown on Exhibit B along with an additional 25' temporary construction license for construction only.

2. Licensor does hereby grant unto Licensee, the right to enter upon the City's Lands, being a fifty foot (50') by fifty foot (50') tract of land for the purpose of placing,

Exhibit "1"

constructing, operating, repairing, maintaining, replacing and removing an oil pipeline pig trap.

3. Licensors does hereby grant unto Licensors the right of ingress and egress over and across the existing roadway located on the City Lands.
4. This License shall be for a term of twenty-five (25) years ("Initial Term"), commencing with the date of this License first stated above, the "Commencement Date", unless terminated earlier as provided hereafter. The License shall automatically renew at the end of the term for an additional ten (10) years, upon the written request of Licensee to be received by Licensors at least one hundred twenty (120) days before the expiration of the initial License term.
5. In consideration for the rights herein granted to Licensee, Licensee shall pay to the Licensors the sum of ELEVEN AND 20/100 DOLLARS (\$11.20) per linear rod, times 176.24 rods, for a total of One Thousand Nine Hundred Seventy-three and 89/100 Dollars (\$1,973.89), per year during the initial term of this License. The annual payment shall be due initially on the Commencement Date and annually thereafter on or before the anniversary of the Commencement Date. Prior to the commencement of any renewal term, the Licensors and Licensee shall negotiate in good faith to agree to a fair market adjustment to the License fee. If the Parties cannot reach agreement regarding a new license fee, then the new License fee shall be decided by Licensors in its sole discretion, provided any increase shall not exceed the product of (i) two percent (2%) multiplied by the (ii) number of years since the last rate was established. Licensee's failure to make the License fee payment when due shall constitute a surrender and termination of this License and Licensee shall remove the pipelines and all improvements remaining on the properties that were constructed by Licensee. However, prior thereto, Licensors shall give Licensee written notice of such failure and Licensee shall have ten (10) business days from receipt of such notice to make payment and avoid termination of this License.

The License fee payment shall be made to the Licensors at the office of the City Manager, City of Midland, P. O. Box 1152, Midland, Texas, 79702. The License fee payment shall be exclusive of and in addition to all general municipal taxes of whatever nature, including but not limited to ad valorem taxes which may legally be assessed by the Licensors.

6. Licensee covenants and agrees that it will repair any of Licensors's roads that Licensee damages on Licensors's property so that such roads will comply with Licensors's standard specifications which are on file with City Secretary's office.
7. Licensee covenants and agrees that Licensee shall, at its own expense, repair all water lines, sewer lines, service lines and water meters owned by the Licensors that Licensee, its employees, its agents or assigns damage so that such water lines, sewer lines and water meters shall comply with the requirements of the Licensors's standard specifications which are on file with City Secretary's office.

8. Licensee covenants and agrees that it will bury any new pipelines to be constructed hereunder at least thirty-six inches (36") in depth. All backfill used in burying such new lines shall be compacted to a density of ninety percent (90%), except where such pipeline crosses under a paved or traveled portion of the Licensor's right of way where such backfill shall be compacted to a density of ninety-five percent (95%). The Licensor shall be afforded the opportunity to test the density on all backfill.
9. Before the Licensee seeks bids on any phase of the repair of public streets, alleys, water lines, sewer lines or any other public utilities, the specifications shall be approved by the Licensor's Director of Development Services.
10. Licensee covenants and agrees that, whenever crossing or coming near to Licensor's existing pipelines or underground facilities existing on, under, over and across the City's Lands as described on Exhibit A, Licensee will adjust the trajectory and depth of Licensee's pipeline(s) to be constructed hereunder as necessary to ensure a minimum distance of five (5) feet, under or over at Licensor's discretion.
11. Licensee covenants and agrees that, whenever moving equipment or materials necessary for Licensee's operations under this agreement, Licensee shall Air Bridge over any of Licensor's existing pipelines or underground facilities existing on, under, over and across the City's Lands as described on Exhibit A when said equipment or materials weighs in excess of thirty (30) tons. The term "Air Bridge" shall mean using adequate means to allow transport of said equipment or materials over Licensor's pipelines or underground facilities without the weight of said equipment or materials resting or bearing directly over Licensor's pipelines or underground facilities.
12. Licensee shall at all times during the term of this License maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):

- | | |
|-------------------|-------------------------------|
| -Personal Injury: | \$1,000,000.00 per person |
| | \$1,000,000.00 per occurrence |
| -Property Damage: | \$ 500,000.00 per occurrence |

Contractor's Pollution Liability:

- | | |
|-------------------|--|
| -Property Damage: | \$1,000,000.00 per occurrence, including remediation and clean-up expenses |
|-------------------|--|

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 and Contractor's Pollution Liability shall be on a per project or policy aggregate, including completed operations, and shall be on an occurrence basis.

The Contractor's Pollution Liability shall be on a per project or policy aggregate, including completed operations, and shall be on an occurrence basis. Further, regarding the Contractor's Pollution Liability policy, Licensee and Licensor agree that the definition of "Property Damage" shall include remediation and clean-up measures as determined necessary by the City of Midland, and Licensee shall obtain and maintain insurance coverage to that effect.

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

The Business Automobile Liability insurance provided by Licensee shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of \$250,000.00 covering any vehicle used for the execution of the work that is the subject of this License. All insurance required pursuant to this License, except for Worker's Compensation Insurance, shall name the Licensor as an additional insured on a claims occurred basis. All insurance required pursuant to this License, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the Licensor.

The Parties agree that, prior to the execution of the License, Licensee shall provide one or more certificates of insurance showing that the requirements of this Section 8 have been met, and specifically containing, without limitations, the following endorsement:

"The City of Midland is included as an additional insured, on a claims occurred basis, on all policies except for Worker's Compensation. The Licensee 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."

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

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

13. **INDEMNITY** - THE LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE LICENSOR AND ALL OF ITS OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGES AND EXPENSES OF ANY CHARACTER WHATSOEVER, ATTORNEY'S FEES AND EXPENSES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON, PERSONS OR PROPERTY, ON ACCOUNT OF ANY ACT OF THE LICENSEE, LICENSEE'S CONTRACTOR OR SUBCONTRACTOR, THEIR AGENTS OR EMPLOYEES, ARISING DIRECTLY OR INDIRECTLY OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATIONS, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF THE LICENSEE'S PIPELINE SYSTEMS IN THE LICENSOR'S RIGHTS OF WAY, AND IN CONNECTION THEREWITH, AND THE LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE LICENSOR OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY'S FEES FOR WHICH THIS INDEMNIFICATION SHALL APPLY.
14. THE LICENSEE AGREES THAT LICENSEE WILL INDEMNIFY AND SAVE THE LICENSOR HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, INCLUDING COMMISSARY INCURRED IN THE FURTHERANCE OF THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE SYSTEMS DESCRIBED HEREIN.
15. Licensor expressly reserves the right to install, repair, or reconstruct within the rights of way used and occupied by the Licensee any streets or roads and all ancillary public uses usual and customary in connection with streets and roads, expressly including but not limited to, drainage facilities and structures. Provided the Licensor owns the City Lands described in Exhibit "C," Licensor reserves the right to lay and permit to be laid, sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground or overhead installation or improvement that may be deemed necessary or proper by the governing body of the Licensor for any public purpose, in, across, along, over or under any public property occupied by Licensee. If the Licensor requires the Licensee to remove, alter, change, adapt, or conform its facilities because of changes in the grade of a street or in the location or manner of constructing a water pipe, sewer pipe, or other underground or aboveground structure owned by the Licensor, the Licensee shall make the alterations or changes as soon as practicable, and in no event longer than three hundred sixty (360) days, when ordered in writing by the Licensor, without claim for reimbursement for the cost of the relocation or for damages against the Licensor. The Licensee shall have the right to present alternative proposals for the Licensor's consideration and Licensor shall use reasonable efforts to mitigate costs which will be incurred by Licensee.

16. Licensor expressly reserves the full right to grant other easements or rights of way crossing or running parallel with the rights of way used by Licensee.
17. It is especially provided, however, that as an express condition of this License, and not as a mere covenant, in the event Licensee abandons the pipeline system to be constructed hereunder, or the premises covered hereby cease to be used for the purposes enumerated herein for any period of twenty-four (24) consecutive months, or longer, then and in that event, this License shall automatically revert to the Licensor, its successors or assigns, free and clear of any right, title, or interest in the Licensee, without the necessity of any notice to Licensee or any re-entry by the Licensor. In the event of such abandonment and reversion, Licensee's obligation to pay the license fee according to the terms herein shall automatically terminate.
18. In the event that Licensee desires to reconstruct, repair, maintain, replace or remove the pipeline systems built hereunder, Licensee shall submit the plans and specifications that pertain to the rebuilding or repairs of Licensor's streets and roads and the rebuilding or repairs of any of Licensor's public utilities to the Licensor's City Manager for his approval. In the event of emergency repairs necessary to restore service, the Licensee shall notify Licensor's City Manager before making any repairs if on a Licensor work day and if not on a work day, the Licensee shall notify the Licensor's City Manager on the first work day after repairs have begun.
19. The rights granted by this License inure to the benefit of the Licensee. The rights and privileges shall not be assignable by Licensee without the express written consent of the governing body of the Licensor, which consent shall not be unreasonably withheld. The provisions herein to the contrary notwithstanding, Licensee shall have the right to assign this License to (i) an entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control of, Licensee, (ii) an entity to whom Licensee assigned all or substantially all of its assets or (iii) any bank, financial institution or other lender, or groups thereof pursuant to the terms of any financial agreements. In the event of such an assignment, Licensee will give written notice of such assignment to the Midland City Secretary within ten (10) business days of such assignment.
20. 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 shall be considered an officer, agent, servant

or employee of the Licensor. Further, it is specifically understood and agreed that nothing in this License is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Licensee shall be an independent contractor under this License and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. Licensor does not have the power to direct the order in which the work is done. Licensor shall not have the right to control the means, methods or details of Licensee's work. Licensee shall assume exclusive responsibility for the work. Licensee is entirely free to do the work in its own way subject to section 7 of this License.

21. **ATTORNEY'S FEES** - BY EXECUTING THIS LICENSE, LICENSEE AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE LICENSOR, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE LICENSE, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE LICENSE. THE LICENSEE SPECIFICALLY AGREES THAT IF THE LICENSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LICENSE, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET. SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, 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 LICENSE. 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 LICENSE WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.
22. All performance and payment made pursuant to this License shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this License or the performance of this License shall be in Midland County, Texas. The obligations and undertakings of each of the Parties to this License shall be deemed to have been performed in Midland County, Texas. This License shall be governed by the laws of the State of Texas.
23. The Licensor's approval of this License does not create a third party beneficiary. There is no third party beneficiary to this License. No person or entity who is not a party to this License shall have any third party beneficiary or other rights hereunder.

24. By executing this License the Licensor is not waiving its right of sovereign immunity. The Licensor is retaining its immunity from suit. The Licensor is not granting consent to be sued by legislative resolution or action. THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.
25. As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or 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 License) 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 (6) 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 or other reasonable officer 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 License are reasonable.

26. Licensee shall comply with all federal, state, local laws, ordinances, standards, including but not limited to regulations controlling pollution of the environment, handling hazardous substances, hazardous substance cleanup, and waste. As used below, "Hazardous Substances" shall mean quantities of any substances, or materials which are categorized or defined as hazardous or toxic under any present or future local, state or federal law, rule or regulation pertaining to environmental regulation, contamination, cleanup or disclosure, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as now or hereafter amended ("CERCLA").
27. 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: VITOL MIDSTREAM LLC, 1100 Louisiana Street, Suite 500, Houston, Texas, 77002-5255, with a copy to: c/o Neil Lyon, 2575 Kelley Pointe Parkway, Suite 100, Edmond, Oklahoma, 73013.

28. 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 QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR LICENSOR'S NEGLIGENCE.

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:
VITOL MIDSTREAM LLC

By: _____
Name: _____
Title: _____

THE STATE OF _____

COUNTY OF _____

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2011.

Notary Public, State of _____

140 E. Tyler Street, Suite 600
Longview, Texas 75601
T 903.236.7700 | 903.236.7779
Toll Free 877.572.3647 www.ksaeng.com



**EXHIBIT A
CENTERLINE DESCRIPTION OF
50 FOOT WIDE RIGHT OF WAY LICENSE
ACROSS THE PROPERTY OF
THE CITY OF MIDLAND
LOCATED IN
SECTION 44, BLOCK 38, TOWNSHIP 1 SOUTH
MIDLAND COUNTY, TEXAS**

Being a strip of land, fifty (50) feet in width, for the purpose of a right of way license, situated in the Section 44, Block 38, Township 1 South, Texas & Pacific Railway Co. Survey, Midland County, Texas. Said strip of land, fifty (50) feet in width, lying 25 feet on each side of the following described centerline;

TRACT ONE

BEGINNING at a point on the northerly right of way line of FM Highway 307, from which a found fence corner post, located along the line dividing Section 43 and Section 44, T1S and being the westerly boundary line of the City of Midland property as recorded in Volume 67, Page 50 of the MCPOR , and also, the easterly boundary line of the Centurion Pipeline, LP property as recorded in Volume 2334, Page 689 of the MCPOR, bears S 75°58'03" W, a distance of 338.96 feet;

THENCE, proceed N 14°20'27" W along the herein described centerline, a distance of 201.60 feet to a point;

THENCE, proceed S 84°58'56" W, continuing along said centerline, a distance of 244.85 feet to a point;

THENCE, proceed N 14°19'42" W, continuing along said centerline, a distance of 949.61 feet to a point;

THENCE, proceed N 46°57'32" W, continuing along said centerline, a distance of 33.16 feet to a point;

THENCE, proceed N 14°14'08" W, continuing along said centerline, a distance of 569.90 feet to a point, said point also being a point of intersection with the centerline of the second right of way license described herein as Tract Two;

THENCE, proceed N 14°14'08" W, continuing along said centerline, a distance of 819.50 feet to a point and the end of the herein described centerline, being located in a wire fence at the northerly boundary line of the City of Midland property, a found fence corner which bears S 75°40'10" W, a distance of 94.20 feet;

A temporary right of way license of twenty five (25) feet in width, as shown on the attached plat shall be required during the installation and testing of the project.

TRACT TWO

BEGINNING at a point located along the line dividing Section 43 and Section 44, T1S and being the westerly boundary line of the City of Midland property as recorded in Volume 67, Page 50 of the MCPOR , and also, the easterly boundary line of the Centurion Pipeline, LP property as recorded in

Amarillo
 Austin
 Longview
 Lubbock
 Midland
 San Angelo
 Sugar Land
 Tyler

Volume 2334, Page 689 of the MCPOR, a found fence corner bears S 14°36'54" E, a distance of 1787.07 feet;

THENCE, proceed N 75°45'52" E, continuing along said centerline, a distance of 89.27 feet to a point, and the end of the herein described centerline, said point also being a point of intersection with the centerline of the second right of way license described herein as Tract One;

A temporary construction license of twenty five (25) feet in width, as shown on the attached plat shall be required during the installation and testing of the project.

The bearings recited herein are based on the Texas State Plane Coordinate System (NAD 27), Texas Central Zone 4203.

I, Clinton Kyle Gregg, a duly Registered Professional Land Surveyor in the State of Texas, hereby certify that this description and corresponding plat were prepared from a survey made on the ground under my direct supervision.

Clinton Kyle Gregg 12/15/2011
Clinton Kyle Gregg Date
Registered Professional Land Surveyor
Texas Registration No. 6201



TABLE	
LENGTH (FT.)	LENGTH (RODS)
2907.89'	176.24
2907.89'	176.24

NOTE A: S 75°58'03" W, 338.96' To A Found Fence Corner Post.
NOTE B: S 70°24'39" W, 453.55' to a Found PK Nail in Asphalt Rd. Being the SW Cnr. of Section 44.
NOTE C: S 14°36'54" E, 1787.07' To A Found Fence Corner Post
NOTE D: S 75°40'10" W, 94.20' To A Found Fence Corner Post.

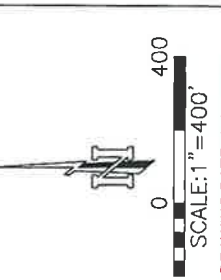
25°
PROPOSED ROW

Diagram illustrating the proposed ROW line and existing private property line. The diagram shows a dashed line labeled "EXISTING PRIVATE PROPERTY LINE" and a solid line labeled "PROPOSED ROW LINE". A vertical dimension line indicates a distance of 25' between the two lines. A label "PROPOSED ROW LINE" is also present near the solid line.

PROPOSED ROW LINE
PROPOSED E
PRIVATE: F
PIPE

50' LICENSE

Age Group	Percentage of Respondents
18-29	65%
30-49	75%
50-69	80%
70+	85%



0 400
SCALE: 1"=400'
DRAWING DATE: 12/07/2011
REVISION: 0 - PRELIMINARY

SECTION 44
BLOCK 38, TOWNSHIP 1-SOUTH
TEXAS & PACIFIC RAILROAD CO. SURVEY A-1201
MIDLAND COUNTY, TEXAS



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Stuart T. Purvis, Director of Utilities

SUBJECT: Approve Relocation of Equipment for Clear Wireless L.L.C. from the Shell Elevated Tower to the Edgewood Elevated Tower while the Shell Tower is being Recoated

Purpose:

Consider a motion authorizing the City Manager to approve the relocation of equipment for Clear Wireless L.L.C. from the Shell Elevated Tower to the Edgewood Elevated Tower while the Shell Tower is being recoated.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no fiscal impact to the City associated with this request.

Discussion:

Clear Wireless L.L.C. has a lease for their cellular equipment on the Shell Elevated Tower (Resolution 2010-107). It is required that they remove their equipment from this tower while it is stripped, repaired, and recoated. During this time, in order to continue to provide service to their customers, they have requested to relocate to the Edgewood Elevated Tower. This will be for the period of December 15, 2011 through May 1, 2012. They will continue to pay their current lease payment but will be located on another tower.

Staff recommends approval of this request.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-11-016, Bourbon St D.C.

Purpose:

This is the second reading to consider an ordinance on a request by Bourbon St. D.C. for a Specific Use Permit with Term for on-premise consumption of all alcoholic beverages in a lounge. No changes have been made to this item since its first reading on November 8, 2011.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The applicant plans to open a new lounge offering beer and wine for on-premise consumption and occasional live music at the southeast corner of Main Street and Texas Avenue in a 1,608 square foot portion of the building; the remainder of the building will not be used by the lounge. Proposed hours of operation are 12 noon to 1:30 a.m., seven days a week, with a maximum occupancy of 80 persons.

Attachments:

October 17, 2011 Planning & Zoning Commission Staff Report
Proposed Ordinance



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 8, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-11-016, Bourbon St D.C.

Purpose:

Hold a public hearing at approximately 10:36 a.m. and consider an ordinance on a request by Bourbon St. D.C. for a Specific Use Permit with Term for on-premise consumption of all alcoholic beverages in a lounge.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The applicant plans to open a new lounge offering beer and wine for on-premise consumption and occasional live music at the southeast corner of Main Street and Texas Avenue in a 1,608 square foot portion of the building; the remainder of the building will not be used by the lounge. Proposed hours of operation are 12 noon to 1:30 a.m., seven days a week, with a maximum occupancy of 80 persons.

Attachments:

October 17, 2011 Planning & Zoning Commission Staff Report
Proposed Ordinance

**Planning and Zoning Commission
Minutes
October 17, 2011**

S-11-016 - Hold a public hearing and consider a request by **Bourbon ST. D.C.** for a *Specific Use Permit with Term* for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, on Lot 24, block 53, Original Town, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of North Main Street and East Texas Avenue.)

Chairman Carney opened the public hearing at 4:13 p.m.

The applicant yielded to staff. Senior Planner Ken Van Dyne gave an overview of the item noting the hours of sale would be from 12 p.m. to 1:30 a.m., 7 days a week. The request was to sell alcoholic beverages in a downtown location and staff believed this would add another use for nighttime activity downtown and would keep people downtown after 5 p.m. Staff recommended approval subject to conditions A through C.

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

PLANNING AND ZONING COMMISSION

October 17, 2011

CASE: S-11-016.

REQUEST: Hold a public hearing and consider a request for a Specific Use Permit with Term for on-premise consumption of all alcoholic beverages in a Lounge.

APPLICANT: Marcelino C. Armendariz.

OWNER: Amber Almodova.

LEGAL DESCRIPTION: Lot 24, Block 53, Original Town, City and County of Midland, Texas.

LOCATION: Generally located on the southeast corner of the intersection of N. Main Street and E. Texas Avenue.

CURRENT ZONING: C-1, Central Area District.

ASSOCIATED CASES: S-09-012, S-11-010.

DETAILS OF REQUEST:

1. The applicant plans to open a lounge offering beer and wine for on-premise consumption and occasional live music in a 1,608 square foot portion of the building on the southeast corner of Main Street and Texas Avenue; the remainder of the building is not used by the bar. Proposed hours of operation are 12 noon to 1:30 a.m., seven days a week, with a maximum occupancy of 80 persons.

SURROUNDING ZONING AND LAND USE:

2. The building is located on Main Street across from the Midland Center and immediately south of the Justice Department office. In the vicinity are numerous offices, a restaurant, and on the block to the south is the post office. Residential lofts and Frog's Cigar Bar are located one block to the north. On the northwest corner of Main Street and Texas Avenue is the Ritz Theater which is closed and being renovated.

ANALYSIS:

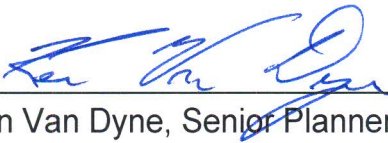
3. The request is to sell alcoholic beverages at this downtown location, which is being redeveloped with the proposed lounge. The lot does not offer any on-site parking; however, there are no minimum parking spaces required in the C-1, Central Area District. Staff concurs that the proposal fits in with on-going efforts to revitalize the downtown area by offering diverse evening activities.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a Specific Use Permit with Term for the sale and on-premise consumption of alcoholic beverages in a Lounge, subject to the following conditions:

- A. That the maximum area of the Lounge shall be 1,608 square feet and the occupancy shall be 80 persons;**
- B. That the days and hours of alcoholic beverage sales and consumption shall not exceed the following: Each day of the week from 12 noon until 1:30 a.m.;**
- C. That the operation of the Lounge shall conform to all laws established by the City of Midland and the State of Texas.**

Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Site Plan – Exhibit A
Maps

Case Number: S-11-016

CITY OF MIDLAND
Planning Division

**APPLICATION FOR A SPECIFIC USE PERMIT WITH TERM
FOR THE SALE OF ALCOHOLIC BEVERAGES
FOR ON-PREMISE CONSUMPTION**

BOURBON ST., D.C. 432-661-2778
120 N. MAIN ST., MIDLAND, TX. 79701 432-689-3233
Applicant Name Phone/e-mail
Address Zip Code

AMBER ALMODOVA 432-634-1580
120 N. MAIN ST., MIDLAND, TX. 79701
Property Owner Name Phone/e-mail
Address Zip Code

MARCELINO ARMENDARIZ BOURBON. ARMENAYAN
120 N. MAIN ST., MIDLAND, TX. 79701 COR
Operator (if different from Applicant or Property Owner) Phone/e-mail
Address Zip Code

Type of Business: BAR/LOUNGE
(Restaurant, Bar, Lounge, Nightclub, etc.)

Street address and Legal Description of property on which SUP is desired (complete Lot, Block, and Subdivision, name, or if unplatted, attach a Metes and Bounds description with surveyor's seal.)
120 N. MAIN ST., MIDLAND, TX. 79701
BLOCK 053 LOT 024, ADDN. ORIGINAL TOWN
ACRES 0.080

Current Zoning: C-1 CENTRAL AREA DISTRICT

Max. Floor Area: 1,608 sq Seating Capacity: 80 se

Proposed hours and days of alcoholic beverage sales: 7 DAYS A WEEK,
12:00PM - 1:30AM

Reason for request: PUB - SALE OF BEER AND WINE

REQUIRED SUBMITTALS



2. Site plan – 16 copies (FOLDED) ____.
3. On a CD in .pdf and .jpg digital format ____.

SIGNATURES:

Applicant: M.C. Anlag Date: 8-19-11

Property Owner: Amber Almodera Date: 8-19-11

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

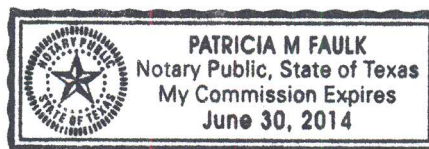
Before me, the undersigned authority, on this day personally appeared

Marcelino Arrendador & Amber Almodera who, being by me duly sworn, upon oath says: That (s)he is authorized by Amber Almodera, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

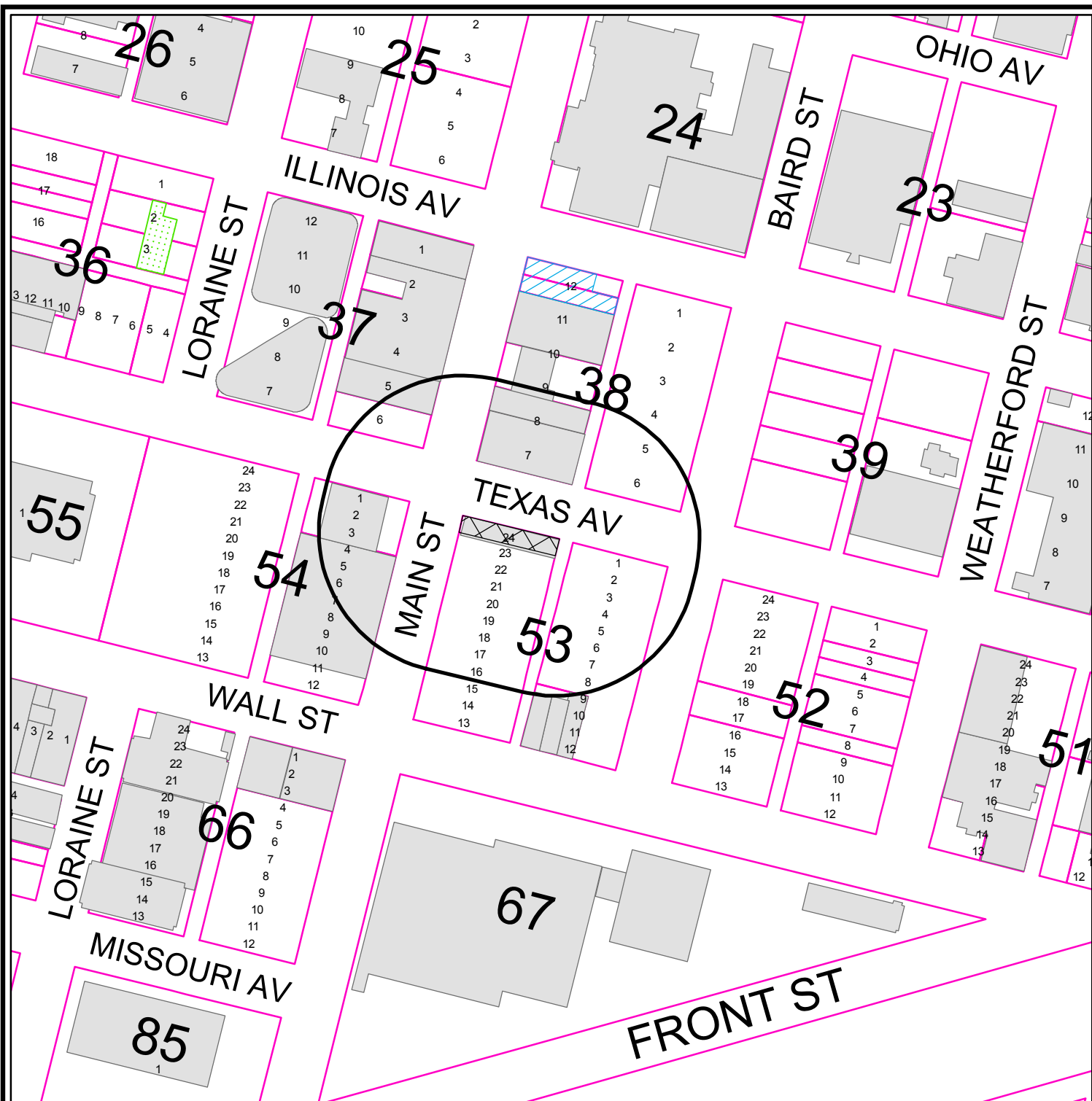
Subscribed and sworn to before me, this 19 day of August, 20 11, to certify which witness my hand and seal of office.

Patricia M. Faulk
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>[Signature]</u>	Date: <u>9/25/11</u>
Assigned: <u>[Signature]</u>	
For: <u>P+Z</u>	On: <u>10/3/11</u> 10/17/11



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



PROPERTY OWNER NOTIFICATION MAP

S - 11 - 016

Scale: 1" = 200'

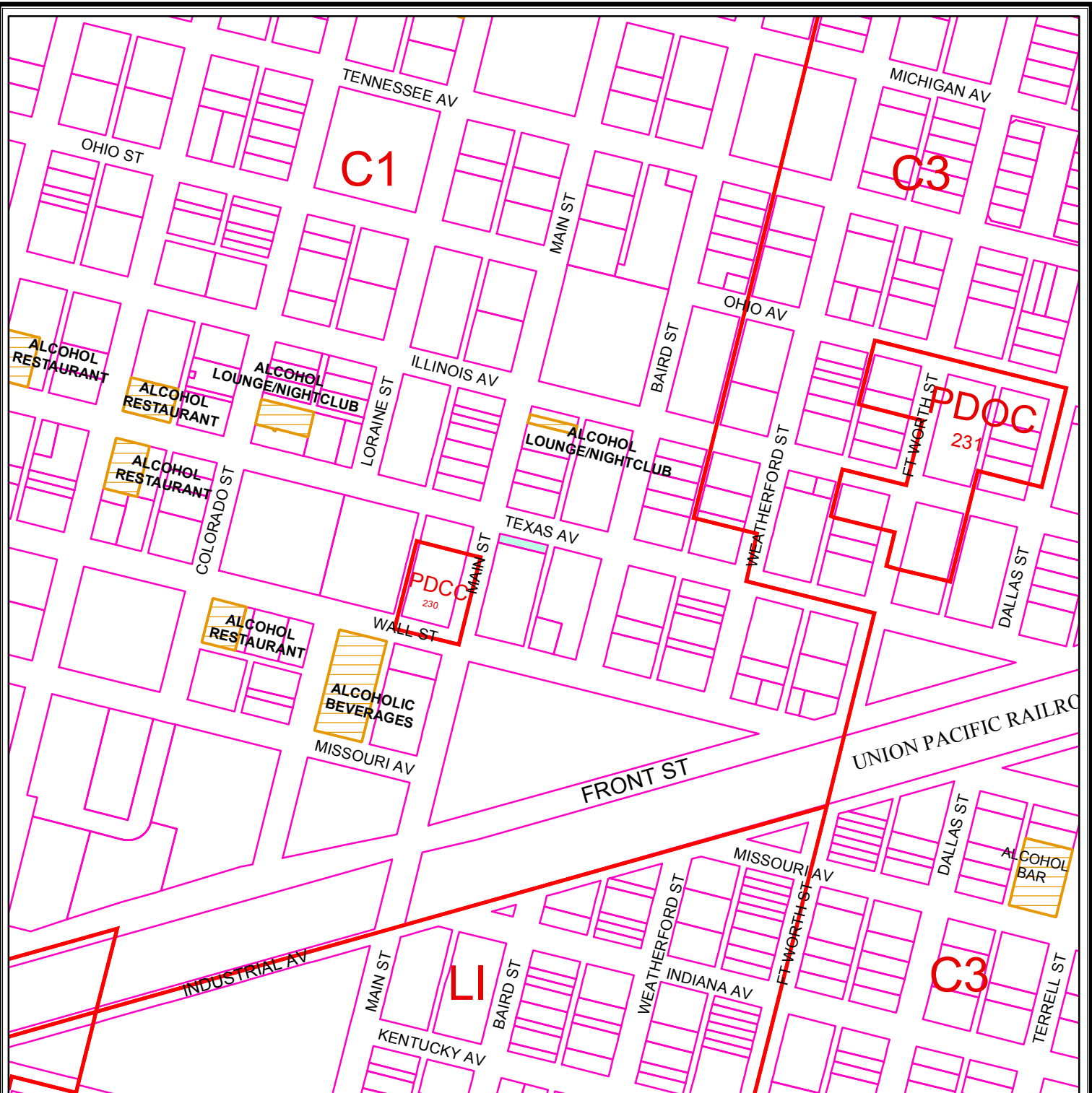
Consider a request for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, on Lot 24, Block 53, Original Town, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

S - 11 - 016

Scale: 1" = 400'

Consider a request for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, on Lot 24, Block 53, Original Town, City and County of Midland, Texas.

LEGEND

ZONING PARCELS SPECIFIC USE PERMITS

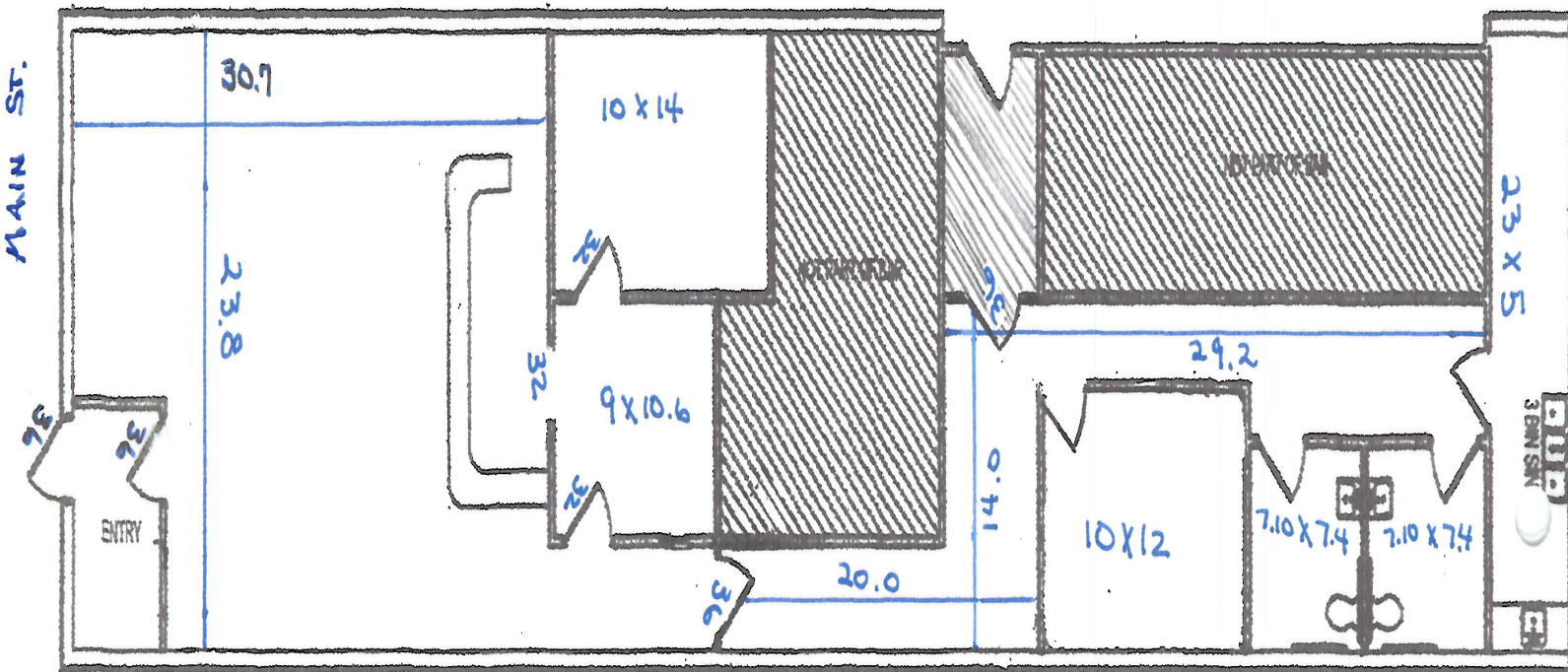
ZONING DISTRICTS:

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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TEXAS AVE.



SITE PLAN

EXHIBIT A

CASE NO. S-11-016 35.10

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 24, BLOCK 53, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH MAIN STREET AND EAST TEXAS AVENUE), WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter and the State law with reference to the granting of specific use permits under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by the granting of a Specific Use Permit With Term, set out hereinafter, on the property described in Section One hereof;

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

SECTION ONE. That the zoning use classification of the following described property, which is presently zoned C-1, Central Area District, to-wit:

Lot 24, Block 53, Original Town, City and County of Midland, Texas;

is hereby changed to permit said property to be used under a Specific Use Permit With Term for the sale of all alcoholic beverages for on-premises consumption in a lounge, together with the uses permitted in the present C-1, Central Area District.

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

- A. That the maximum area of the lounge shall be 1,608 contiguous square feet (identified as the unshaded area of Exhibit “A”, which is attached hereto and incorporated herein); the maximum occupancy shall be 80 persons.
- B. That the days and hours of alcoholic beverage sales and consumption shall be limited to Monday through Sunday from 12:00 p.m. (Noon) to 1:30 a.m. of the following day, unless otherwise prohibited by law.
- C. That the operation of the lounge shall conform to all applicable laws established by the City of Midland and the State of Texas.

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., 2011; 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., 2011, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2011.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-11-044, Alan Hale (Manor Park, Inc.)

Purpose:

This is the second reading to consider an ordinance on a request by Alan Hale for a zone change from a Planned District for a Housing Development to an Amended Planned District. No changes have been made to this item since its first reading on November 8, 2011.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

Manor Park is planning to construct two assisted living/care center buildings for senior citizens on a 2.52-acre site of vacant land located within the Manor Park Community. Proposed to house up to 44 residents in these single-story buildings, this use would be classified as a nursing home facility which staff believes would remain consistent with the area's historical development and a complementary use in the neighboring community. Staff concurs that rezoning will continue to maintain the property's long-standing, retiree-community vision by adopting the new development use and site plan as an Amended Planned District, subject to development in accordance with Exhibits A and B.

Attachments:

Maps

October 31, 2011 Planning & Zoning Commission Staff Report

Exhibit A – Site Plan

Exhibit B – Elevations

Proposed Ordinance



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 8, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-11-044, Alan Hale (Manor Park, Inc.)

Purpose:

Hold a public hearing at approximately 10:39 a.m. and consider an ordinance on a request by Alan Hale for a zone change from a Planned District for a Housing Development to an Amended Planned District.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

Manor Park is planning to construct two assisted living/care center buildings for senior citizens on a 2.52-acre site of vacant land located within the Manor Park Community. Proposed to house up to 44 residents in these single-story buildings, this use would be classified as a nursing home facility which staff believes would remain consistent with the area's historical development and a complementary use in the neighboring community. Staff concurs that rezoning will continue to maintain the property's long-standing, retiree-community vision by adopting the new development use and site plan as an Amended Planned District, subject to development in accordance with Exhibits A and B.

Attachments:

Maps

October 31, 2011 Planning & Zoning Commission Staff Report

Exhibit A – Site Plan

Exhibit B – Elevations

Proposed Ordinance

PLANNING AND ZONING COMMISSION

October 31, 2011

CASE: Z-11-044.

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

APPLICANT/OWNER: Alan Hale (Manor Park, Inc.).

REPRESENTATIVE: West Company.

LEGAL DESCRIPTION: Lot 3A, Block 1, Trinity Towers Manor, Section 3, City and County of Midland, Texas.

LOCATION: Generally located near the northeast corner of the intersection of N. Loop 250 West and Sinclair Avenue on Manor Village Circle.

ASSOCIATED CASES: Z-02-018.

DETAILS OF REQUEST:

1. This 2.52-acre portion of land within Lot 3A is the last large area for development within the 65-acre site that makes up the Manor Park retirement community. The applicant wishes to construct an Assisted Living/Care Center for Senior Citizens to provide for the needs of current and future community residents. Manor Park proposes to expand this service by constructing two buildings that would provide bedrooms and the associated care facilities for a total of 44 residents. Current zoning does not provide for a nursing or custodial care home. Therefore, the purpose of this zone change is to provide for the requested use and to adopt the site plan associated with the new buildings as an Amended Planned District.

SURROUNDING ZONING AND LAND USE:

2. The area immediately surrounding the 2.52-acre site for the two proposed buildings is a fully developed neighborhood consisting of residential housing and community buildings for use by Manor Park residents. To the northwest of the proposed buildings' location is another Planned District for

a Housing Development and to the north and northeast are One-Family Dwelling Districts, all of which are fully-developed in this area. To the east/southeast is Pioneer Park and to the south lie the vacant rear lots of several One-Family Dwelling District lots with frontages on Andrews Highway. Westward is the majority of the Manor Park Community with Loop 250 nearly one-half mile west.

ANALYSIS:

3. In considering whether to allow the proposed use of a nursing home / custodial care facility on this site, it is important to consider the history and context of the Manor Park Development. Spanning nearly 30 years, this aesthetically pleasing community has grown to approximately 65 acres upon the success of meeting the needs of many seniors within the City of Midland. Providing a range of housing, recreational and senior care services in varying degrees in numerous community buildings over the years; staff believes that the additional two buildings would remain consistent with the area's historical development and the proposed use would be a complementary use of this property.

SITE PLAN:

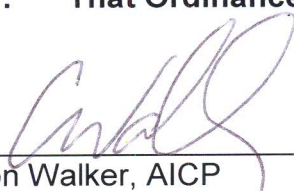
4. The proposed two-building development creates a new site plan for this 2.52 acre portion of the 65-acre Manor Park property. In examining the site plan (Exhibit-A), staff found the site to meet parking, traffic circulation, landscaping, screening, and other city regulations. The building exteriors will be primarily 4" veneer brick faces as well as brick chimneys. The roofline of the building will be less than 28' and the material will be shingled to match adjacent building roofs (Exhibit-B). With the height and appearance closely matching the surroundings of the site, staff believes the buildings offer a contextual fit architecturally and their use complements the ongoing goals of the Manor Park Community. Staff recommends approval.

STAFF RECOMMENDATION:

Staff recommends approval of the zone change from a Planned District for a Housing Development to an Amended Planned District, subject to the following condition:

- A. That this property shall be developed in accordance with Exhibits A and B;
- B. That the maximum height of the building shall not exceed 28 feet;

- C. That a blanket refuse easement is granted to the City of Midland for access to, and removal of waste from, this property;
- D. That the landscaping shall conform to City regulations in place at the time of development;
- E. That the air conditioners and dumpsters shall be appropriately screened;
- F. That Ordinance 8126 is amended by this action.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Exhibit – A (Site Plan)
Exhibit – B (Elevations)
Maps

Case Number: Z-11-044

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Alan Hale
Applicant Name (Phone/e-mail)

Address Zip Code
Alan Hale 432-689-9898

Property Owner Name (Phone/e-mail)
2208 North Loop 250 West Midland, TX 79703
Address Zip Code

Andrew L. Mellen 432-687-0865
Representative Name (Phone/e-mail)
110 W. 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. Metes and Bounds attached

PRESENT ZONE: PDHD REQUESTED ZONE: Amended PD MF-2
(List by tracts if more than one district is requested)

Reason for Zone Change Request: To be able to build Assisted Living

Present Use of Property: Raw Land

Proposed Use of Property: Care Center For Seniors - Assisted Living

How will zone change affect the public health, safety and welfare? No change

Describe how conditions affecting the property have changed since present zoning designation:
No changes

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):

3 ~~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

Andrew L. Mellen Jr who, being by me duly sworn, upon oath says: That (s)he is authorized by Alan Hale, 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.

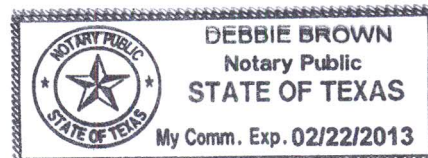
Andrew L. Mellen Jr

Authorized Agent (signature)

Subscribed and sworn to before me, this 8~~th~~ day of September, 20 11, to certify which witness my hand and seal of office.

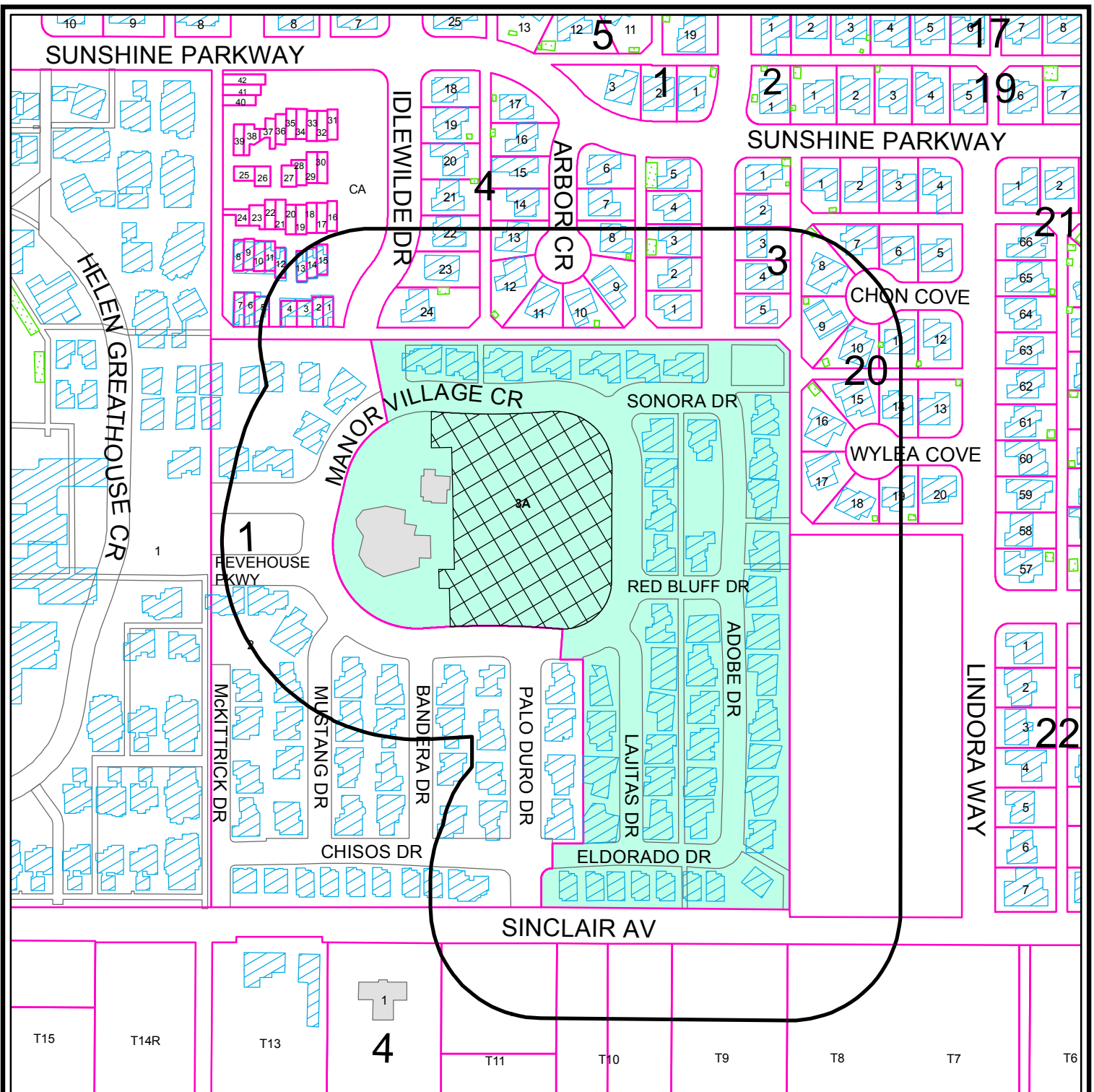
Debbie Brown
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>P+2</u>	Date: <u>10/8/11</u>
Assigned: <u>KV</u>	
For: <u>P+2</u>	On: <u>10/7/11</u>



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

P+2 10/31/11
CC 11/4/11



PROPERTY OWNER NOTIFICATION MAP

Z - 11 - 044

Scale: 1" = 250'

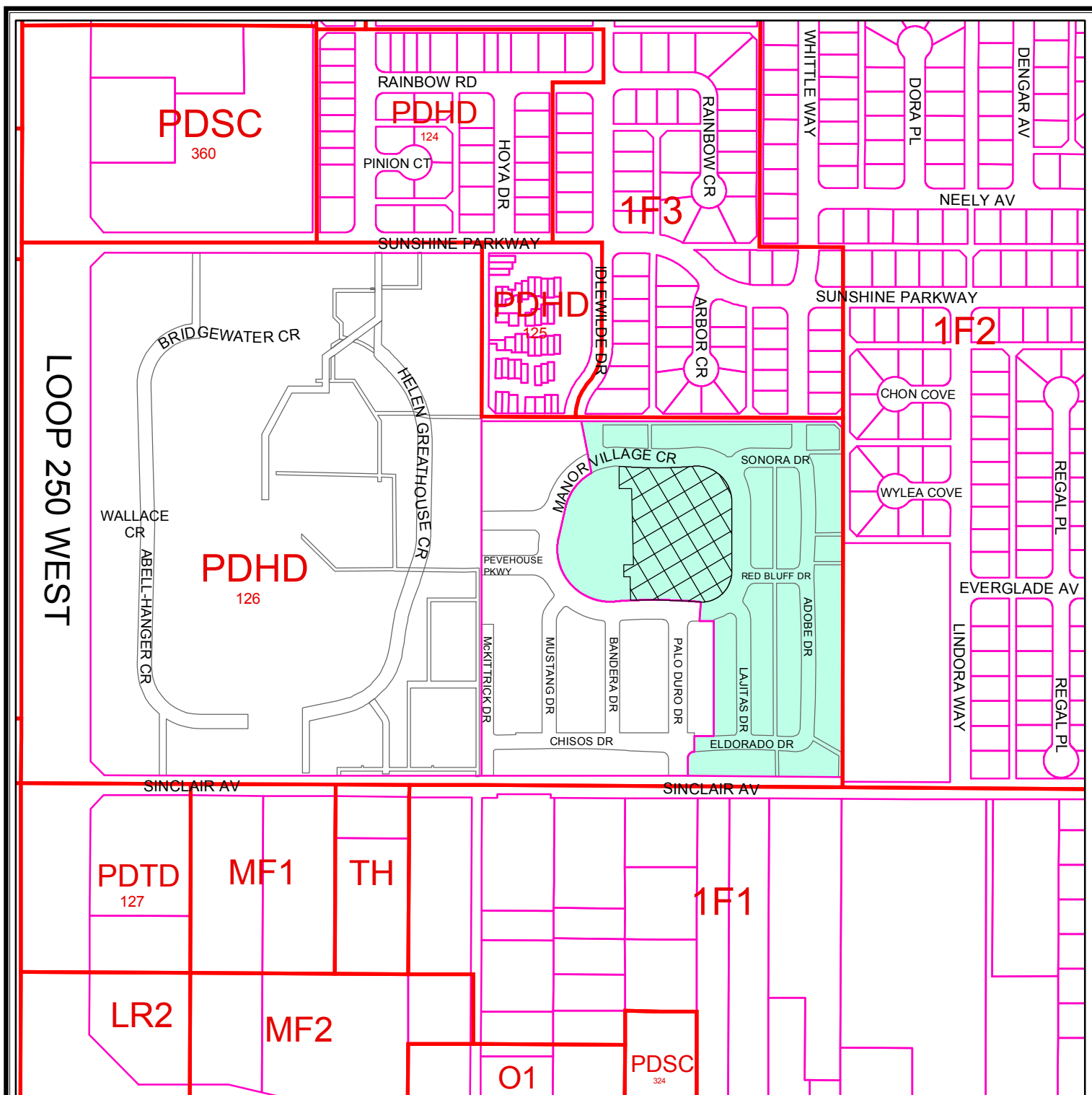
Consider a request for a zone change from PD, Planned District for a Housing Development, to an Amended Planned District on Lot 3A, Block 1, Trinity Towers Manor, Section 3, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

Z - 11 - 044

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 3A, Block 1, Trinity Towers Manor, Section 3, City and County of Midland, Texas.

LEGEND

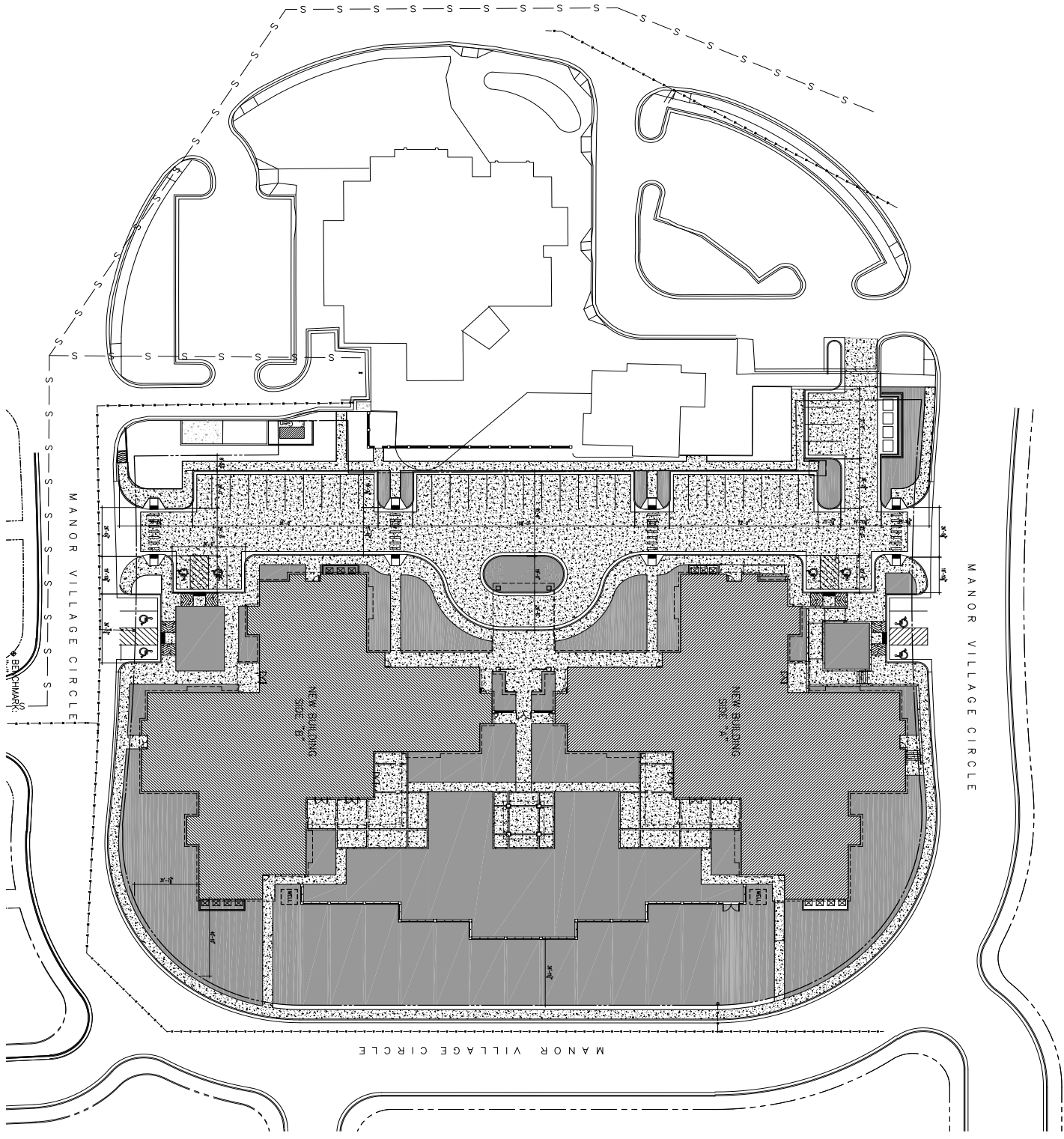
ZONING PARCELS

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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- LEGEND**
- NEW BUILDING
 - CONCRETE WALKWAYS AND DRIVEWAYS
 - LANDSCAPE AREA
 - WATERLINE

BREKDOWN OF PROJECT AREAS

STRUCTURE FOOTPRINT : 25,500 S.F.
 BUILDING AREAS : 20,000 S.F.
 LANDSCAPE AREAS : 40,000 S.F.
 PARKING PAVED : 40,000 S.F.
 PARKING ASPHALT : 8,000 S.F.

KEYNOTES

- 1 4" VENEER FACE BRICK
- 2 COMPOSITION SINGLE ROOF AS SPECIFIED TO MATCH ADJACENT BUILDING ROOFS
- 3 COPPER STANDING BEAM ROOF AS SPECIFIED
- 4 PAINTED HARDBOARD SIDING AS SPECIFIED
- 5 PAINTED HARDBOARD FASCIA AS SPECIFIED
- 6 ALUMINUM CLAD WOOD WINDOW AND/OR DOOR AS SCHEDULED. REFER TO SHEET A-2.1 FOR MORE INFORMATION.
- 7 BRICK CHIMNEY

1102 West Teles Avenue
Midland, Texas 79701
432.682.1252
432.682.1257 Fax



THESE DRAWINGS ARE FOR INTERIM REVIEW AND PRICING ONLY.
"NOT INTENDED FOR CONSTRUCTION"

RWA - 8/18/11

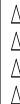
Manor Park Households
Midland, Texas

JOB NO. 0833

DRAWING TITLE

Elevations

REVISIONS

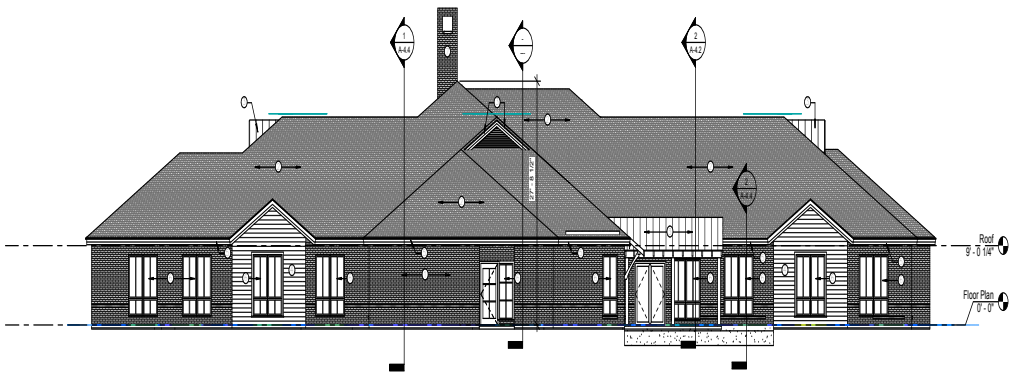


DATE 07/09/02

DRAWN BY Author

CHECKED BY Checker

36.11



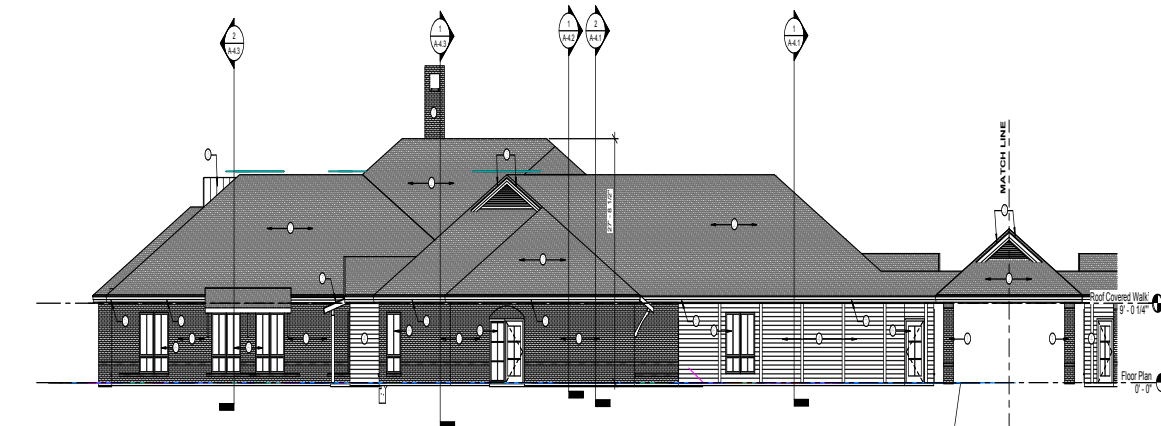
2 North Elevation "A"
1/8" = 1'-0"



1 South Elevation "A"
1/8" = 1'-0"



3 East Elevation "A"
1/8" = 1'-0"



4 West Elevation "A"
1/8" = 1'-0"

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3A, BLOCK 1, TRINITY TOWERS MANOR, SECTION 3, 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 NEAR THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH LOOP 250 WEST AND SINCLAIR AVENUE ON MANOR VILLAGE CIRCLE); 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 3A, Block 1, Trinity Towers Manor, Section 3, City and County of Midland, Texas.

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

1. That the new construction on this property shall be developed in accordance with Exhibits “A” and “B”, which are attached hereto and incorporated herein.
2. That the maximum building height shall not exceed 28 feet.
3. That a blanket refuse easement is granted to the City of Midland for access to and removal of waste from this property.
4. That the landscaping shall conform to City of Midland regulations in place at the time said new construction is commenced.
5. That the air conditioners and dumpsters shall be appropriately screened.
6. That City of Midland Ordinance No. 8126 is hereby amended by this ordinance.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ____ day of _____, A.D., 2011; 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., 2011, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2011.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 8, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Gary Saunders, Transportation Manager

SUBJECT: Ordinance - Stop Signs

Purpose:

To approve an ordinance authorizing the installation of stop signs at various intersections throughout the City of Midland.

Recommended City Council Action:

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

Approximately \$550 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 throughout 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 are currently controlled by yield signs and are listed as follows:

On Camp Street at Dakota Avenue for north/south traffic.

On Edwards Street at Cedar Avenue for north/south traffic.

On Godfrey Street at Tanner Drive for north/south traffic.

On Princeton Avenue at Idlewilde Drive for east/west traffic.

On Tejas at Shawnee for east/west traffic.

Attached is a map indicating the location of each proposed stop sign.

Staff recommend approval of this ordinance.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Gary Saunders, Transportation Manager

SUBJECT: Ordinance - Stop Signs

Purpose:

To approve an ordinance on second reading authorizing the installation of stop signs at various intersections within the City of Midland.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

No additional funds will be necessary in association with this ordinance.

Discussion:

The Legal Department has prepared an ordinance to be considered on second reading 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 (MUTCD). The proposed intersections are currently controlled by yield signs and are listed as follows:

On Camp Street at Dakota Avenue for north/south traffic.

On Edwards Street at Cedar Avenue for north/south traffic.

On Godfrey Street at Tanner Drive for north/south traffic.

On Princeton Avenue at Idlewilde Drive for east/west traffic.

On Tejas at Shawnee for east/west traffic.

Attached is a map indicating the location of each proposed stop sign.

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

“A” St.
“A” St.
“A” St.
Aberdeen Dr.
Adams St.
Adams St.
Adams St.
Advance Ave.
Ainslee St.
Ainslee St.

AT

Indiana Ave.
Mockingbird Ln.
Soloman Ln.
Spraberry Dr.
Indiana Ave.
Pennsylvania Ave.
Wall St.
Industrial Ave.
Bedford Dr.
Cuthbert Ave.

ON

Ainslee St.
Ainslee St.
Ainslee St.
Airport 20 Rd.
Alice St.
Alice St.
Alice St.
Almont Pl.
Alpine St.
Alpine St.
Andrews Hwy. Frontage
Andover Ave.
Anetta Dr.
Anetta Dr.
Anetta Dr.
Anetta Dr.
Angelina Dr.
Apache Dr.
Apperson Dr.
Apperson Dr.
Apple Creek Rd.
Apple Creek Rd.
Arapahoe Rd.
Arbor Cir.
Arroyo Dr.
Ashwood Ct.
Aspen Dr.
Aster Ave.
Aster Ave.
Atlanta St.
Atlanta St.
Auburn Ct.
Auburn Dr.
Aurora Ln.
Aurora Ln.
Austin St.
Austin St.
Avalon Dr.
Avondale Dr.
Avondale Dr.
"B" St.
"B" St.
"B" St.
"B" St.
"B" St.
"B" St.
Baird St.
Baird St.
Baird St.

AT

Kansas Ave.
Louisiana Ave.
Princeton Ave.
La Force Blvd.
Barkley Ave.
Delano Ave.
Franklin Ave.
Gunnison Dr.
Cuthbert Ave.
Louisiana Ave.
Godfrey St.
Ward St.
Eisenhower Dr.
Raymond Rd.
Spraberry Dr.
Waverly Dr.
Haynes Ave.
Waverly Dr.
Maxwell Ave.
Whitney Dr.
Mathis St.
Oak Valley Dr.
Elkins Rd.
Sunshine Pkwy.
Haynes Ave.
Heritage Blvd.
Mark Ln.
Avalon Dr.
Golden Gate Dr.
Gist Ave.
Hicks Ave.
Ward St.
Whitney Dr.
McDonald Dr.
Suncrest Ave.
Bedford Dr.
Cuthbert Ave.
Briarwood Ave.
McDonald Dr.
Raymond Dr.
Cuthbert Ave.
Harvard Ave.
Indiana Ave.
Kansas Ave.
Louisiana Ave.
Michigan Ave.
Missouri Ave.
California Ave.
Hicks Ave.
Indiana Ave.

ON

Baird St.
Baird St.
Baird St.
Baird St.
Baird St.
Baird St.
Baird St.
Baird St.
Baird St.
Baldwin St.
Baldwin St.
Baldwin St.
Baltic Ave.
Baltic Ave.
Banks Dr.
Banks Dr.
Barber St.
Barber St.
Barber St.
Barber St.
Barkley Ave.
Barkley Ave.
Baumann Ave.
Baybrook Dr./Ct.
Baybrook Dr./Pl.
Bedford Ave.
Bedford Ave.
Bedford Ave.
Bedford Ave.
Bedford Ave.
Bedford Ave.
Bedford Ave.
Bedford Dr.
Bedford Ave.
Bedford Ave.
Bedford Ave.
Bedford Dr.
Bedford Ave.
Bedford Ave.
Belair Dr.
Bellechasse Ct.
Belmont St.
Belmont St.
Belmont St.
Benton St.
Benton St.
Benton St.
Benton St.
Bentwood Dr.
Bentwood Dr.

AT

Kentucky Ave.
Longview Ave. (northbound)
Longview Ave. (southbound)
Louisiana Ave.
Main St.
Michigan Ave.
New Jersey Ave.
New York Ave.
Taylor Ave.
Brunson Ave.
Holloway Ave.
Kentucky Ave.
Dormard Ave.
Pacific Ave.
La Force Blvd.
Sloan Field Blvd.
Dormard Ave.
Golf Course Rd.
Magnolia Ave.
Shandon Ave.
Crestview Rd.
Powell St.
Alpine St.
Rockwood Dr.
Valwood Dr.
Alpine St.
Austin St.
Delmar St.
E. Broadway St.
“G” St.
Godfrey St. (westbound)
Idlewilde Dr.
Lanham St.
Maberry St.
Manor St.
McDonald St.
Mogford St.
“N” St.
Tarleton St.
Stonybrook Dr.
Chapel Hill Dr.
Gist Ave.
Griffin Ave.
Hicks Ave.
Golf Course Rd.
Indiana Ave.
New York Ave.
Oak Ave.
Crescent Dr.
Cuthbert Ave.

ON

Bentwood Dr.
Bentwood Dr.
Billingsley Blvd.
Bishops Castle Dr.
Bluebird Ln.
Blue Bonnet Ave.
Blue Bonnet Ave.
Boeing Dr.
Boeing Dr.
Bonham St.
Boulder Dr.
Bowie Dr.
Boyd Ave.
Boyd Ave.
Boyd Ave.
Boyd Ave.
Boeing Dr.
Boyd Ave.
Brazos Ave.
Breckenridge Dr.
Brentwood Dr.
Broadway St.
Brookdale Dr.
Brookdale Dr.
Brooks Dr. (both intersections)
Brownwood Dr.
Bryant St.
Burchill Dr.
Burchill Dr.
Burchill Dr.
Burchill Dr.
Burleson St.
Burleson St.
Burleson St.
Butler Ave.
Butler Ave.
Butternut Ln.
Butternut Ln.
“C” St. (northbound traffic)
“C” St.
“C” St.
“C” St.
“C” St. (southbound traffic)
“C” St.
“C” St.
“C” St.
Calhoun St.
California Ave.
California Ave.
California Ave.

AT

Graceland Dr.
Ric Dr.
Caldera Blvd.
Castleford Rd.
Midkiff Rd.
Avalon Dr.
Golden Gate Dr.
Neely Ave.
Sentinel Dr.
Cuthbert Ave.
Haynes Ave.
Bentwood Dr.
Godfrey St.
Lanham St.
Mogford St.
“N” St.
Fannin Ave.
Tarleton St.
Amistad Dr.
Durango Dr.
Homestead Blvd.
Cuthbert Ave.
Anetta Dr.
Eisenhower Dr.
Raymond Rd.
Bentwood Dr.
Humble Ave.
Anetta Dr.
Erie Dr.
Parkdale Dr.
Pasadena Dr.
Brunson Ave.
Kentucky Ave.
Washington Ave.
Baird St.
Main St.
Jackson St.
Oak Ave.
College Ave.
Cuthbert Ave.
Golf Course Rd.
Gulf Ave.
Indiana Ave.
Louisiana Ave.
Michigan Ave.
Missouri Ave.
Indiana Ave.
Carver St.
Main St.
Marienfeld St.

ON

California Ave.
California Ave.
Camarie Ave.
Camarie Ave.
Camarie Ave.
Camarie Ave.
Camarie Ave.
Camp St.
Camp St.
Camp St.
Camp St.
Canadian Ave.
Canemont Dr.
Cantebury Dr.
Canyon Dr. (both intersections)
Canyon/Devonian Dr.
Cardinal Ln.
Carlton St.
Carnation Ave.
Carnation Ave.
Carrizo St.
Carrizo St.
Carrizo St.
Carrizo St.
Carrizo St.
Carrizo St.
Carrizo St.
Carrizo St.
Carter Ave.
Carver St.
Carver St.
Carver St.
Castle Pine Rd.
Castleford Rd.
Castleford Rd.
Castleford Rd.
Castleford Rd.
Castlerock Ct.
Cedar Ave.
Cedar Ave.
Cedar Ave.
Cedar Spring Dr.
Cedar Spring Dr.
Cessna Dr.
Cessna Dr.
Cessna Dr.
Cessna Dr.
Cessna Dr.
Chapel Hill Dr.
Chapel Hill Dr.

AT

Tilden St.
Webster St.
Lanham St.
Mogford St.
Tarleton St.
Ward St.
Whitney Dr.
Carter Ave.
Dakota Ave.
Griffin Ave.
Industrial Ave.
Amistad Dr.
Tremont Ave.
Polo Pkwy.
Raymond Rd.
Spraberry Dr.
Oriole Dr.
Kentucky Ave.
Avalon Dr.
Golden Gate Dr.
Cuthbert Ave.
Louisiana Ave.
Michigan Ave.
Missouri Ave.
Nobles Ave.
Ohio Ave.
Storey Ave.
Tennessee Ave.
Garfield St.
Dormard Ave.
Golf Course Rd.
Indiana Ave.
Spence Dr.
Lancashire Rd.
Los Alamitos Rd.
Melville Dr.
Polo Pkwy.
Durango Dr.
Cottonwood Ave.
Main St.
Tyler St.
Devonian Dr.
Raymond Rd.
Fannin Ave.
Neely Ave.
Sentinel Dr.
Shell Ave.
Stanolind Ave.
Bluebird Ln.
Keswick Rd.

Chatham Ct.
Cherokee Dr.
Cherry Ln.
Cherrywood Dr.
Cherrywood Dr.
Cherrywood Ct.
Chestnut Ave.
Cimmaron Ave.
Cimmaron Ave.
Cimmaron Ave.
Cimmaron Ave.
Cimmaron Ave.
Cimmaron Ave.
Cimmaron Ave.
Cimmaron Ave.
Cimmaron Ave.
Cimmaron Ave.
Cimmaron Ave.
Cimmaron Ave.
Cimmaron Ave.
Cindy Pl.
Claremont Dr.
Clarewood Dr.
Clarewood Dr.
Clark St.
Clark St.
Clay St.
Cloudcroft Ct.
Club Dr.
Co. Rd. 1220 S.
Co. Rd. 83
Collins Ave.
Colorado St.
Colorado St.
Colorado St.
Colorado St.
Colorado St.
Colorado St.
Colorado St.
Colorado St.
Colorado St.
Colorado St.
Colorado St.
Colorado St.
Colorado St.
Commerce Dr.
Commerce Dr.
Community Ln.
Community Ln.
Compton Dr.
Concho Dr.

Ward St.
Eisenhower Dr.
Carver St.
Lemonwood Dr.
Northcrest Dr.
Oriole Dr.
Carver St.
Dengar Ave.
"I" St.
Mogford St.
Lanham St.
Mark Ln.
McDonald Dr.
Racquet Club Dr.
Shandon Ave.
Tarleton St.
Ward St.
Wedgewood St.
Ward St.
Whitney Dr.
Wydewood Dr.
Tremont Ave.
Greenville Cir.
Wood Dr.
Brunson Ave.
Kentucky Ave.
Indiana Ave.
Mark Ln.
Nobles Ave.
Industrial Ave.
Co. Rd. 1162
Main St.
Cuthbert Ave.
Dakota Ave.
Francis Ave.
Gist Ave.
Hicks Ave.
Kansas Ave.
Louisiana Ave.
Michigan Ave.
New Jersey Ave.
New York Ave.
Pennsylvania Ave.
Rhode Island Ave.
I-20 N. Frontage Rd.
Industrial Ave.
"H" St.
"N" St.
Haynes Ave.
Amistad Dr.

ON

Concord Ave.
Connell St.
Connell St.
Conroe Ct.
Conroe St.
Conroe St.
Cotton Flat Rd.
Cottonwood Ave.
Cottonwood Ave.
Country Club Dr.
Country Club Dr.
Country Club Dr.
Country Club Dr.
Country Club Dr.
Country Club Dr.
Country Club Dr.
Country Club Dr.
Country Club Dr.
Country Club Dr.
Country Club Dr.
Country Club Dr.
Cowden Ave.
Cowden Ave.
Cowden Ave.
Cowden Ave.
Cranston Pl.
Crenshaw Dr.
Crescent Dr.
Crescent Dr.
Crescent Dr.
Crest Dr.
Crestdale St.
Crested Butte Ct.
Crestfield St.
Crestgate Ave.
Crestgate Ave.
Crestgate Ave.
Crestgate Ave.
Crestmont Dr.
Crestmont Dr.
Crestview Rd.
Crestview Rd.
Crestview Rd.
Crestview Rd.
Crestview Rd.
Crestview Rd.
Crestview Rd.
Crestview Rd.
Crestview Rd.
Crestway Ln.

AT

Lanham St.
Carter Ave.
Industrial Ave.
Rio Grande Dr.
Lavaca Ave.
Rio Grande Dr.
Industrial Ave.
Golf Course Rd.
Main St.
E. Broadway St.
W. Broadway St.
“D” St.
Delmar St.
“G” St.
Idlewilde Dr.
“L” St.
Lanham St.
Mogford St.
“N” St.
Ward St.
Carver St.
Dallas St.
Edwards St.
Main St.
Crowley Blvd.
Palmer Dr.
Bentwood Dr.
Eisenhower Dr.
Glenwood Dr.
Club Dr.
Crestgate Ave.
Gunnison Dr.
Crestgate Ave.
Crestdale St.
Crestfield St.
Crestway Ln.
Gateway St.
Tremont Ave.
Whittle Way
Delano Ave.
Kansas Ave.
Kessler Ave.
Louisiana Ave.
Mariana Ave.
Michigan Ave.
Ohio Ave.
Roosevelt Ave.
Storey Ave.
Travis Ave.
Crestgate Ave.

ON

Crista Ln.
Crista Ln.
Crockett Ave.
Crockett Ave.
Crockett Ave.
Crowley Blvd.
Crowley Blvd.
Crowley Blvd.
Crowley Blvd.
Crowley Blvd.
Culver Dr.
Culver Dr.
Cumberland Dr.
Cumberland Dr.
Cunningham Dr.
Cunningham Dr.
Cuthbert Ave.
Cuthbert Ave.
Cuthbert Ave.
Cuthbert Ave.
“D” St.
“D” St.
“D” St.
“D” St.
“D” St.
“D” St.
“D” St.
“D” St.
“D” St.
Dahlia Ave.
Dahlia Ave.
Dakota Ave.
Dakota Ave.
Dakota Ave.
Dakota Ave.
Dallas St.
Dallas St.
Dallas St.
Dallas St.
Dallas St.
Dallas St.
Dallas St.
Dallas St.
Dallas St.
Dallas St.
Dartmouth Dr.
Daventry Rd.
Daventry Rd.

AT

Bluebird Ln.
Caldera Blvd.
Bentwood Dr.
Edgewood Dr.
Goliad Dr.
Grassland Blvd.
Hereford Blvd.
Heritage Blvd.
Highland Blvd.
Wadley Ave.
Neely Ave.
Sentinel Dr.
Neely Ave.
Ventura Ave.
Holly Dr.
Howard Dr.
Carver St.
Maberry St.
Main St.
Mogford St.
College Ave.
Cuthbert Ave.
Douglas Ave.
Golf Course Rd.
Harvard Ave.
Humble Ave.
Louisiana Ave.
Michigan Ave.
Missouri Ave.
Neely Ave.
Avalon Dr.
Golden Gate Dr.
Johnston St.
Main St.
Marshall St.
Weatherford St.
Cuthbert Ave.
Garden Ln.
Golf Course Rd.
Hicks Ave.
New Jersey Ave.
New York Ave.
Louisiana Ave.
Nobles Ave.
Ohio Ave.
Parker Ave.
Taylor Ave.
Culpepper Dr.
Castleford Rd.
Lancashire Rd.

ON

Davis Ave.
Davis Ave.
Davis Ave.
Dawn Cir. (both intersections)
Deeanna Ln.
Deeanna Ln.
Deer Run Ave.
Delano Ave.
Delano Ave.
Delano Ave.
Delano Ave.
Delano Ave.
Delmar Dr.
Delmar Dr.
Delmar Dr.(northbound only)
Delmar St.
Dengar Ave.
Dengar Ave.
Dengar Ave.
Dengar Ave.
Dengar Ave.
Dengar Ave.
Dengar Ave.
Dengar Ave.
Dengar Ave.
Dengar Ave.
Dengar Ave.
Dengar Ave.
Dengar Ave.
Dengar Ave.
Denterest Dr.
Denterest Dr.
Denterest Dr. (southern most intersection)
Denton St.
Denton St.
Desta Dr. (both intersections)
Devlin Pl.
Devonian Dr.
Devonian Dr.
Devonian Dr.
Devonian Dr.
Dormard Ave.
Dormard Ave.
Dormard Ave.
Dormard Ave.
Douglas Ave.
Douglas Ave.
Douglas Ave.
Douglas Ave.
Douglas Ave.
Douglas Ave.

AT

Carver St.
Lamesa Rd.
Lee St.
Haynes Ave.
Crowley Blvd.
Hereford Blvd.
Hilltop Dr.
E. Circle Dr.
Holly Dr.
Powell St.
Roosevelt Dr.
Tanner Dr.
Leddy Dr.
Cuthbert Ave.
Lockheed Ave.
Storey Ave.
Barber St.
Edwards St.
"I" St.
Lanham St.
Loma Dr.
Main St.
Mark Ln.
Neely Ave.
Pecos St.
Tarleton St.
Ward St.
Whitney Dr.
Wydewood Dr.
Tremont Ave.
Whittle Way
Whittle Way
Cuthbert Ave.
Douglas Ave.
Smith Rd.
Crowley Blvd.
Cedar Spring Rd.
Monty Dr.
Raymond Rd.
Tanner Dr.
Boardwalk
Edwards St.
Loma Ave.
Main St.
Alpine St.
"B" St.
"D" St.
Delmar Ave.
"H" St.
"J" St.

ON

Douglas Ave.
Douglas Ave.
Douglas Ave.
Douglas Ave.
Douglas Ave.
Douglas Ave.
Dowdle Dr.
Dowdle Dr.
Downing Ave.
Drexel Ct.
Dunbar St.
Durant Dr.
Durant Dr.
Durant Dr.
Dyer Cir.
"E" St.
"E" St.
"E" St.
"E" St.
E. Broadway St.
E. Broadway St.
E. Broadway St.
E. Broadway St.
E. Circle Dr.
E. Industrial Loop
Earhart Dr. (both intersections)
Edgewood Dr.
Eastview Dr.
Eastwood Dr.
Edgebrook Dr./Ct.
Edgebrook Dr./Pl.
Edgemont Dr.
Edgemont Dr.
Edgewood Dr.
Edgewood Dr.
Edgewood Dr.
Edwards St.
Edwards St.
Edwards St.
Edwards St.
Edwards St.
Edwards St.
Edwards St.
Edwards St.
Edwards St.
Edwards St.
Eisenhower Dr.
Eisenhower Dr.
Eisenhower Dr.

AT

"L" St.
McDonald St.
"N" St.
Tarleton St.
Ward St.
Whitney Dr.
Northrup Dr.
Neely Ave.
Ventura Ave.
Norwood St.
Heritage Blvd.
Cuthbert Ave.
Maxwell Dr.
Ward St.
Whitney Dr.
Haynes Ave.
College Ave.
Indiana Ave.
Missouri Ave.
Washington Ave.
Cuthbert Ave.
Harvard Ave.
Louisiana Ave.
Michigan Ave.
Delano Ave.
Industrial Ave.
La Force Blvd.
Monty Dr.
Bluebird Ln. (northbound)
Ric Dr.
Rockwood Dr.
Valwood Dr.
Tremont Ave.
Whittle Way
Cuthbert Ave.
Dewberry Dr.
Eisenhower Dr.
Cedar Ave.
Cuthbert Ave.
Dormard Ave.
Golf Course Rd.
Mississippi Ave.
Oak Ave.
Parker Ave.
Pecan Ave.
Pine Ave.
Spruce Ave.
Anetta Dr.
Edgewood Dr.
Industrial Ave.

ON

Elm Ave.
Elma Dr.
Elma Dr.
Elma Dr.
Emerson Dr.
Emerson Ln.
English Dr.
English Dr.
Erie Dr.
Erie Dr.
Estes Ave.
Estes Ave.
Estes Ave.
Estes Ave.
Estes Ave.
Evergreen Ave.
Evergreen Ave.
Exeter Ave.
"F" St.
"F" St.
"F" St.
"F" St.
"F" St.
"F" St.
Fairbanks Dr.
Fairfax Ct.
Fairgate Dr.
Fairhaven Ct.
Fairview Ln.
Fairwood Dr./Ct.
Fairwood Dr./Pl.
Fannin Ave.
Fannin Ave.
Fannin Ave.
Fannin Ave.
Fannin Ave.
Fannin Ave.
Fannin Ave.
Fannin Ave.
Fannin Ave.
Fargo Ave.
Fargo Ave.
Fargo Ave.
Fasken Dr.
Fern Ave.
Fern Ave.
Fieldcrest Ln.
Fisher St.
Fort Worth St.
Fort Worth St.
Fort Worth St.

AT

Main St.
Aspen Dr.
Whittle Way
Wydewood Dr.
Ward St.
Ward St.
Benton St.
Golf Course Rd.
Eisenhower Dr.
Meadow Dr.
Carver St.
Main St.
Marienfeld St.
Pecos St.
Whitaker St.
Avalon Dr.
Golden Gate Dr.
Ward St.
College Ave.
Cuthbert Ave.
Kentucky Ave.
Louisiana Ave.
Michigan Ave.
Missouri Ave.
Mark Ln.
Ward St.
Mark Ln.
Whittle Way
Chapel Hill Dr.
Rockwood Dr.
Valwood Dr.
Dengar Ave.
Lanham St.
Mark Ln.
McDonald Dr.
Mogford St.
Tarleton St.
Ward St.
Whitney Dr.
Boulder Dr.
Norwood St.
Stillmeadow Dr.
Anetta Dr.
Avalon Dr.
Golden Gate Dr.
Northfield Dr.
Francis Ave.
Cuthbert Ave.
Gist Ave. (northbound)
Golf Course Rd.

ON

Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fox Hollow Ct.
Francis Ave.
Francis Ave.
Francis Ave.
Franklin Ave.
Franklin Ave.
Fredna Pl.
Fredna Pl.
Fringewood Dr.
Frontier Dr.
Frontier Dr.
Frontier Dr.
Frontier Dr.
"G" St.
"G" St.
"G" St.
"G" St.
"G" St.
"G" St.
"G" St.
"G" St.
"G" St.
Garden Ln.
Garden Ln.
Garfield St.
Garfield St.
Gaston Dr.
Gaston Dr.
Gateway St.
George Ave.
Geraldine St.
Gist Ave.
Gist Ave.

AT

Hicks Ave.
Indiana Ave.
Longview Ave. (northbound)
Louisiana Ave.
Michigan Ave.
Mississippi Ave.
New Jersey Ave.
New York Ave.
Parker Ave.
Peck Ave. (southbound)
Stokes Ave. (northbound)
Stokes Ave. (southbound)
Summit Ave. (northbound)
Summit Ave. (southbound)
Taylor Ave.
Wolcott Ave. (northbound)
Wolcott Ave. (southbound)
Greenbriar Dr.
Camp Dr.
Colorado St.
Main St.
E. Circle Dr.
Williams St.
Dengar Ave.
Neely Ave.
Homestead Blvd.
Fannin Ave.
Lanham St.
Ward St.
Whitney Dr.
Bedford Ave.
Community Ave.
Cuthbert Ave.
Douglas Ave.
Golf Course Rd.
Harvard Ave.
Louisiana Ave.
Michigan Ave.
Missouri Ave.
Dallas St.
Terrell St.
Bluebird Ln.
Carter Ave.
Delano Ave.
Raymond Rd.
Caldera Blvd.
Marienfeld St.
Neely Ave.
E. Industrial Loop
Main St.

ON

Gist Ave.
Gladewood Dr.
Gladewood Dr.
Gladiola Ave.
Gladiola Ave.
Glen Mist Dr.
Glen Mist Dr.
Gleneagles Ct.
Gleneagles Dr.
Gleneagles Dr.
Goddard Dr.
Goddard Pl.
Godfrey Ct.
Godfrey St.
Godfrey St.
Godfrey St.
Godfrey St.
Godfrey St.
Godfrey St.
Godfrey St.
Godfrey St.
Godfrey St.
Godfrey St.
Godfrey St.
Golden Gate Dr.
Golf Course Rd.
Golf Course Rd.(westbound)
Goliad Dr.
Goliad Dr.
Goode St.
Goode St.
Gossett St.
Graceland Dr.
Graceland Dr.
Graham Dr.
Grassland Blvd.
Grassland Blvd.
Greathouse Ave.
Greathouse Ave.
Greathouse Ave.
Greenbriar Ave.
Greenbriar Dr.
Greenbriar Dr.
Greenbriar Dr.
Greenridge
Greenville Dr.
Griffin Ave.
Griffin Ave.
Griffin Ave.
Griffin Ave.
Griffin Ave.

AT

Terrell St.
Homestead Blvd.
Prairie Ridge Dr.
Avalon Dr.
Golden Gate Dr.
Fringewood Dr.
Gladewood Dr.
Greenbriar Dr.
Greenbriar Dr.
Mark Ln.
Ward St.
Whitney Dr.
Godfrey St.
Cuthbert Ave.
Douglas Ave.
Haynes Ave.
Louisiana Ave.
Neely Ave.
Northfield Dr.
Roosevelt Ave.
Shandon Ave.
St. Andrews Dr.
Tanner Dr.
Briar Wood Ave.
Main St.
Scharbauer Dr.
Crockett Ave.
Cuthbert Ave.
Carter Ave.
Francis Ave.
Missouri Ave.
Bentwood Dr.
Eisenhower Dr.
Palmer Dr.
Crowley Blvd.
W. Heritage Blvd.
Hilltop Dr.
Mathis St.
Spence Dr.
Hyde Park Ave.
Radcliff Ct.
Springfield Ct.
St. Andrews Dr.
Heritage Blvd.
Valwood Dr.
Dallas St.
Goode St.
Johnston St.
Main St.
Weatherford St.

Guadalupe St.
Gulf Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
"H" St.
"H" St.
"H" St.
"H" St.
"H" St.
"H" St.
"H" St.
"H" St.
"H" St.
Hamby Ave.
Hamby Ave.
Hamby Ave.
Hamby Ave.
Harlowe Dr.
Hart Ave.
Hart Ave.
Harvard Ave.
Harvard Ave.
Harvard Ave.
Harvard Ave.
Harvard Ave.
Harvard Ave.
Harvard Ave.
Harvard Ave.
Harvard Ave.
Hathaway Ct.
Haynes Ave.
Haynes Ave.
Haynes Ave.
Haynes Ave.
Haynes Ave.
Haynes Dr.
Haynes Dr.
Haywood Dr.
Heartland Ave.

Rio Grande Ave.
Cessna Dr.
Culver Dr.
Godfrey St.
"I" St.
"L" St.
Lanham St.
McDonald Dr.
Mark Ln.
Mogford St.
"N" St.
Northrup Dr.
Tarleton Dr.
Ward St.
Whitney Dr.
College Ave.
Golf Course Rd.
Humble Ave.
Indiana Ave.
Michigan Ave.
Missouri Ave.
Neely Ave.
Ohio Ave.
Princeton Ave.
Carver St.
Main St.
Marienfeld St.
Tyler St.
Devonian Dr.
Main St.
Marienfeld St.
"D" St.
Delmar St.
"H" St.
Idlewilde Dr.
"L" St.
Lanham St.
Maberry St.
"N" St.
Whitney Dr.
Heritage Blvd.
Godfrey St.
Lanham St.
Norwood St.
Skyline Dr.
Ward St.
Ward St.
Whitney Dr.
Prairie Ridge Dr.
Hereford Blvd.

ON

Heartland Ave./Ct.
Henderson St.
Hereford Blvd.
Hereford Blvd.
Heritage Blvd.
Heritage Blvd.
Heritage Blvd.
Heritage Blvd.
Hickory Ave.
Hickory Ave.
Hicks Ave.
Hicks Ave.
Hicks Ave.
Highland Blvd.
Hill Ave.
Hillcrest Ct.
Hillcrest Ct.
Hilltop Dr.
Hodges St.
Hodges St.
Hollandale Dr.
Hollandale Dr.
Holloway Ave.
Holloway Ave.
Holly Dr.
Holly Dr.
Holmsley St.
Holmsley St.
Homestead Blvd.
Howard Dr.(both intersections)
Hoya Dr.
Hughes St.
Humble Ave.
Humble Ave.
Humble Ave.
Humble Ave.
Humble Ave.
Humble Ave.
Humble Ave.
Huntington St.
Hyde Park Ave.
Hyde Park Ave.
Hyde Park Ave.
"I" St.
"I" St.
"I" St.
"I" St.
"I" St.
"I" St.

AT

Heritage Blvd.
Rochester St.
Crowley Blvd.
Grassland Blvd.
Crowley Blvd.
Grassland Blvd.
Heartland Ave./Ct.
Highland Blvd.
Benton St.
Lincoln St.
Jefferson St.
Main St.
Terrell St.
Heritage Blvd.
Holly Dr.
Hereford Pl.
Heritage Blvd.
Oriole Dr.
Community Ln.
Neely Ave.
Carver St.
Parkway Dr.
"G" St.
"H" St.
Raymond Rd.
Travis Ave.
Marienfeld St.
Pecos St.
Hereford Blvd.
Raymond Rd.
Sunshine Pkwy.
Neely Ave.
Godfrey St.
"I" St.
"L" St.
Lanham St.
Mark Lane
"N" St.
Tarleton St.
Western Dr.
Neely Ave.
Godfrey St.
Greenbriar Dr.
Tarleton St.
Cimmaron Ave.
College Ave.
Golf Course Rd.
Holloway Ave.
Indiana Ave.
Kentucky Ave.

ON

"I" St.
"I" St.
Idlewilde Dr.
Idlewilde Dr.
Illinois Ave.
Illinois Ave.
Illinois Ave.
Imperial Ave.
Imperial Ave.
Indiana Ave.
Indiana Ave.
Indiana Ave.
Indiana Ave.
Indiana Ave.
Idlewilde Dr.
Industrial Ave.
Industrial Ave.
Industrial Ave.
Industrial Ave.
Inwood Ct.
Island Dr.
Island Dr.
Island Dr.
"J" St.
"J" St.
"J" St.
"J" St.
"J" St.
"J" St.
Jackson St.
Jackson St.
Jackson St.
Jacotte Cir. (both intersections)
Jadewood Dr.
Jax Ave.
Jax Ave.
Jax Ave.
Jefferson St.
Jefferson St.
Jefferson St.
Jefferson St.
Johnston St.
Johnston St.
Jordan Ave.
"K" St.
"K" St.
"K" St.
"K" St.
"K" St.
"K" St.

AT

Missouri Ave.
Neely Ave.
Cuthbert Ave.
Preston Dr.
Carver St.
Lee St.
Terrell St.
Godfrey St.
Tarlton St.
Carver St.
"G" St.
"L" St.
Lee St.
Marienfeld St.
Ric Dr.
Carver St.
Lee St.
Main St.
Marienfeld St.
Ward St.
Greentree Blvd.
Island Circle/Dr.
Rustic Tr.
College Ave.
Community Ave.
Golf Course Rd.
Harvard Ave.
Holloway Ave.
Missouri Ave.
Chestnut Ave.
Golf Course Rd.
Indiana Ave.
Golf Course Rd.
Homestead Blvd.
Carver St.
Main St.
Marienfeld St.
Gist Ave.
Indiana Ave.
New Jersey Ave.
Wall St.
Carter Ave.
Industrial Ave.
Godfrey Ct.
College Ave.
Community Ln.
Cuthbert Ave.
Francis Ave.
Golf Course Rd.
Missouri Ave.

ON

"K" St.
Kansas Ave.
Kansas Ave.
Kansas Ave.
Kansas Ave.
Kansas Ave.
Kansas Ave.
Kansas Ave.
Kansas Ave.
Kansas Ave.
Kansas Ave.
Kansas Ave.
Keith St.
Keith St.
Keith St.
Keith St.
Kent St.
Kent St.
Kent St.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kessler Ave.
Kessler Ave.
Keswick Rd.
Key St.
Key St.
Keystone Ct.
Kimbrough St.
King Richards Row
Kingwood Ct.
Kiowa Dr.
"L" St.
"L" St.
"L" St.
"L" St.
"L" St.
"L" St.
"L" St.
"L" St.

AT

Washington Ave.
Alpine St.
Baird St.
E. Broadway
Carrizo St.
"D" St.
"F" St.
Godfrey St.
McDonald St.
Main St.
Marienfeld St.
Pecos St.
Terrell St.
W. Broadway
Cowden Ave.
Humble Ave.
Nobles Ave.
Parker Ave.
Kansas Ave.
Louisiana Ave.
Michigan Ave.
Bankhead Hwy.
Carver St.
"G" St.
"K" St.
Lamesa Rd.
Lee St.
Main St.
Marienfeld St.
Pecos St.
Tilden St.
Crestview Rd.
Powell St.
Melville Dr.
Brunson Ave.
Kentucky Ave.
Gunnison Dr.
Delano Ave.
Oriole Dr.
Valwood Dr.
Eisenhower Dr.
Bedford Dr.
Carter Ave.
Cimmaron Ave.
College Ave.
Community Ave.
Cuthbert Ave.
Holloway Ave.
Humble Ave.
Louisiana Ave.

ON

“L” St.
“L” St.
“L” St.
“L” St.
“L” St.
“L” St.
“L” St.
“L” St.
La Force Blvd.
La Salle Cir.
Lamesa Rd.
Lancashire Rd.
Lancashire Rd.
Lanham St.
Lanham St.
Lanham St.
Lanham St.
Lanham St.
Lanham St.
Lanham St.
Lanham St.
Lanham St.
Lanham St.
Lanham St.
Lanham St.
Laura Dr.
Laura Dr.
Lavaca Ave.
Lavaca Ave.
Lawson Ave.
Learmont Dr.
Leddy Dr.
Leddy Dr.
Leddy Dr.
Lee St.
Lee St.
Lee St.
Lehigh Dr.
Leisure Dr.
Leisure Dr.
Liddon Ave.
Liddon Ave.
Liddon Ave.
Lincoln St.
Lincoln St.
Lincoln St.
Lincoln St.
Lincoln St.
Lincoln St.

AT

Michigan Ave.
Missouri Ave.
Neely Ave.
Shell Ave.
Sinclair Ave.
Stanolind Ave.
Warwick Pl.
Washington Ave.
Sloan Field Blvd.
Mark Ln.
Indiana Ave.
Castleford Rd.
Polo Parkway
Cimmaron Ave.
Cuthbert Ave.
Fannin Ave.
Haynes Ave.
Kansas Ave.
Louisiana Ave.
Maxwell Dr.
Neely Ave.
Princeton Ave.
Shandon Ave.
Shell Ave.
Storey Ave.
Ward St.
Bentwood Dr.
Edgewood Dr.
Conroe St.
Spence Dr.
“H” St.
Chapel Hill Dr.
Cedar Spring Dr.
Harlowe Dr.
Mercedes Dr.
New York Ave.
South Ln.
Walnut Ln.
Norwood St.
Bentwood Dr.
Eisenhower Dr.
Bryant St.
Keith St.
Marienfeld St.
Indiana Ave.
New York Ave.
Oak Ave.
Orchard Ln.
Pecan Ave.
Pine Ave.

ON

Lindbergh Dr.
Lindbergh Dr.
Lindbergh Dr.
Lindora Way
Lindora Way
Livingston St.
Lockheed Dr.
Lockheed Dr.
Lockheed Dr.
Lockheed Dr.
Lockheed Dr.
Loma Dr.
Loma Dr.
Longview Ave.
Longview Ave.
Longview Ave.
Loop 250 E. Frontage Rd.
Loraine St.
Loraine St.
Loraine St.
Loraine St.
Loraine St.
Loraine St.
Loraine St.
Loraine St.
Loraine St.
Los Alamitos Dr.
Louisiana Ave.
Louisiana Ave.
Louisiana Ave.
Louisiana Ave.
Lynn Ave.
Lynn Ave.
McClintic St.
McClintic St.
McDonald Dr.
McDonald Dr.
McDonald Dr.
McDonald Dr.
McDonald Dr.
McDonald Dr.
McDonald Dr.
McDonald Dr.
McDonald Dr.
McDonald St.
McGarvey St.

AT

Banks Dr.
Windecker St.
Wright Dr.
Sinclair Ave.
Sunshine Pkwy.
Rio Grande Ave.
Boeing Dr.
Cessna Dr.
Lanham St.
Ward St.
Whitney Dr.
Neely Ave.
Pecan Ave.
Baird St. (eastbound)
Baird St. (westbound)
Terrell St. (eastbound)
Industrial Ave.
California Ave.
Cuthbert Ave.
Dakota Ave.
Gist Ave.
Hicks Ave.
Kansas Ave.
Louisiana Ave.
Michigan Ave.
New Jersey Ave.
Pennsylvania Ave.
Lancashire Rd.
Alpine St.
Delmar St.
Lamesa Rd.
Main St.
McDonald Dr.
Cottonwood Ave.
Tyler St.
Community Ave.
Neely Ave.
Bedford Ave.
Cedar Spring Dr.
Cimmaron Ave.
Cuthbert Ave.
Gulf Ave.
Neely Ave.
Ohio Ave.
Kansas Ave.
Shell Ave.
Spraberry Dr.
Tanner Dr.
Greenbriar Dr.
Kentucky Ave.

ON

McKenzie St.
McKenzie St.
“M” St.
“M” St.
“M” St.
“M” St.
“M” St.
“M” St.
Maberry St.
Maberry St.
Maberry St.
Maberry St.
Maberry St.
Madison St.
Madison St.
Madison St.
Madison St.
Magnolia Ave.
Magnolia Ave.
Main St.
Main St.
Main St.
Mann St.
Manor Ct.
Manor St.
Manor St.
Maple Ave.
Maple Ave.
Maple Ave.
Mariana Ave.
Mariana Ave.
Marienfeld St.
Marienfeld St.
Marienfeld St.
Marienfeld St.
Marienfeld St.
Marienfeld St.
Mark Ln.
Mark Ln.
Mark Ln.
Mark Ln.
Market St.
Market St.
Marmon Dr.
Marmon Dr.
Marshall St.
Marshall St.

AT

Carter Ave.
Francis Ave.
Holloway Ave.
Indiana Ave.
Louisiana Ave.
Michigan Ave.
Missouri Ave.
Washington Ave.
Country Club Dr.
Cuthbert Ave.
Kansas Ave.
Neely Ave.
Storey Ave.
Indiana Ave.
New York Ave.
South Ln.
Wall St.
Benton St.
Lincoln St.
Cuthbert Ave.
Gist Ave.
Golf Course Rd.
Kentucky Ave.
Douglas Dr.
Cuthbert Ave.
Douglas Dr.
Benton St.
Lincoln St.
Tyler St.
Michigan Ave.
Ohio Ave.
Carter Ave.
Cowden Ave.
Cuthbert Ave.
Louisiana Ave.
Michigan Ave.
Nobles Ave.
Ohio Ave.
Parker Ave.
Dengar Ave.
Neely Ave.
Sinclair Ave.
St. Andrews Dr.
Whittle Way
I-20 N. Frontage Rd.
Industrial Ave.
St.
Whitney Dr.
Gist Ave.
Hicks Ave.

ON

Marshall St.
Marshall St.
Mathis St.
Mathis St.
Mathis St.
Maxwell Dr.
Maxwell Dr.
Maxwell Dr.
Mayfield Pl.
Meadow Dr.
Meadow Dr.
Meadow Dr.
Meadow Dr.
Meadowbrook Dr.
Meadowlark Ln.
Meadowridge Dr.
Melville Dr.
Melville Dr.
Mercedes Dr.
Merrill Dr.
Mesquite Ln.
Mesquite Ln.
Metz Ct.
Metz Dr.
Metz Dr.
Michigan Ave.
Michigan Ave.
Michigan Ave.
Michigan Ave.
Michigan Ave.
Michigan Ave.
Michigan Ave.
Michigan Ave.
Midkiff Rd.
Midkiff Rd.
Midland Dr.
Mineola St.
Mineola St.
Mineola St.
Mineola St.
Mineola St.
Mineola St.
Mineola St.
Mission Ct.
Mississippi Ave.
Mississippi Ave.
Missouri Ave.
Missouri Ave.
Missouri Ave.
Missouri Ave.

AT

Indiana Ave.
Wall St.
Briarwood Ave.
Canadian Ave.
Spence Dr.
Lanham St.
Ward St.
Whitney Dr.
Mockingbird Ln.
Anetta Dr.
Comanche Dr.
Erie Dr.
Pasadena Dr.
Moss Ave.
Oriole Dr.
Skyline Dr.
Bluebird Ln.
Faulkner Dr.
Eisenhower Dr.
Norwood St.
Lee St.
Tyler St.
Ward St.
Ward St.
Whitney Dr.
Alpine St.
Delmar St.
Godfrey St.
Lamesa Rd.
Main St.
McDonald St.
Powell St.
Terrell St.
Bluebird Ln.
Mockingbird Ln.
U.S. 80 Service Rd.
Gist Ave.
Hicks Ave.
Indiana Ave.
Kentucky Ave.
New Jersey Ave.
New York Ave.
Wall St.
Godfrey St.
Baird St.
Dallas St.
Carver St.
“G” St.
Lee St.
Main St.

ON

Mitchell St.
Mockingbird Ln.
Mockingbird Ln.
Mockingbird Ln.
Mogford St.
Mogford St.
Mogford St.
Mogford St.
Mogford St.
Mogford St.
Mogford St.
Mogford St.
Mogford St.
Mogford St.
Mogford St.
Montgomery Ave.
Monty Dr.
Monty Dr.
Monty Dr.
Monty Dr.
Moran St.
Moran St.
Moran St.
Moran St.
Morgan Way
Moss Ave.
Moss Ave.
Mulberry Ln.
Murray St.
"N" St.
"N" St.
"N" St.
"N" St.
"N" St.
"N" St.
"N" St.
"N" St.
"N" St.
"N" St.
"N" St.
"N" St.
"N" St.
"N" St.
"N" St.
Neely Ave.
Neely Ave.
Neely Ave.
Neely Ave.
Neely Service Rd.

AT

Delano Ave.
"A" St.
Midkiff Rd.
Oriole Dr.
Cimmaron Ave.
Cuthbert Ave.
Dengar Ave.
Fannin Ave.
Kansas Ave.
Louisiana Ave.
Michigan Ave.
Neely Ave.
Princeton Ave.
Shandon Ave.
Storey Ave.
Main St.
Leddy Dr.
McDonald St.
Mercedes Dr.
Raymond Rd.
Carter Ave.
Dakota Ave.
Griffin Ave.
Industrial Ave.
Golf Course Rd.
Ward St.
Whitney Dr.
Madison St.
Princeton Ave.
Bedford Dr.
Brunson Ave.
College Ave.
Community Ln.
Cuthbert Ave.
Harvard Ave.
Holloway Ave.
Humble Ave.
Indiana Ave.
Louisiana Ave.
Michigan Ave.
Missouri Ave.
Neely Ave.
Seaboard Ave.
Sinclair Ave.
Washington Ave.
Godfrey St.
Tarleton St.
Whittle Way
Wydewood Dr.
Cumberland Dr.

ON

Neely Service Rd.
Neely Service Rd.
New Jersey Ave.
New Jersey Ave.
New Jersey Ave.
New Jersey Ave.
New Jersey Ave.
New Jersey Ave.
New York Ave.
New York Ave.
New York Ave.
New York Ave.
New York Ave.
Nobles Ave.
Nobles Ave.
Nobles Ave.
Nobles Ave.
Noel Ave.
Norman
Normandy Ln.
North Service Rd.
Northcrest Dr.
Northfield Ct.
Northfield Dr.
Northfield Dr.
Northgate Ave.
Northgate Ave.
Northrup Dr.
Northrup Dr.
Northrup Dr.
Northtown Pl.
Norwood St.
Norwood St.
"O" St.
Oak Ave.
Oak Ave.
Oak Valley Dr.
Oak Valley Dr.
Oak Valley Dr.
Oaklawn Dr.
Oaklawn Dr.
Oakmont Dr.
Ohio Ave.
Ohio Ave.
Ohio Ave.
Ohio Ave.
Ohio Ave.
Ohio Ave.
Ohio Ave.
Ohio Ave.

AT

"D" St.
Oaklawn Dr.
Camp St.
Johnston St.
Main St.
Marshall St.
McKenzie St.
Terrell St.
Carver St.
Industrial Ave.
Main St.
Marienfeld St.
Tilden St.
Carver St.
Edwards St.
Main St.
Pecos St.
Ward St.
Bankhead Hwy.
Polo Pkwy.
Windecker St.
Hilltop Dr.
Godfrey St.
Godfrey St.
Skyline Dr.
Briarwood Ave.
Northcrest Dr.
Neely Ave.
Princeton Dr.
Sentinel Dr.
Whitney Dr.
Lehigh Dr.
St. Andrews Dr.
Missouri Ave.
Butternut Ln.
Main St.
Greathouse Ave.
Oriole St.
Spence Dr.
Neely Ave.
Ventura Ave.
Tremont Ave.
Alpine St.
Baird St.
"C" St.
"D" St.
Delmar St.
"F" St.
Fort Worth St.
"G" St.

ON

Ohio Ave.
Ohio Ave.
Ohio Ave.
Ohio Ave.
Ohio Ave.
Ohio Ave.
Ohio Ave.
Ohio Ave.
Orchard Ln.
Orchard Ln.
Oriental Ave.
Oriole Dr.
Oriole Dr.
Oriole Dr.
Osage St.
Pacific Ave.
Pacific Ave.
Pagewood Dr.
Palmer Dr.
Park Ln.
Parker Ave.
Parker Ave.
Parkwood Dr.
Pasadena Dr.
Pasadena Dr.
Peach St.
Pecan Ave.
Pecan Ave.
Pecan Ave.
Pecan Ave.
Pecan Ave.
Pecan Ave.
Peck Ave.
Peck Ave.
Pecos St.
Pecos St.
Pecos St.
Pecos St.
Pecos St.
Pecos St.
Pecos St.
Pecos St.
Pecos St.
Pecos St.
Pecos St.
Pecos St.
Pecos St.
Pennsylvania Ave.
Pennsylvania Ave.
Pennsylvania Ave.

AT

Godfrey St.
“L” St.
Main St.
Marienfeld St.
Mineola St.
“N” St.
Powell St.
Weatherford St.
Carver St.
Lee St.
Ventnor Ave.
Mockingbird Ln.
Tanforan Ave.
Teakwood Trc.
Spruce Ave.
Boardwalk
Carver St.
Prairie Ridge Dr.
Nicklaus St.
Holly Dr.
Carver St.
Main St.
Brownwood Dr.
Eisenhower Dr.
Spraberry Dr.
Kessler Ave.
Cumberland Dr.
“D” St.
“I” St.
“L” St.
Main St.
Oaklawn Dr.
Baird St. (westbound)
Terrell St. (eastbound)
Boyd Ave.
Cuthbert Ave.
Dormard Ave.
Indiana Ave.
Industrial Ave.
Louisiana Ave.
Michigan Ave.
Missouri Ave.
Neely Ave.
Ohio Ave.
Spruce Ave.
Storey Ave.
Tennessee Ave.
Carver St.
Lamesa Rd.
Main St.

ON

Pennsylvania Ave.
Pennsylvania Ave.
Pennsylvania Ave.
Peterson St.
Peterson St.
Pilot Ave.
Pilot Ave.
Pine Ave.
Pine Ave.
Pine Ave. (westbound only)
Pine Ave.
Pine Ave.
Pine Ave.
Pine Ave.
Pine Ave.
Pinemont Dr.
Plaza St.
Pleasant Dr.
Pleasant Dr.
Pleasant Dr.
Pliska Dr.
Polo Club Dr.
Polo Club Dr.
Polo Parkway
Powell St.
Powell St.
Powell St. (northern most intersection only)
Prairie Ridge Dr.
Pratt St.
Pratt St.
Preston Dr.
Preston Dr.
Preston Dr.
Preston Dr.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.

AT

Marienfeld St.
Tilden St.
Tyler St.
Oak Ave.
Pecan Ave.
La Force Blvd.
Wright Dr.
Cumberland Dr.
"I" St.
"L" St.
Loma Dr.
Main St.
Neely Ave.
Oaklawn Dr.
Pecos St.
Tremont Ave.
E. Circle Dr.
Bentwood Dr.
Eisenhower Dr.
Raymond Rd.
North Service Rd.
Bluebird Ln.
Polo Pkwy.
Lancashire Dr.
Kansas Ave.
Louisiana Ave.
Mariana Ave.
Jadewood Dr.
Carter Ave.
Francis Ave.
Aspen Dr.
Sunburst Dr.
Whittle Way
Wydewood Dr.
Alpine St.
Boeing Dr.
"D" St.
Delmar St.
"G" St
Godfrey St.
Idlewilde Dr.
"J" St.
"L" St.
Maberry St.
McDonald St.
"N" St.
Tarleton St.
Ward St.
Whitney Dr.
Woodcrest Dr.

ON

Quicksand Dr.
Quicksand Dr.
Racquet Club Dr.
Racquet Club Dr.
Radcliff Ct.
Rainbow Rd.
Raymond Rd.
Raymond Rd. (southernmost intersection)
Redwood Run
Rees Ln.
Rees Ln.
Reeves Cir.
Rhode Island Ave.
Rhode Island Ave.
Ric Dr.
Ric Dr.
Ric Dr.
Ric Dr.
Ridgemont Pl.
Ridgemont Ct.
Ridglea Dr.
Ridglea Dr.
Rio Grande Dr.
Rio Grande Dr.
Riverside Dr.
Riverside Dr.
Robin Ln.
Rochester St.
Rockwood Dr.
Roosevelt Ave.
Roosevelt Ave.
Roosevelt Dr.
Roosevelt Dr.
Roosevelt Dr.
Roosevelt Dr.
Rosemont Dr.
Rosewood Dr.
Rosewood Dr.
Rosewood Dr.
Ruby Rd.
Ruidoso Ct.
Russell Dr.
Rustic Trail

Sage St.
Sagemont Dr.
San Angelo St.
San Angelo St.
San Angelo St.
San Antonio Ave.

AT

Mathis St.
Spence Dr.
Cimmaron Dr.
Neely Ave.
Greenbriar Dr.
Idlewilde Dr.
Anetta Dr.
Canyon Dr.
Teakwood Trc.
Dengar Ave.
Neely Ave.
Anetta Dr.
Colorado St.
Johnston St.
Bentwood Dr.
Edgewood Dr.
Stoneybrook Dr.
Storey Ave.
Hereford Blvd.
Heritage Blvd.
Cuthbert Ave.
Nobles Ave.
Amistad Dr.
Conroe St.
Hilltop Dr.
Oak Valley Dr.
Oriole Dr.
Bankhead Hwy.
Tanforan Ave./Ct.
Mitchell St.
Powell St.
Crestview Rd.
Leddy Dr.
McDonald Dr.
Raymond Rd.
Tremont Ave.
Lemonwood Dr.
Northcrest Dr.
Oriole Dr.
Raymond Rd.
Mark Ln.
Norwood St.
Greentree Blvd. (at east and west intersections)
Hollandale Dr.
Tremont Ave.
Louisiana Ave.
Michigan Ave.
Tennessee Ave.
Amistad Dr.

ON

Scharbauer Dr.
Seaboard Ave.
Seaboard Ave.
Seaboard Ave.
Seaboard Ave.
Seaboard Ave.
Seaboard Ave.
Seaboard Ave.
Seaboard Ave.
Secor St.
Seminole Dr.
Sentinel Dr.
Sentinel Dr.
Sentinel Dr.
Sequoia St.
Shadylane Dr.
Shadyview Pl.
Shandon Ave.
Shandon Ave.
Shandon Ave.
Shandon Ave.
Shandon Ave.
Shandon Ave.
Shandon Ave.
Shandon Ave.
Shell Ave.
Shell Ave.
Shell Ave.
Shell Ave.
Shell Ave.

Shell Ave.
Shell Ave.
Shirley Ln.
Shirley Ln.
Shirley Ln.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Skyline Dr.

AT

Main St.
Godfrey St.
“H” St.
“I” St.
“L” St.
Lanham St.
Mogford St.
“N” St.
Tarleton St.
Whitney Dr.
Ohio Ave.
Eisenhower Dr.
Maberry St.
Murray St.
Whitney Dr.
Green Tree Blvd.
Bentwood Dr.
Tanforan Ave.
Cimmaron Ave.
Godfrey St.
Lanham St.
Loma Dr.
Main St.
Mogford St.
Tarleton St.
Ward St.
Whitney Dr.
Godfrey St.
“I” St.
“L” St.
“N” St.
McDonald St. (westernmost intersection)
Tarleton St.
Upland St.
“D” St.
Oaklawn Dr.
Cumberland Dr.
Culver Dr.
Godfrey St.
Hughes St.
Huntington St.
Lanham St.
Lindora Way
“N” St.
Northrup Drive
Tarleton St.
Ward St.
Wydewood Dr.
Haynes Ave.

ON

Skyline Dr.
Smith Rd. (both intersections)
Soloman Ln.
Solomon Ln.
South St.
South St.
Sparks St.
Spartan Dr.
Spartan Dr.
Spence Dr.
Spence Dr.
Spence Dr.
Spraberry Dr.
Spraberry Dr.
Spraberry Dr.
Spraberry Dr.
Springfield Ct.
Spring Meadow Ln.
Spring Meadow Ln.
Spruce Ave.
Spruce Ave.
Spruce Ave.
Spruce Ave.
Spur Dr.
St. Andrews Ct.
St. Andrews Dr.
St. Andrews Dr.
St. Andrews Dr.
Stanolind Ave.
Stanolind Ave.
Stanolind Ave.
Stanolind Ave.
Stanolind Ave.
Stanolind Ave.
Stanolind Ave.
Stanolind Ave.
Stanolind Ave.
Stanolind Ave.
Stanolind Ave.
Stanolind Ave.
Sterling Pl.
Sterling Ct.
Stewart Ave.
Stillmeadow Dr.
Stokes Ave.
Stokes Ave.
Stonecrest
Stonecrest
Stoneleigh Rd.

AT

Northfield Dr.
Desta Dr.
“A” St.
Lamesa Rd.
Carver St.
Lamesa Rd.
Princeton Ave.
Fannin Ave.
Neely Ave.
Canadian Ave.
Hilltop Dr.
Rio Grande Ave.
Anetta Dr.
Canyon/Devonian Dr.
Pleasant Dr.
Raymond Rd.
Greenbriar Dr.
Meadowpark Dr.
Pine Meadow Dr.
Loma Dr.
Main St.
Neely Ave.
Pecos St.
I-20 N. Frontage Rd.
Godfrey St.
Godfrey St.
Mark Ln.
Norwood St.
“D” St.
Godfrey St.
“H” St.
“I” St.
“L” St.
Lanham St.
Mark Ln.
McDonald Dr.
Mogford St.
Tarleton St.
Wedgewood St.
Western Dr.
Whitney Dr.
Crowley Blvd.
Heritage Blvd.
Tarleton St.
Fargo Ave.
Baird St. (westbound)
Terrell St. (eastbound)
Hereford Blvd.
Windrift
Lancashire Rd.

ON

Stonewall St.
Stonewall St.
Stoneybrook Dr.
Stoneybrook Dr.
Storey Ave.
Storey Ave.
Storey Ave.
Storey Ave.
Storey Ave.
Storey Ave.
Storey St.
Storey Ave.
Storey Ave.
Storey Ave.
Storey Ave.
Storey Ave.
Storey Ave.
Storey Ave.
Stutz Ct.
Stutz Dr.
Stutz Dr.
Summit Ave.
Summit Ave.
Sunburst Dr.
Sunburst Dr.
Suncrest Ave.
Sundance Pl.
Sundance Ct.
Sunnyside Dr.
Sunset Blvd.
Sunset Blvd.
Sunshine Pkwy.
Sunshine Pkwy.
Sweetbriar Dr.
Sycamore Ave.
Tanforan Ave.
Tanforan Ave.
Tanner Dr.
Tanner Dr.
Tanner Dr.
Tanner Dr.
Tarleton St.
Tarleton St.
Tarleton St.
Taylor Ave.
Taylor Ave.
Taylor Ave.
Taylor Ave.
Teakwood Tr.
Tejas

AT

Indiana Ave.
New York Ave.
Ric Dr.
Shadylane Dr.
"B" St.
Bentwood Dr.
"D" St.
Edgewood Dr.
"F" St.
"G" St.
Godfrey St.
Lanham St.
Maberry St.
Marienfeld St.
McDonald St.
Powell St.
Stoneybrook Dr.
Ward St.
Ward St.
Ward St.
Whitney Dr.
Baird St. (westbound)
Terrell St. (eastbound)
Preston Dr.
Sunshine Pkwy.
Dengar Ave.
Crowley Blvd.
Heritage Blvd.
Stonybrook Dr.
Michigan Ave.
Ohio Ave.
Idlewilde Dr.
Wydewood Dr.
Ric Dr.
Holly Dr.
Oriole Dr.
Widener Strip
Devonian Dr.
Leddly Dr.
McDonald St.
Raymond Rd.
Cuthbert Ave.
Neely Ave.
Shandon Ave.
Main St.
Marshall St.
Mineola St.
Terrell St.
Oriole Dr.
Shawnee

ON

Telluride Dr./Ct.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Tennessee Ave.
Terrace Ave.
Terrace Ave.
Terrell St.
Terrell St.
Terrell St.
Terrell St.
Terrell St.
Terrell St.
Terrell St.
Terrell St.
Texas Ave.
Texas Ave.
Thames Ct.
Thomas Ave.
Thomas Ave.
Tilden St.
Tilden St.
Tilden St.
Timberglen Pl./Cir.
Travis Ave.
Travis Ave.
Travis Ave.
Tremont Ave.
Tremont Ave.
Tremont Ave.
Tremont Ave.
Tremont Ave.
Trinity Dr.
Trinity Ct.
Trinity Meadows Dr.
Trinity Meadows Pl.
Truman St.
Truman St.

AT

Durango Dr.
Baird St.
"C" St.
Colorado St.
"D" St.
E. Broadway St.
"F" St.
Fort Worth St.
"G" St.
Loraine St.
"L" St.
"M" St.
Main St.
Marienfeld St.
"N" St.
Terrell St.
W. Broadway
Neely Ave.
Ward St.
Cuthbert Ave.
Gist Ave.
Golf Course Rd.
Hicks Ave.
Illinois Ave.
Louisiana Ave.
Parker Ave.
Taylor Ave.
Carver St.
Lee St.
Lancashire Rd.
Crestview Rd.
Raymond Rd.
Golf Course Rd.
Indiana Ave.
Orchard Ln.
Valwood Dr.
Crestview Rd.
Holly Dr.
Waverly Dr.
Dentcrest Dr.
Edgemont Dr.
Mark Ln.
Sagemont Dr.
Whittle Way
Godfrey St.
Greenbriar Dr.
Skyline Dr.
Skyline Dr.
Delano Ave.
Franklin Ave.

ON

Truman St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
U.S. 80 Service Rd.
U.S. 80 Service Rd.
U.S. 80 Service Rd.
Upland St.
Upland St.
Upland St.
Upland St.
Upland St.
Upland St.
Upland St.
Upland St.
Valley Dr.
Valwood Dr.
Ventnor Ave.
Ventnor Ave.
Ventura Ave.
Ventura Ave.
Vermont Ave.
Versailles Dr.
Versailles Dr.
Versailles Dr.
Versailles Dr.
Virginia Ave.
Vista West Pkwy.
Vista West Pkwy.
W. Broadway St.
W. Broadway St.
W. Broadway St.
W. Broadway St.
W. Circle Dr.
W. Industrial Loop
Walcott Ave.
Wall St.
Wall St.
Walnut Ln.
Ward St.
Ward St.
Ward St.

AT

Mariana Ave.
Cuthbert Ave.
Garden Ln.
Golf Course Rd.
Hamby Ave.
Illinois Ave.
Indiana Ave.
Oak Ave.
Orchard Ln.
Pine Ave.
South Ln.
Wall St.
County Rd. 1162
Elkins Rd.
Todd Rd.
Baumann Ave.
Bedford Ave.
Cuthbert Ave.
Kansas Ave.
Louisiana Ave.
Michigan Ave.
Ohio Ave.
Princeton Ave.
Haynes Ave.
Tanforan Ave.
Boardwalk
Carver St.
"I" St.
"L" St.
Pacific Ave.
Burchill Dr.
Devonian Dr.
Eisenhower Dr.
Meadow Dr.
Pacific Ave.
Bluebird Ln.
Caldera Blvd.
Cuthbert Ave.
Harvard Ave.
Louisiana Ave.
Michigan Ave.
Delano Ave.
Industrial Ave.
Main St.
Carver St.
Lee St.
Carver St.
Auburn Dr.
Cuthbert Ave.
Fannin Ave.

ON

Ward St.
Ward St.
Ward St.
Ward St.
Ward St.
Ward St.
Ward St.
Warehouse Rd.
Washington Ave.
Washington Ave.
Washington Ave.
Washington Ave.
Washington Ave.
Washington Ave.
Washington Ave.
Washington Ave.
Washington Ave.
Washington Ave.
Watson St.
Watson St.
Waverly Dr.
Waverly Dr.
Weatherford St.
Weatherford St.
Weatherford St.
Weatherford St.
Weatherford St.
Weatherford St.
Weatherford St.
Weatherford St.
Weatherford St.
Weatherford St.
Webster St.
Webster St.
Wedgewood Ct.
Wedgewood St.
Wedgewood St.
Wedgewood St.
Wedgewood St.
Western Dr.
Western Dr.
Western Dr.
Westminster Dr.
Westview Dr.
Whitaker St.
Whitaker St.
Whitman Dr.
Whitney Dr.

AT

Haynes Ave.
Haynes Dr.
Louisiana Ave.
Michigan Ave.
Neely Ave.
Princeton Ave.
Sentinel Dr.
Industrial Ave.
"B" St.
"C" St.
Carver St.
"D" St.
"G" St.
"L" St.
Lee St.
Main St.
"N" St.
Pecos St.
Tilden St.
Cuthbert Ave.
Pecos St.
Anetta Dr.
Raymond Rd.
Cuthbert Ave.
Golf Course Rd.
Hicks Ave.
Indiana Ave.
Kentucky Ave.
Louisiana Ave.
Michigan Ave.
Mississippi Ave.
New Jersey Ave.
New York Ave.
Taylor Ave.
Indiana Ave.
New York Ave.
Godfrey St.
Godfrey St.
Humble Ave.
Neely Ave.
Shell Ave.
Golf Course Rd.
Neely Ave.
Stanolind Ave.
Norwood St.
Bluebird Ln. (northbound)
Cuthbert Ave.
Kansas Ave.
Bluebird Ln.
Haynes Dr.

ON

Whitney Dr.
Whitney Dr.
Whitney Dr.
Whittle Way
Whittle Way
Whittle Way
Willingham Dr.
Wilshire Dr.
Wilshire Dr.
Wilshire Dr.
Wimberley Spring Ct.
Windecker St.
Windecker St.
Windecker St.
Windridge Cr.
Windrift
Winfield Rd.
Winfield Rd.
Winfield Rd.
Wolcott Ave.
Wolcott Ave.
Wolcott Ave.
Wood Dr.
Wood Dr.
Woodbar Ct.
Woodcrest Dr.
Woodcrest Dr.
Woodcrest Dr.
Woodhaven Ct.
Woodhaven Dr.
Woodhollow Dr.
Woodhollow Dr.
Woodhollow Dr.
Woodhollow Dr.
Woodland Park Ave.
Woodland Park Ave.
Woodland Park Ave.
Wright Dr.
Wydewood Dr.
Wydewood Dr.
Wydewood Dr.
Wydewood Dr.

AT

Maxwell Dr.
Moss Ave.
Neely Ave.
Preston Dr.
Sunshine Pkwy.
Tremont Ave.
McDonald St.
Eisenhower Dr.
Graceland Dr.
Parkdale Dr.
Spence Dr.
La Force Blvd.
Sloan Field Blvd.
Wright Dr.
Mockingbird Ln. (both intesections)
Crowley Blvd.
Humble Ave.
“I” St.
“L” St.
Baird St.
Terrell St. (eastbound)
Main St.
Oriole Dr.
Valwood Dr.
Northcrest Dr.
Cuthbert Ave.
Princeton Ave.
Ric Dr.
Skyline Dr.
Skyline Dr.
Hilltop Dr. / Lemonwood Dr.
Mathis St.
Northcrest Dr.
Oriole Dr.
“A” St.
Breckenridge Dr.
Gunnison Dr.
Sloan Field Blvd.
Dengar Dr.
Everglade Ave.
Neely Ave.
Sinclair Ave.

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 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 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., 2011; 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., 2011, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2011.

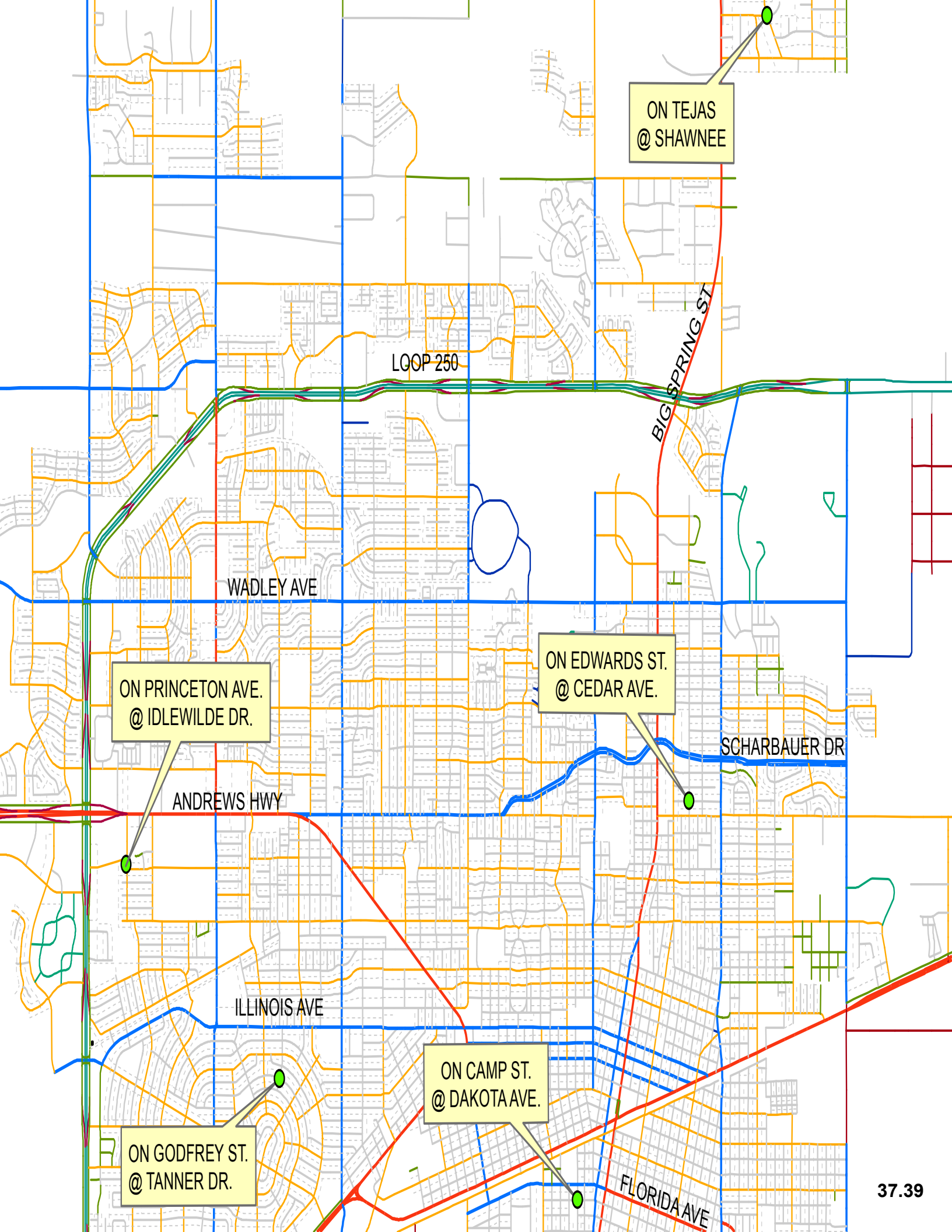
W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



ON TEJAS
@ SHAWNEE

LOOP 250

BIG SPRING ST

WADLEY AVE

ON PRINCETON AVE.
@ IDLEWILDE DR.

ON EDWARDS ST.
@ CEDAR AVE.

SCHARBAUER DR

ANDREWS HWY

ILLINOIS AVE

ON GODFREY ST.
@ TANNER DR.

ON CAMP ST.
@ DAKOTA AVE.

FLORIDA AVE



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 8, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Gary Saunders, Transportation Manager

SUBJECT: Ordinance – Yield Signs

Purpose:

To approve an ordinance authorizing the removal of yield signs at various intersections throughout the City of Midland.

Recommended City Council Action:

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

Approximately \$125 labor cost for removal of yield signs at each intersection.

Discussion:

The Legal Department has prepared an ordinance establishing the removal of yield signs at various intersections within the City of Midland. Stop signs are recommended for installation at each intersection and are therefore listed in the proposed stop sign ordinance. The proposed intersections for removal of the yield signs are as follows:

On Camp Drive at Dakota Avenue for north/south traffic.

On Edwards Street at Cedar Avenue for north/south traffic.

On Godfrey Street at Tanner Drive for north/south traffic.

On Princeton Avenue at Idlewilde Drive for east/west traffic.

On Tejas at Shawnee for east/west traffic.

Attached is a map indicating the location of each intersection.

Staff recommend approval of this ordinance.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Gary Saunders, Transportation Manager

SUBJECT: Ordinance – Yield Signs

Purpose:

To approve an ordinance on second reading authorizing the removal of yield signs at various intersections within the City of Midland.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

No additional funds will be necessary in association with this ordinance.

Discussion:

The Legal Department has prepared an ordinance to be considered on second reading authorizing the removal of yield signs at various intersections within the City of Midland. Stop signs are recommended for installation at each intersection and are therefore listed in a separate proposed stop sign ordinance. The intersections for proposed removal of the yield signs are as follows:

On Camp Drive at Dakota Avenue for north/south traffic.

On Edwards Street at Cedar Avenue for north/south traffic.

On Godfrey Street at Tanner Drive for north/south traffic.

On Princeton Avenue at Idlewilde Drive for east/west traffic.

On Tejas at Shawnee for east/west traffic.

Attached is a map indicating the location of each intersection.

Staff recommends approval of this ordinance.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING YIELD RIGHT OF WAY SIGNS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; REQUIRING AND AUTHORIZING THE POSTING OF APPROPRIATE SIGNS AT SAID 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 requires that operators of motor vehicles traveling along said streets yield the right of way to other oncoming vehicles before entering said intersections; and

WHEREAS, the Council finds it to be in the public interest to authorize and require the establishment of yield right of way 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 yield right of way signs, yield right of way 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, Texas, shall obey such yield right of way signs. All streets located in the column under the word “On” are the streets on which yield right of way 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

Abbey Pl.
Aberdeen Dr.
Aberdeen Dr.
Acklen Dr.
Adams St.

AT

Everglade Ave.
Cedar Springs Dr.
Ruby Dr.
Roosevelt Dr.
Garden Ln.

ON

Adams St.
Adams St.
Adams St.
Adams St.
Adams St.
Alcove Ct.
Alice St.
Alice St.
Allen St.
Allen St.
Amelia Dr.
Amelia Dr.
Amigo Dr.
Amigo Dr.
Andrews Hwy. Frontage
Angelina Drive
Arrowhead Trail
Arroyo Dr.
Aspen Dr.
Atlanta St.
Atlanta St.
Auburn Pl.
Austin St.
Austin St.
Avondale Dr.
Azalea Dr.
"B" St.
Baird St.
Baird St.
Baldwin St.
Baldwin St.
Baldwin St.
Barber St.
Barber St.
Barber St.
Barber St.
Barber St.
Barber St.
Barber St.
Baumann Ave.
Baumann Ave.
Baumann Ave.
Beckley Dr.
Beckley Dr.
Bedford Dr.
Bedford Dr.
Bedford Dr.
Bedford Dr.
Bedford Dr.
Belmont St.

AT

Illinois Ave.
Kentucky Ave.
New York Ave.
Walnut Ln.
Washington Ave.
Douglas St.
Kessler Ave.
Mariana Ave.
New Jersey Ave.
Taylor Ave.
Anetta Dr.
Fairmont Dr.
Goliad Dr.
Storey Ave.
McDonald Ave.
Lehigh Drive
Vista West Pkwy
Northfield Dr.
Dentcrest Dr.
California Ave.
New York Ave.
Lanham St.
Baumann Ave.
Kansas Ave.
Leddly Dr.
Rosewood Dr.
Tennessee Ave.
Griffin Ave.
Washington Ave.
College Ave.
Indiana Ave.
Washington Ave.
Cedar Ave.
Hickory Ave.
Maple Ave.
Oak Ave.
Pecan Ave.
Pine Ave.
Spruce Ave.
Godfrey St.
Kansas Ave.
McDonald St.
Cedar Spring Dr.
Sprayberry Dr.
"B" St.
"D" St.
Ward St.
W. Broadway St.
Woodcrest Dr.
Collins Ave.

ON

Belmont St.
Belmont St.
Belmont St.
Belmont St.
Belmont St.
Belton Pl.
Benton St.
Benton St.
Benton St.
Blakemore Ct.
Bonham St.
Bonham St.
Boyd Ave.
Boyd Ave.
Boyd Ave.
Boyd Ave.
Boyd Ave.
Boyd Ave.
Boulder Dr.
Brazos Ave.
Brazos Ave.
Brazos Ct.
Briarpath Dr.
Brookdale Dr.
Brunson Ave.
Brunson Ave.
Bryant St.
Bryant St.
Bryant St.
Bryant St.
Bryant St.
Buchanan Pl.
Bunch St.
Burchill Dr.
Burchill Dr.
Burchill Dr.
Burchill Dr.
Burleson St.
Burleson St.
Butternut Ln.
“C” St. (southbound traffic)
“C” St.
“C” St. (northbound traffic)
Caldera Dr.
Calhoun St.
Calhoun St.
Calhoun St.
Calhoun St.
Calhoun St.,
California Ave.

AT

Longview Ave.
Rhode Island Ave.
Stokes Ave.
Summit Ave.
Wolcott Ave.
Concho Dr.
California Ave.
Morgan Way
Pine Ave.
Northfield Dr.
Kansas Ave.
Willingham Dr.
“C” St.
“D” St.
Cessna Dr.
McDonald St.
Sparks St.
Upland St.
Arroyo Dr.
Conroe St.
Spence Dr.
Conroe St.
Rosewood Dr.
Bentwood Dr.
“L” St.
Mann St.
Eugene Ave.
George Ave.
Hamby Ave.
Hart Ave.
Jax Ave.
Rio Grande Ave.
California Ave.
Brookdale Dr.
Comanche Dr.
Pleasant Dr.
Wilshire Dr.
College Ave.
Holloway Ave.
Pecan Ave.
College Ave.
Douglas Ave.
Indiana Ave.
Melvill Dr.
California Ave.
Kentucky Ave.
Orchard Ln.
Pennsylvania Ave.
Washington Ave.
Dallas St.

ON

California Ave.
California Ave.
Camp St.
Camp St.
Camp St.
Camp St.
Canadian Ave.
Candle Tree Cove
Canemont Dr.
Canterbury Dr.
Carlton St.
Carlton St.
Carlton St.
Carlton St.
Cascade Ct.
Casper Ct.
Castleford Rd.
Castleford Rd.
Centerview
Centerview
Century Dr.
Cessna Dr.
Chapel Hill Dr.
Cherrywood Dr.
Chickasaw
Choate Pl.
Cimmaron Ave.
Cimmaron Ave.
Claremont Dr.
Clark St.
Clark St.
Clay St.
Clay St.
Club Dr.
College Ave.
College Ave.
College Ave.
Collins Ave.
Collins St.
Collins St.
Collins St.
Colorado St.
Colorado St.
Colorado St.
Columbian Dr.
Columbian Dr.
Columbian Dr.
Community Ln.
Compton Dr.
Concho Dr.

AT

Jackson St.
Weatherford St.
Collins Ave.
Francis Ave.
Marlin St.
New Jersey Ave.
Spence Dr.
Melville Dr.
Clairmont Dr.
Kensington Ln.
Brunson Ave.
College Ave.
Holloway Ave.
Washington Ave.
Douglas St.
Trevino St.
Chapel Hill Dr.
Lancashire Rd.
Greenridge
Windrift
Comanche Dr.
Shell Ave.
Faulkner Dr.
Briarpath Dr.
Pueblo Rd.
Trinity Dr.
Godfrey St.
Rees Ln.
Mark Ln.
Franklin Ave.
Washington Ave.
California Ave.
Orchard Ln.
Crest Dr.
Clark St.
"G" St.
Indiana Ave.
Johnston St.
McKenzie St.
New Jersey St.
Pratt St.
Collins Ave.
Taylor Ave.
Washington Ave.
Canyon Dr.
Howard Dr.
Waverly Dr.
"D" St.
Lehigh Dr.
Mathis St.

ON

Concho Dr.
Connell St.
Connell St.
Connell St.
Connell St.
Connell St.
Conroe St.
Copus St.
Cord Dr.
Cottonwood Ave.
Cottonwood Ave.
Country Club Dr.
Country Club Dr.
Cowden Ave.
Crenshaw Dr.
Crescent Dr.
Crest Dr.
Culver Dr.
Cunningham Dr.
Cunningham Dr.
Cuthbert Ave.
“D” St.
Dakota Ave.
Dakota Ave.
Dakota Ave.
Dakota Ave.
Dakota Ave.
Dakota Ave.
Dallas St.
Dallas St.
Dallas St.
Dallas St.
Dallas St.
Dallas St.
Dallas St.
Dartmouth Dr.
Debbie Cove
Dellwood St.
Dellwood St.
Dengar Ave.
Dengar Ave.
Dentcrest Dr.
Denton St.
Devonshire Ct.
Dewberry Dr.
Donald St.
Donald St.
Donald St.
Douglas Ave.
Douglas Dr.

AT

Spence Dr.
Collins Ave.
Dakota Ave.
Griffin Ave.
New Jersey Ave.
Taylor Ave.
Canadian Ave.
Pecan Ave.
Apperson Dr.
Barber St.
Edwards St.
“B” St.
Woodcrest Dr.
Jackson St.
Palmer Dr.
Dewberry Dr.
Ridglea Dr.
Fannin Ave.
Canyon Dr.
Waverly Dr.
Jackson St.
Indiana Ave.
Baird St.
Dallas St.
Fort Worth St.
Jefferson St.
Mineola St.
Terrell St.
Hamby Ave.
Indiana Ave.
Kansas Ave.
Kentucky Ave.
Michigan Ave.
Pennsylvania Ave.
Washington Ave.
Culpepper Dr.
Fredna Pl.
Baumann Ave.
Kansas Ave.
Mark Ln.
Neely Ave.
Wydewood Dr.
Bedford Ave.
Richmond Dr.
Leisure Dr.
Illinois Ave.
Wall St.
Willey Ave.
Austin St.
Cessna Dr.

ON

Douglas Dr.
Douglas Dr.
Douglas Dr.
Downing Ave.
Dukes Dr.
Dunbar St.
E. Broadway St.
Eastwood Dr.
Edgewood Dr.
Edwards St.
Edwards St.
Edwards St.
Eisenhower Dr.
Elizabeth Ave.
Elizabeth Ave.
Elizabeth Ave.
Elizabeth Ave.
Elizabeth Ave.
Elk Ave.
Elm Ave.
Elm Ave.
Emerson Ct.
Emerson Dr.
Emerson Pl.
Erie Dr.
Erie Dr.
Estes Ave.
Estes Ave.
Estes Ave.
Eugene Ave.
Everglade Ave.
Everglade Ave.
"F" St.
Fairmont Dr.
Fairmont Dr.
Fairview Ln.
Falcon Pl.
Fannin Ave.
Fieldcrest Ln.
Fields Place
Fiesta Ave.
Flair Ct.
Floyd Ct.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Fort Worth St.
Francis Ave.
Francis Ave.
Francis Ave.

AT

Culver Dr.
Delmar St.
Upland St.
Stratton Dr.
Polo Parkway
Willingham Dr.
Storey Ave.
Storey Ave.
Glenwood Dr.
Oak Ave.
Pecan Ave.
Shandon Ave.
Comanche Dr.
Baldwin St.
Carlton St.
Clark St.
Key St.
Mann St.
"B" St.
Barber St.
Edwards St.
Lanham St.
Lanham St.
Whitney Dr.
Devonian Dr.
Graceland Dr.
Colorado St.
Dallas St.
Jackson St.
Marienfeld St.
Lindora Way
Wydewood Dr.
Indiana Ave.
Anetta Dr.
Waverly Dr.
Keswick Rd.
Concho Dr.
Rees Ln.
Woodhaven Dr.
Keswick Rd.
Edwards St.
Lanham St.
Trevino St.
California Ave.
Kentucky Ave.
Pennsylvania Ave.
Washington Ave.
Baird St.
Belmont St.
Colorado St.

ON

Franklin Ave.
Franklin Ave.
Franklin Ave.
“G” St.
Garden Ln.
Garden Ln.
Garden Ln.
Gaston Dr.
George Ave.
Geraldine St.
Glenwood Dr.
Goddard Ct.
Goddard Dr.
Goddard Pl.
Godfrey St.
Goliad Dr.
Gossett St.
Griffin Ave.
Griffin Ave.
Griffin Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
Gulf Ave.
“H” St.
“H” St.
“H” St.
Hamby Ave.
Hamby Ave.
Hamby Ave.
Harlowe Dr.
Harlowe Dr.
Harmony Dr.
Harmony Dr.
Harvard Ave.
Harvard Ave.
Hickory Ave.
Hicks Ave.
Hicks Ave.
Hicks Ave.
Hicks Ave.
Highsky Dr.
Hill Ave.
Hogan Ct.
Holloway Ave.
Houston Ave.
Houston Ave.
Hoya Dr.
Hudson Ave.
Hughes St.

AT

Crestview Rd.
Kelly St.
Powell St.
Industrial Ave.
Dallas St.
Fort Worth St.
Terrell St.
Godfrey St.
Pecos St.
Gulf Ave.
Leisure Dr.
Lanham St.
Lanham St.
Meadowbrook Dr.
Avondale Dr.
Ric Dr.
Indiana Ave.
Colorado St.
Fort Worth St.
Terrell St.
“D” St.
Hughes St.
Huntington St.
Mogford St.
Bedford Dr.
Tennessee Ave.
Washington Ave.
Edwards St.
Ft. Worth St.
Jackson St.
Mercedes Dr.
Monty Dr.
Baumann Ave.
Kansas Ave.
Cessna Dr.
Woodcrest Dr.
Edwards St.
Camp St.
Jefferson St.
Johnston St.
Moran St.
Hyde Park Ave.
Crestview Rd.
Trevino St.
Clark St.
Lee St.
Madison St.
Rainbow Rd.
Pecan Ave.
Fannin Ave.

ON

Humble Ave.
Humble Ave.
Humble Ave.
Humble Ave.
Hyde Park Ave.
"I" St.
Idlewilde Dr.
Illinois Ave.
Imperial Ave.
Indiana Ave.
Irwin Ct.
Island Dr. (northbound)
"J" St.
"J" St.
Jackson St.
Jackson St.
Jackson St.
Jackson St.
Jackson St.
Jackson St.
Jackson St.
Jackson St.
Jackson St.
Jackson St.
Jackson St.
Jackson St.
Jax Ave.
Jax Ave.
Jefferson St.
Jefferson St.
Jefferson St.
Jefferson St.
Jefferson St.
Jesse St.
Jesse St.
Johnston St.
Johnston St.
Jordan Ave.
Joy Dr.
"K" St.
"K" St.
"K" St.
Kanawha
Kansas Ave.
Kansas Ave.
Kansas Ave.
Kansas Ave.
Keith St.
Keith St.

AT

Cessna Dr.
Huntington St.
Main St.
Upland St.
Ferncliff Ave.
Washington Ave.
Storey Ave.
Thomason Dr.
Cimmaron Ave.
Carlton St.
Crenshaw Dr.
Island Dr./Cir.
Kentucky Ave.
Washington Ave.
Cherry Ln.
Garden Ln.
Illinois Ave.
Jax Ave.
Kentucky Ave.
New York Ave.
Nobles Ave.
Parker Ave.
Pennsylvania Ave.
Texas Ave.
Wall St.
Walnut Ln.
Washington Ave.
Fort Worth St.
Terrell St.
California Ave.
Kentucky Ave.
New York Ave.
Pennsylvania Ave.
Washington Ave.
Illinois Ave.
Wall St.
Francis Ave.
Montgomery Ave.
Wedgewood St.
Bentwood Dr.
Carter Ave.
Holloway Ave.
Industrial Ave.
Navajo
"C" St.
Delmar St.
Fort Worth St.
"G" St.
Eugene Ave.
George Ave.

ON

Keith St.
Keith St.
Keith St.
Kerth St.
Kensington Ln.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Kentucky Ave.
Key St.
Kingston Dr.
Knights Pl.
“L” St.
Lamesa Rd.
Lanham St.
Lanham St.
Learmont Dr.
Leddy Dr.
Lee St.
Lee St.
Lee St.
Lennox Dr.
Lennox Dr.
Lincoln St.
Lincoln St.
Lincoln St.
Lincoln St.
Lincoln St.
Lincoln St.
Lincoln St.
Lincoln St.
Lincoln St.
Lockheed Ave.
Lockheed Dr.
Lockheed Dr.
Lockheed Dr.
Lockheed Dr.
Lockheed Dr.
Loma Dr.
Loma Vista St.
Loraine St.
Loraine St.
Loraine St.
Loraine St.

AT

Hamby Ave.
Hart Ave.
Jax Ave.
Ohio Ave.
Polo Parkway
“B” St.
Benton St.
“C” St.
Clay St.
“D” St.
“E” St.
“H” St.
Lincoln St.
Stonewall St.
Tyler St.
Webster St.
Washington Ave.
Southampton Ln.
Castleford Rd.
Kentucky Ave.
New York Ave.
Ainslee St.
Dartmouth Dr.
Keswick Rd.
Edgewood Dr.
California Ave.
Garden Ln.
Walnut Ln.
Fargo Ave.
Westminster Dr.
California Ave.
Garden Ln.
Illinois Ave.
Pennsylvania Ave.
Texas Ave.
Wall St.
Washington Ave.
Willey Ave.
Alpine St.
Ainslee St.
Culver Dr.
Murray St.
Northrup Dr.
Sparks St.
Alta Ave.
Orchard Ln.
Collins Ave.
Cowden Ave.
Frances Ave.
Griffin Ave.

ON

Loraine St.
Loraine St.
Loraine St.
Loraine St.
Lynn Ave.
McKenzie St.
McKenzie St.
McKenzie St.
McKenzie St.
“M” St.
“M” St.
“M” St.
“M” St.
Maberry St.
Maberry St.
Maberry St.
Maberry St.
Madison St.
Madison St.
Madison St.
Madison St.
Magnolia Ave.
Magnolia Ave.
Magnolia Ave.
MaMar Ave.
Manor St.
Maple Ave.
Maple Ave.
Maple Ave.
Mariana Ave.
Mariana Ave.
Marienfeld St.
Marshall St.
Marshall St.
Marshall St.
Marshall St.
Marshall St.
Meadow Dr.
Meadow Dr.
Meadow Dr.
Meadow Dr.
Meadowridge Dr.
Mercedes Dr.
Meredith Pl.
Merrill Ct.
Merrill Dr.
Metz Pl.
Michigan Ave.
Miller Dr.
Miller Dr./Ct.

AT

Hamby Ave.
Jax Ave.
New York Ave.
Washington Ave.
Jackson St.
Griffin St.
Montgomery Ave.
New Jersey Ave.
Taylor Ave.
Brunson Ave.
College Ave.
Kentucky Ave.
Ohio Ave.
Cimmaron Ave.
Fannin Ave.
Frontier Dr.
Sinclair Ave.
California Ave.
Industrial Ave.
Kentucky Ave.
Walnut Ln.
Butternut Ln.
Edwards St.
Peterson St.
Cessna Dr.
Storey Ave.
Butternut Ln.
Edwards St.
Peterson St.
Powell St.
Roosevelt Ave.
Dakota Ave.
California Ave.
New York Ave.
Pennsylvania Ave.
Texas Ave.
Washington Ave.
Brookdale Dr.
Graceland Dr.
Parkdale Dr.
Pleasant Dr.
Arroyo Dr.
Devonian Dr.
Concho Dr.
Stratton Dr.
Stratton Dr.
Lanham St.
Kent St.
Crenshaw Dr.
Trevino St.

ON

Mimosa Ct.
Mineola St.
Mineola St.
Mineola St.
Mineola St.
Mississippi Ave.
Missouri Ave.
Missouri Ave.
Missouri Ave.
Missouri Ave.
Mitchell St.
Mogford St.
Mogford St.
Mogford St.
Mogford St.
Montgomery Ave.
Montgomery Ave.
Moran St.
Moran St.
Moran St.
Moran St.
Moran St.
Moran St.
Morgan Way
"N" St.
"N" St.
"N" St.
"N" St.
Nash Ave.
Nash Ave.
Nasworthy Pl.
Navajo Rd.
Newcastle Dr.
New Jersey Ave.
New Jersey Ave.
New York Ave.
New York Ave.
Nicklaus St.
Northrup Dr.
Northtown Ct.
Northtown Pl.
Oakmont Dr.
Oakridge Ct.
Oakridge Dr.
Ojibwa
Ojibwa
Oxford St.
Parkhurst Dr.
Parkhurst Dr.
Patman Pl.

AT

Rosewood Dr.
California Ave.
Pennsylvania Ave.
Texas Ave.
Washington Ave.
Terrell St.
Jefferson St.
Madison St.
Marshall St.
Mineola St.
Franklin Ave.
Humble Ave.
Lockheed Dr.
Shell Ave.
Sinclair Ave.
Belmont St.
Camp St.
Collins St.
Francis St.
McKenzie St.
Montgomery Ave.
New Jersey Ave.
Taylor Ave.
English Dr.
Carter Ave.
Kentucky Ave.
New Jersey Ave.
Rhode Island Ave.
Copus St.
Hudson Ave.
Rio Grande Ave.
Shawnee
Wellington Ct.
"L" St.
Wayside Dr.
Calhoun St.
Clay St.
Crenshaw Dr.
Fannin Ave.
Lanham St.
Meadowbrook Dr.
Whittle Way
Gateway St.
Gateway St.
Pueblo Rd.
Tejas Rd.
Ohio Ave.
Fargo Ave.
Westminster Dr.
Concho Dr.

ON

Pecan Ave.
Pecan Ave.
Pecan Ave.
Pecos St.
Pennsylvania Ave.
Pennsylvania Ave.
Pennsylvania Ave.
Pennsylvania Ave.
Permian Ct.
Pine Ave.
Pine Ave.
Pinemont Dr.
Placid Ct.
Player Ct.
Pleasant Dr.
Pratt St.
Pratt St.
Pratt St.
Pratt St.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Princeton Ave.
Purple Sage Trl.
Pylant St.
Rebel Dr.
Rebel Dr.
Reo Dr.
Rhode Island Ave.
Rhode Island Ave.
Rhode Island Ave.
Rhode Island Ave.
Rhode Island Ave.
Rhode Island Ave.
Richmond Ct.
Richmond Dr.
Rockylane Dr.
Roosevelt Dr.
Roosevelt Dr.
Rosemont Dr.
Rosita Dr.
Ruby Dr.
Russell Ct.
Russell Dr.
Sagemont Dr.
Salisbury Pl.
San Antonio Ave.
San Antonio Ave.
Sand Hill Cr.
Sandlewood St.

AT

Oaklawn Dr.
Pecos St.
Tyler St.
Liddon Ave.
Atlanta St.
Baird St.
Benton St.
Clay St.
Manor St.
Peterson Ave.
Oaklawn Dr.
Springmont Dr.
Manor St.
Trevino St.
Waverly Dr.
Dakota Ave.
McKenzie St.
New Jersey St.
Taylor Ave.
Austin St.
"B" St.
Cessna Dr.
Denton St.
Whitman Dr.
Ohio Ave.
Cimmaron Ave.
Godfrey St.
Auburn Dr.
Camp St.
Connell St.
"L" St.
McKenzie St.
Moran St.
Pratt St.
Castleford Rd.
Castleford Rd.
Leisure Dr.
Edgewood Dr.
Mercedes Dr.
Sagemont Dr.
Alicia Ct.
Canyon Dr.
Stratton Dr.
Stratton Dr.
Pinemont Dr.
Trinity Dr.
Conroe St.
Spence Dr.
Vista West Pkwy.
Baumann Ave.

ON

Sandlewood St.
Scharbauer Dr.
Seaboard Ave.
Seaboard Ave.
Sentinel Ave.
Sentinel Ave.
Sentinel Ave.
Sentinel Ave.
Shell Ave.
Shell Ave.
Shell Ave.
Shell Ave.
Sherwood Dr.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Sinclair Ave.
Southampton Ln.
Sparks St.
Sparks St.
Springmont Dr.
Spruce Ave.
Spyglass Cr.
St. Andrews Dr.
Stanolind Ave.
Stewart Ave.
Stillmeadow Dr.
Storey Ave.
Storey Ave.
Storey Ave.
Storey Ave.
Storey Ave.
Storey Ave.
Stratton Dr.
Stutz Dr.
Stutz Pl.
Suncrest Ave.
Sundown Cr.
Sunnyside Dr.
Sweetbriar Dr.
Sycamore Ave.
Tamarind Dr.
Tammy Cove
Tanglewood Dr.
Tanner Dr.
Tarleton St.
Taylor Ave.

AT

Kansas Ave.
Golf Course Rd.
Cessna Dr.
Huntington St.
Alpine St.
Delmar St.
Tarleton St.
Upland St.
"C" St.
"D" St.
Huntington St.
Sparks St.
Oriole Dr.
"C" St.
"D" St.
Cessna Dr.
McDonald St.
Pecos St.
Sparks St.
Upland St.
Newcastle Dr.
Country Club Dr.
Humble Ave.
Whittle Way
Tyler St.
Purple Sage Tr.
Denterest Dr.
Huntington St.
Shandon Ave.
Westminster Dr.
Alpine St.
Bonham St.
"C" St.
"F" St.
"G" St.
"K" St.
St. Andrews Dr.
Maxwell Dr.
Lanham St.
McDonald St.
Purple Sage Tr.
Storey Ave.
Storey Ave.
Crestview Rd.
Melville Dr.
Fredna Pl.
Leisure Dr.
Mercedes Dr.
Storey Ave.
Camp St.

ON

Taylor Ave.
Tennessee Ave.
Tennessee Ave.
Terrace Ave.
Terrace Ave.
Terrace Ave.
Texas Ave.
Texas Ave.
Texas Ave.
Thomas St.
Thornridge Dr.
Thornridge Dr.
Tilden St.
Timber Ln.
Travis Ave.
Travis Ave.
Travis Ave.
Trevino St.
Trevino St.
Trevino St.
Trinity Dr.
Trinity Dr.
Trinity Meadows Dr.
Trinity Meadows Pl.
Truman St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Tyler St.
Upland St.
Valley Dr.
Vista West Pkwy.
W. Broadway St.
W. Circle Dr.
Walcott Ave.
Walcott Ave.
Wall Ave.
Walnut Ln.

AT

Jefferson St.
Dallas St.
Weatherford St.
Lanham St.
Maberry St.
Mogford St.
Donald St.
Jackson St.
Tilden St.
Ohio Ave.
Leisure Dr.
Shadylane Dr.
Illinois Ave.
Oakridge Dr.
Powell St.
Walker St.
Williams St.
Crenshaw Dr.
Graham Dr.
Nicklaus St.
Milbrook Pl.
Wedgwood St.
Fieldcrest Ln.
Northfield Dr.
Kessler Ave.
California Ave.
Chestnut Ave.
Cottonwood Ave.
Cowden Ave.
Dormard Ave.
Estes Ave.
Industrial Ave.
Jax Ave.
Magnolia Ave.
Missouri Ave.
New York Ave.
Nobles Ave.
Parker Ave.
Texas Ave.
Walnut Ln.
Washington Ave.
Storey Ave.
Skyline Dr.
Purple Sage Trl.
Storey Ave.
Franklin Ave.
Loraine St.
Whitaker St.
Tilden St.
Lincoln St.

ON

Walnut Ln.
Washington Ave.
Washington Ave.
Washington Ave.
Washington Ave.
Washington Ave.
Washington Ave.
Washington Ave.
Watson Ct.
Wayside Dr.
Weatherford St.
Weatherford St.
Weatherford St.
Weatherford St.
Weatherford St.
Weatherford St.
Webster St.
Wedgewood St.
West Circle Dr.
Westcliff Dr.
Westminister Dr.
Willey Ave.
Willey Ave.
Willey Ave.
Willingham Dr.
Willowwood Dr.
Woodcrest Dr.
Woodhollow Dr.

AT

Terrell St.
Benton St.
Clay St.
"F" St.
Madison St.
Mann St.
McGarvey St.
Stonewall St.
Webster St.
Crenshaw Dr.
Taylor Ave.
Hamby Ave.
Jax Ave.
Kansas Ave.
Parker Ave.
Pennsylvania Ave.
Washington Ave.
Pennsylvania Ave.
Hyde Park Ave.
Roosevelt Ave.
Princeton Ave.
Fargo Ave.
Jackson St.
Jesse St.
Tilden St.
Manor St.
Leisure Dr.
Storey Ave.
Briarpath Dr.

SECTION TWO. The Traffic Engineer is hereby authorized and directed to erect and install appropriate signs and markings at the designated locations in accordance 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 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 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., 2011; 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., 2011, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2011.

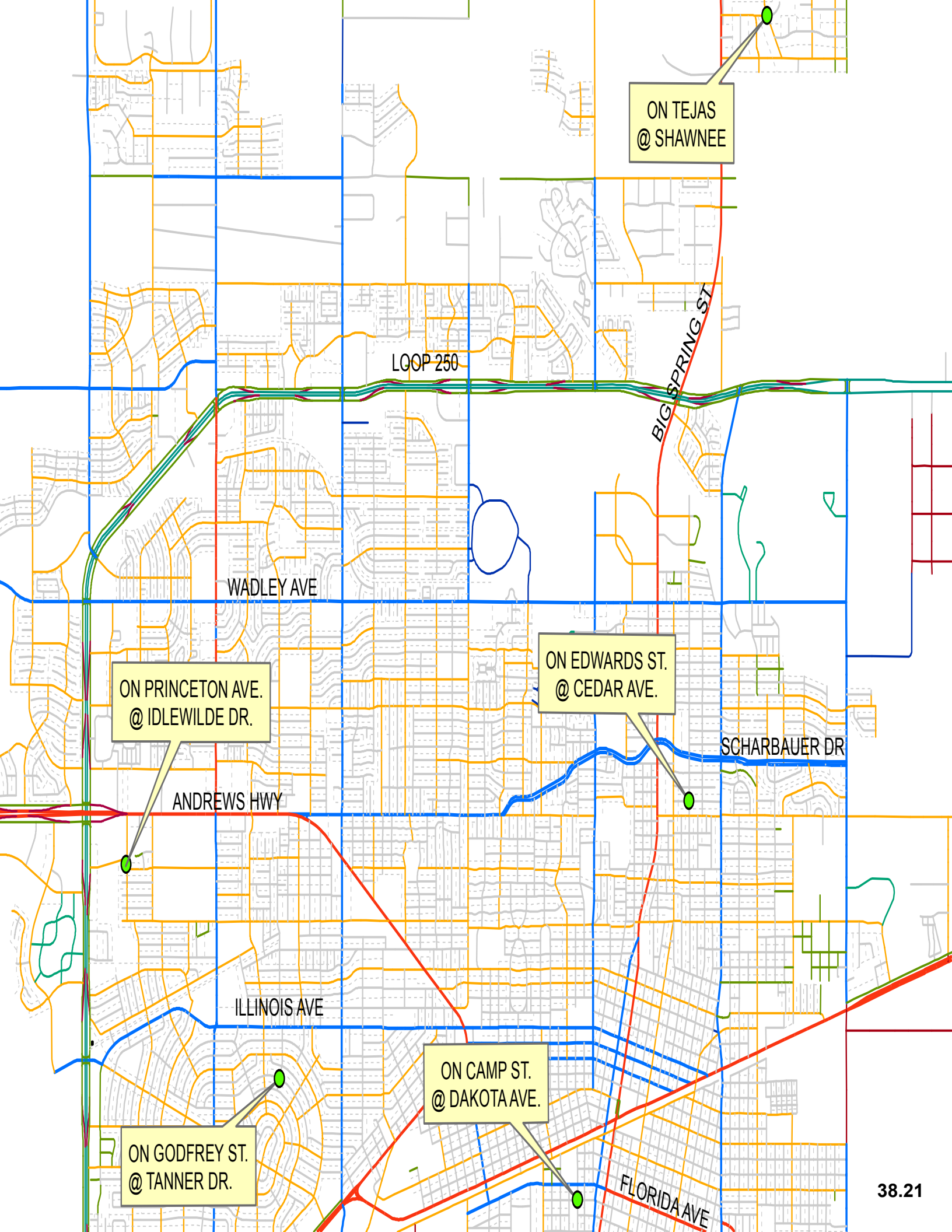
ATTEST:

W. Wesley Perry, Mayor

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



ON TEJAS
@ SHAWNEE

LOOP 250

BIG SPRING ST

WADLEY AVE

ON PRINCETON AVE.
@ IDLEWILDE DR.

ON EDWARDS ST.
@ CEDAR AVE.

SCHARBAUER DR

ANDREWS HWY

ILLINOIS AVE

ON GODFREY ST.
@ TANNER DR.

ON CAMP ST.
@ DAKOTA AVE.

FLORIDA AVE



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-11-036, Los Conchos Ventures Zone Change

Purpose:

Hold a public hearing at approximately 10:30 a.m. and consider an ordinance on a request by Los Conchos Ventures, LLC for a zone change from AE, Agriculture Estate District and PD, Planned District for Housing Developments to 1F-2, One-Family Dwelling District; PD, Planned District for a Housing District, TH, Townhouse Districts, O-1, Office District and LR-2, Local Retail District.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

Los Conchos Ventures wishes to develop a vacant quarter-section of land bounded on the west by Holiday Hill Road, on the north by Mockingbird Lane and on the east by Oriole Drive. This land was annexed in 1980, at which time it was zoned AE District. At that time it was standard practice to adopt this zoning classification because this was the most restrictive district in the Zoning Code. It was considered a "holding zone" until the land was ripe for development and a plan could be proposed. (Today, the FD, Future Development District is used, since no building permits can be issued until a rezoning occurs.) The southern portion of this land was rezoned in 2007 for conventional residential development, based upon a preliminary plat. However, no final plat was submitted.

The applicant is proposing five different zoning categories. Three are for single-family development, one is for office development and one is for retail development. This zoning plan is a virtual replica of the Model Neighborhood Plan contained in the Comprehensive Plan. A 12-acre retail tract is proposed at the intersection of Mockingbird Lane and Holiday Hill Road, which are both arterial streets. The office zoning is proposed along the south side of Mockingbird Lane, which again meets the recommended location for office zoning. The residential lots on the north side of Mockingbird Lane are oriented with the rear of the lots facing this arterial street. The single-family zoning will be subject to the 1F-2 District regulations, including those lots adjacent to Holiday Hill Road that must be zoned Planned District for a Housing Development. This is to allow the adoption of a site plan showing the fencing and landscaping required to screen the alley adjacent to Holiday Hill Road. This site plan is attached as Exhibit A. There are also three tracts proposed for townhouse development. The maximum potential density, based on the proposed zoning districts, is approximately 4.5 dwelling units per acre, well below the maximum recommendation of the Comprehensive Plan of 5 to 5.4 dwelling units per acre. Since the associated plat contains common areas, the City Council must approve the plat as well, and it is also on the December 13th agenda.

Several persons spoke in opposition to this request during the Planning and Zoning Commission meeting. Staff has also received several opposition letters, and the percent of written opposition stands at 46.44 percent at this writing. Therefore, six affirmative Council votes are needed for approval. The staff received a letter from the Greathouse Home Owners Association supporting this proposal. The Planning and Zoning Commission voted 6-1 to approve this request. Staff concurs with this proposal and recommends Council approval.

Attachments:

November 14, 2011 P&Z Staff Report
Proposed Ordinance and Exhibit A

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 19.71-ACRE TRACT OF LAND ("TRACT 1") WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT; BY PERMITTING A 12.97-ACRE TRACT OF LAND ("TRACT 2") WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS AN O-1, OFFICE DISTRICT; BY PERMITTING A 26.33-ACRE TRACT OF LAND ("TRACT 3") 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 60.84-ACRE TRACT OF LAND ("TRACT 4") WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS A 1F-2, ONE-FAMILY DWELLING DISTRICT; BY PERMITTING A 7.93-ACRE TRACT OF LAND ("TRACT 5") WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS A TH, TOWNHOUSE DISTRICT; BY PERMITTING A 6.33-ACRE TRACT OF LAND ("TRACT 6") WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS A TH, TOWNHOUSE DISTRICT; BY PERMITTING A 10.64-ACRE TRACT OF LAND ("TRACT 7") WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A TH, TOWNHOUSE DISTRICT; BY PERMITTING A 19.73-ACRE TRACT OF LAND ("TRACT 8") WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A 1F-2, ONE-FAMILY DWELLING DISTRICT; ALL OF SAID TRACTS BEING OUT OF SECTION 6, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS; ALL OF SAID TRACTS BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS MADE A PART HEREOF; SAID TRACTS ARE GENERALLY LOCATED SOUTH OF MOCKINGBIRD LANE, BETWEEN HOLIDAY HILL ROAD AND ORIOLE 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 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 LR-2, Local Retail District, an O-1, Office District, an Amended Planned District for a Housing Development, two 1F-2, One-Family Dwelling Districts, and three TH, Townhouse Districts, 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 AE, Agriculture Estate District, and it shall be used as an LR-2, Local Retail District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 19.71-acre tract of land ("Tract 1"), being out of Section 6, 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 Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned AE, Agriculture Estate District, and it shall be used as an O-1, Office District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 12.97-acre tract of land ("Tract 2"), being out of Section 6, Block "X", H.P. Hilliard 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 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, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 26.33-acre tract of land (“Tract 3”), being out of Section 6, Block “X”, H.P. Hilliard Survey, 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 FOUR. 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 a 1F-2, One-Family Dwelling District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 60.84-acre tract of land (“Tract 4”), being out of Section 6, Block “X”, H.P. Hilliard Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit “D”, which is attached hereto and incorporated herein.

SECTION FIVE. 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 a TH, Townhouse District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 7.93-acre tract of land (“Tract 5”), being out of Section 6, Block “X”, H.P. Hilliard Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit “E”, which is attached hereto and incorporated herein.

SECTION SIX. 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 a TH, Townhouse District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 6.33-acre tract of land ("Tract 6"), being out of Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "F", which is attached hereto and incorporated herein.

SECTION SEVEN. That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned AE, Agriculture Estate District, and it shall be used as a TH, Townhouse District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 10.64-acre tract of land ("Tract 7"), being out of Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "G", which is attached hereto and incorporated herein.

SECTION EIGHT. That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned AE, Agriculture Estate District, and it shall be used as a 1F-2, One-Family Dwelling District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 19.73-acre tract of land ("Tract 8"), being out of Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "H", which is attached hereto and incorporated herein.

SECTION NINE. 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 TEN. 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 ELEVEN. 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 TWELVE. 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 THIRTEEN. 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., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council

member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-11-036, Los Conchos Ventures Zone Change

Purpose:

Hold a public hearing at approximately 10:30 a.m. and consider an ordinance on a request by Los Conchos Ventures, LLC for a zone change from AE, Agriculture Estate District and PD, Planned District for Housing Developments to 1F-2, One-Family Dwelling District; PD, Planned District for a Housing District, TH, Townhouse Districts, O-1, Office District and LR-2, Local Retail District.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

Los Conchos Ventures wishes to develop a vacant quarter-section of land bounded on the west by Holiday Hill Road, on the north by Mockingbird Lane and on the east by Oriole Drive. This land was annexed in 1980, at which time it was zoned AE District. At that time it was standard practice to adopt this zoning classification because this was the most restrictive district in the Zoning Code. It was considered a "holding zone" until the land was ripe for development and a plan could be proposed. (Today, the FD, Future Development District is used, since no building permits can be issued until a rezoning occurs.) The southern portion of this land was rezoned in 2007 for conventional residential development, based upon a preliminary plat. However, no final plat was submitted.

The applicant is proposing five different zoning categories. Three are for single-family development, one is for office development and one is for retail development. This zoning plan is a virtual replica of the Model Neighborhood Plan contained in the Comprehensive Plan. A 12-acre retail tract is proposed at the intersection of Mockingbird Lane and Holiday Hill Road, which are both arterial streets. The office zoning is proposed along the south side of Mockingbird Lane, which again meets the recommended location for office zoning. The residential lots on the north side of Mockingbird Lane are oriented with the rear of the lots facing this arterial street. The single-family zoning will be subject to the 1F-2 District regulations, including those lots adjacent to Holiday Hill Road that must be zoned Planned District for a Housing Development. This is to allow the adoption of a site plan showing the fencing and landscaping required to screen the alley adjacent to Holiday Hill Road. This site plan is attached as Exhibit A. There are also three tracts proposed for townhouse development. The maximum potential density, based on the proposed zoning districts, is approximately 4.5 dwelling units per acre, well below the maximum recommendation of the Comprehensive Plan of 5 to 5.4 dwelling units per acre. Since the associated plat contains common areas, the City Council must approve the plat as well, and it is also on the December 13th agenda.

Several persons spoke in opposition to this request during the Planning and Zoning Commission meeting. Staff has also received several opposition letters, and the percent of written opposition stands at 46.44 percent at this writing. Therefore, six affirmative Council votes are needed for approval. The staff received a letter from the Greathouse Home Owners Association supporting this proposal. The Planning and Zoning Commission voted 6-1 to approve this request. Staff concurs with this proposal and recommends Council approval.

Attachments:

November 14, 2011 P&Z Staff Report
Proposed Ordinance and Exhibit A

**Planning and Zoning Commission
Minutes
November 14, 2011**

Z-11-036 - Hold a public hearing and consider a request by **Los Conchos Ventures, LLC.** for a *zone change* from AE, Agriculture Estate District to LR-2, Local Retail District on a 19.71-acre tract of land (Tract 1); to O-1, Office District on a 12.97-acre tract of land (Tract 2); to TH, Townhouse Dwelling District on a 10.64-acre tract of land (Tract 7); and to 1F-2, One-Family Dwelling District on a 19.73-acre tract of land (Tract 8); and from Planned Districts for Housing Developments to PD, Planned District for Housing Development on a 26.33-acre tract of land (Tract 3); to 1F-2, One-Family Dwelling District on a 60.84-acre tract of land (Tract 4); to TH, Townhouse Dwelling District on a 7.93-acre tract of land (Tract 5); to TH, Townhouse Dwelling District on a 6.33-acre tract of land (Tract 6) all out of Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the south side of Mockingbird Lane, between Oriole Drive and Holiday Hill Road.)

Mr. West with Parkhill, Smith and Cooper, representing the applicant, Los Conchos Ventures, LLC, presented an overview of the request for several zone changes on various tracts of land and outlining the history of the land which had been included in the 1980 annexation, the largest ever done by the City. He said the proposed zone changes would include townhomes, single family homes, office, retail and Planned District to the areas that is basically now AE (Agricultural) zoning. With the use of a Power Point presentation, he demonstrated the exact areas for the zone changes. Mr. West answered questions from the Commissioners.

Mr. Compton stated that this is a 164-acre tract of land, which was divided into eight tracts for consideration because of overlapping zoning uses.

Chairman Carney opened the public hearing.

Larry Adams, 4508 Meadowlark Lane, expressed concern over environmental issues with regard to the location of a tank battery in the area and asked that this be reviewed. He also expressed opposition to the location of retail or office buildings.

Mr. Compton responded that the four oil well sites are located in common areas and no applications to drill have been received.

Georgia Corwin, 4516 Robin Lane, spoke in opposition to the zone changes, stating that adequate notification was not given to the homeowners. She also spoke regarding the increase in traffic in her area.

Tim McNealy, 4515 Meadowlark Lane, expressed opposition to the zone changes and suggested that the City of Midland Master Plan 2025 should be used as a guide.

Alan Bennett, 5001 Pimlico Dr., stated that he did not want to back of his house looking into an office building, that he has animals to think about and doesn't want retail in that area.

Heath Hardwick, 5109 King Richards Row, president of the Greenhill Terrace Pool Association, stated that the pool area has always been peaceful and quiet and does not want that destroyed by additional traffic that would result from the zone change. He said there are 50 families who are members.

Joyce McKelvey, 4511 Meadowlark Lane, stated that she lives on four acres and has seven horses and wondered what will happen to her horses should neighbors complain about them being there. She expressed concern over riding her horses on streets that have an increase in traffic.

She was told by the Planning staff that she is grandfathered in.

Joan Cox, 4607 Tattenham, expressed opposition to retail in the area.

John Sullivan, 4707 Tattenham, stated that alley access would be needed since Mockingbird is his alley at the present, that he has one horse stall and that this is a grave issue.

Stacey Humphrey, 4611 Tattenham, asked if the school is big enough to handle additional children that will move in should additional houses be built.

Mark Smith, 4420 Tanforan Avenue, stated that he is a Scoutmaster and members of his Scout Troop were present. Mr. Smith stated that he would like to see more of a transition, no retail, and the pool, livestock and neighborhood be protected.

Richard Pharr, 4613 Tattenham, asked that Mockingbird Lane be reconsidered as a major arterial street.

Greg Boler, 4510 Meadowlark Lane, expressed concern over traffic issues that would be generated by the development.

Craig Smith, 4701 Tattenham, stated that office space on Mockingbird was not appropriate and asked for reconsideration.

There being no one else to speak in opposition, Chairman Carney asked for those wishing to speak in favor of the request.

Rooney King Mestes, 5004 Apple Creek Road, representing the Greathouse Homeowners Association, voiced support of the development and asked that the Commission plan accordingly regarding the increase in traffic.

Walter Pate of Pate and Associates Architects, 4500 W. Illinois, expressed a sincere interest in what happens in Midland, stating that this would be a low density development. He stated that he was impressed with the development plan and in favor of the zone changes.

Rodney Roberts, 4515 Bent Tree Trail, an architect, spoke in favor of the development.

Scott Bowden, 4901 Weidner Strip, stated that he was in the Real Estate business and felt that property values would be enhanced by the development.

Mr. West offered clarification of questions asked during the opposition's presentations and answered questions from the Commissioners concerning the types of businesses that the zones would allow.

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

Discussion followed regarding the possible drilling areas to which Mr. West replied that in talking with the drillers, they had verbally agreed to change the four locations to the common areas.

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

PLANNING AND ZONING COMMISSION

November 14, 2011

CASE: Z-11-036.

REQUEST: Consider a request for a zone change from AE, Agriculture Estate District and PD, Planned Districts for Housing Developments to PD, Planned District for a Housing Development, 1F-2, One-Family Dwelling District, TH, Townhouse District, O-1, Office District and LR-2, Local Retail District.

APPLICANT/OWNER: Los Conchos Ventures, LLC.

REPRESENTATIVE: Parkhill, Smith and Cooper.

LEGAL DESCRIPTION: A 164-acre tract out of Section 6, Block "X", H. P. Hilliard Survey, Midland County, Texas.

LOCATION: South side of Mockingbird Lane, between Holiday Hill Road and Oriole Drive.

ASSOCIATED CASE: P-11-027, Greathouse Addition, Section 7.

DETAILS OF REQUEST:

1. Staff has received a development proposal on this 164-acre tract located in northwest Midland that consists of a proposed preliminary plat and this zone change application. The land is currently zoned AE District and three separate Planned Districts for Housing Developments that are based on a preliminary plat approved in 2008. However, while the platting process on the earlier plan stalled, the zoning was approved. This revised development plan adds additional land that was zoned AE District upon annexation in 1980. The development plan includes mostly single-family development, but it also includes proposals for an O-1 District and an LR-2 District. The associated preliminary plat, Greathouse Addition, Section 7 is also scheduled on the November 14th meeting. For logistical purposes, the staff has divided this large tract into eight different parcels, but there are only five different zoning districts. This was necessary because of the overlapping of districts due to the current zoning pattern.

SURROUNDING ZONING AND LAND USE:

2. This property is bounded on the west by Holiday Hill Road and on the north by Mockingbird Lane, both of which are arterial streets. The east side is bounded by Oriole Drive, a collector street. The land to the west is outside the City limit. The area to the north is the Green Hill Terrace Subdivision which is zoned AE District. The land to the east is the Melody Acres neighborhood, which is also zoned AE District. The land to the south is developed with the Greathouse neighborhood, which is zoned for single-family development on lots similar in size to this proposal.

ANALYSIS:

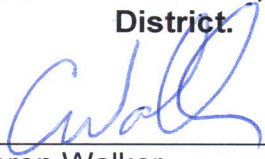
3. Our analysis will separate the single-family districts from the other districts. The largest area is planned to be zoned 1F-2 District (Tracts 4 and 8, 80.57 acres). This district allows single-family detached homes on lots at least 7,000 square feet in area, and can yield a maximum density of around 3.75 dwelling units per acre. Also proposed is a Planned District for a Housing Development (Tract 3, 26.33 acres). This planned district will also be subject to the 1F-2 District regulations. However, a planned district is required due to the lotting pattern on the associated plat. An alley is planned adjacent and parallel to Holiday Hill Road, a pattern prohibited by the Subdivision Code unless a common area, developed with a screening fence and landscaping, is placed between the street and the alley. Such a plan is shown on the associated plat. The attached Exhibit A illustrates the screening fence design. It would consist of a six-foot tall solid wood fence with seven-foot tall brick pilasters placed on 12- to 18-foot centers. The area outside the fence will be landscaped with grass and trees planted on 50-foot centers. The staff is satisfied that these elements will provide an effective and attractive visual screen of the neighborhood. The applicant is also proposing three tracts to be zoned TH District (Tracts 5, 6 and 7, 24.9 acres). These districts surround three of the common areas. The TH District provides for attached single-family homes, and can be developed at a maximum density of eight dwelling units per acre. The combined maximum density of all residential districts is approximately 4.5 units per acre, well below the 5.0 to 5.5 units per acre recommended by the Comprehensive Plan. The preliminary plat has 354 single-family lots, which results in a density of only 2.64 units per acre.
4. The remaining zoning districts include an O-1 District (Tract 2, 12.97 acres) and an LR-2 District (Tract 1, 19.71 acres). These acreages are measured to the center of the abutting roadways, therefore; the developable tracts are significantly smaller. The O-1 District will contain eight acres. The land on the north side of Mockingbird Lane is developed with single-family homes, with the rear of the lots oriented toward Mockingbird Lane. This condition significantly reduces the marketability of residential lots on the applicants land. This condition

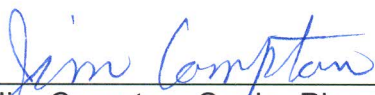
acres. The size and location of both districts fit within the Comprehensive Plan guidelines for these respective districts. Therefore, we see no objection to the proposed office and retail districts.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a zone change from AE, Agriculture Estate District and PD, Planned Districts for a Housing Developments to PD, Planned District for a Housing Development, 1F-2, One-Family Development District, TH, Townhouse District, O1, Office District and LR-2, Local Retail District, as detailed below:

- Tract 1: From AE, Agriculture Estate District to LR-2, Local Retail District;
- Tract 2: From AE, Agriculture Estate District to O-1, Office District;
- Tract 3: From Planned Districts for Housing Developments to Amended Planned District for a Housing Development.
- Tract 4: From Planned District for a Housing Development 1F-2, One-Family Dwelling District;
- Tract 5: From Planned Districts for Housing Developments to TH, Townhouse District;
- Tract 6: From Planned Districts for Housing Developments to TH, Townhouse District;
- Tract 7: From AE, Agriculture Estate District to TH, Townhouse District;
- Tract 8: From AE, Agriculture Estate District to 1F-2, One-Family Dwelling District.


Cameron Walker,
Planning Division Manager
Department of Development Services


Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Exhibit A, Fence Site Plan

Case Number: Z-11-036

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Los Conchos Ventures, LLC (432) 413-9888
Applicant Name **Contact #s**
P.O. Box 52587, Midland, Texas 79710
Address **Zip Code**

Same
Property Owner Name **Contact #s**
Address **Zip Code**

Parkhill, Smith & Cooper, Inc. (432) 697-1447
Representative Name **Contact #s**
1700 W. Wall, Ste 100, Midland, Texas 79701
Address **Zip Code**

Street address and Legal Description of property (complete Lot, Block, and Subdivision, or if unplatted, attach a Metes and Bounds description with surveyor's seal). Describe by tracts if more than one zoning district is requested: See attached.

PRESENT ZONE: PD-HD & AE REQUESTED ZONE: Varies (see exhibit)
(List by tracts if more than one district is requested)

Reason for Zone Change or PD Amendment: To develop the property into a residential subdivision with retail, office and multi-family tracts.

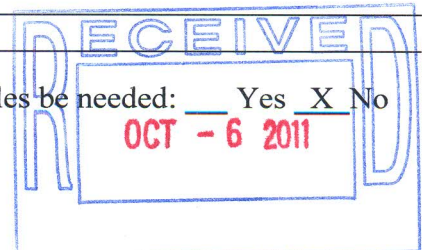
Present Use of Property: Pasture

Proposed Use of Property: Mixed use subdivision

How will zone change affect the public health, safety and welfare? It will have no effect.

Describe how conditions affecting the property have changed since present zoning designation:
Property is ready for development

Will a Specific Use Permit with Term for alcoholic beverages sales be needed: Yes X No



APPLICATION FEES:

- Single, standard zone change: **\$400**. Multiple, standard zone change: add **\$100** per district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
80% of fee will be refunded if no P&Z public hearing is called; if no City Council public hearing is called, then 30% of fee will be refunded.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies of the PD site plan: N/A
Site Plan on a CD in .pdf and .jpg format: N/A

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 Los Conchos Ventures, LLC the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Eric L. West

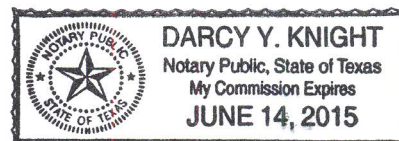
Authorized Agent (signature)

Subscribed and sworn to before me, this 5^h day of October, 20 11, to certify which witness my hand and seal of office.

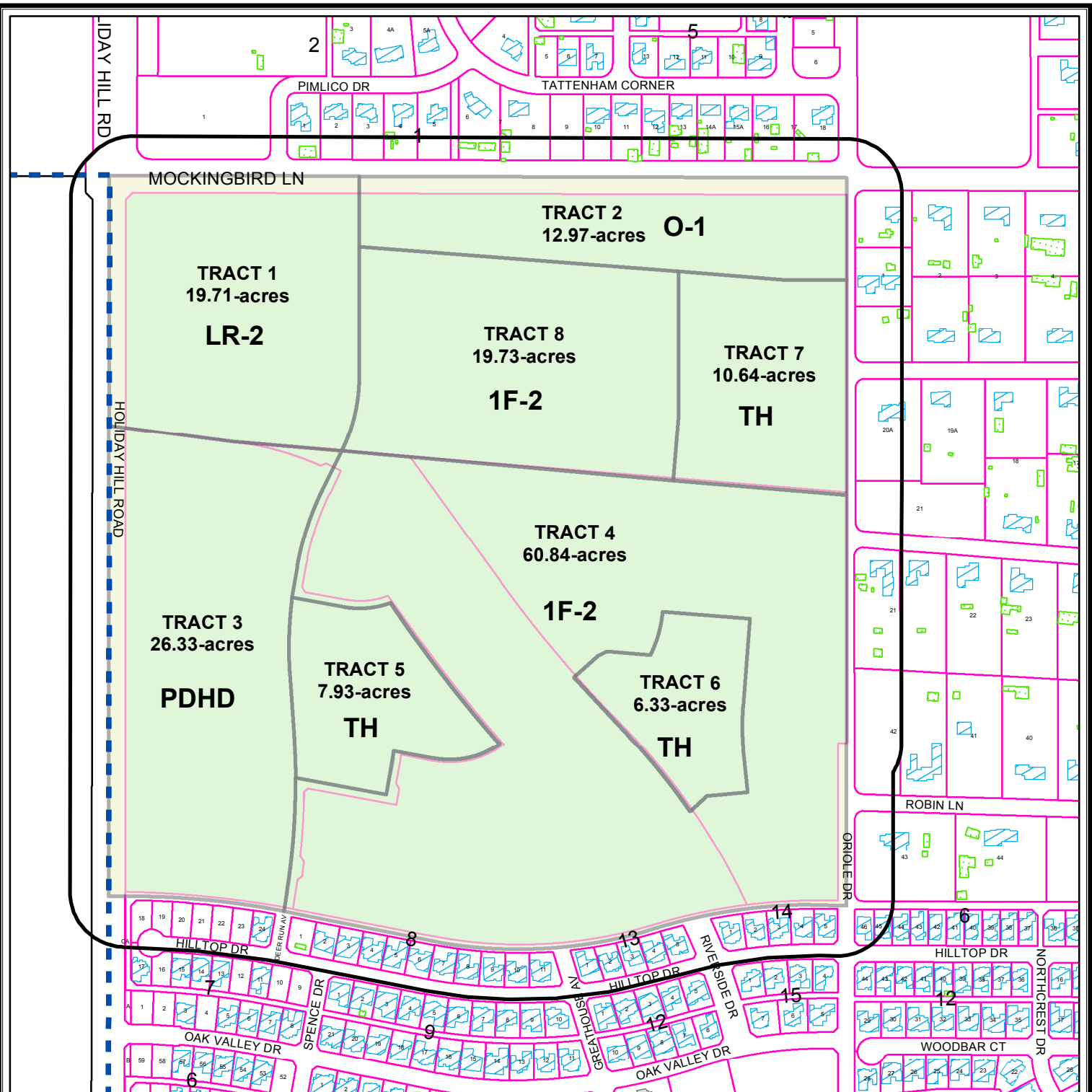
Darcy Y. Knight

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>JC</u>	Date: <u>10-6-11</u>
Assigned: <u>JC</u>	
For: <u>P&Z</u>	On: <u>10-17-11</u>



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



PROPERTY OWNER NOTIFICATION MAP

Consider a request for a zone change from AE, Agriculture Estate District to LR-2, Local Retail District on a 19.71-acre tract of land (Tract 1); to O-1, Office District on a 12.97-acre tract of land (Tract 2); to TH, Townhouse Dwelling District on a 10.64-acre tract of land (Tract 7); and to 1F-2, One-Family Dwelling District on a 19.73-acre tract of land (Tract 8); and from Planned Districts for Housing Developments to PD, Planned District for Housing Development on a 26.33-acre tract of land (Tract 3); to 1F-2, One-Family Dwelling District on a 60.84-acre tract of land (Tract 4); to TH, Townhouse Dwelling District on a 7.93-acre tract of land (Tract 5); to TH, Townhouse Dwelling District on a 6.33-acre tract of land (Tract 6) all out of Section 6, Block "X", H. P. Hilliard Survey, City and County of Midland, Texas.

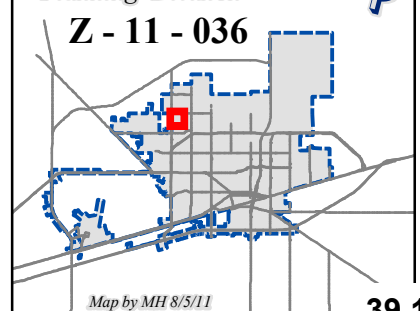
LEGEND

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

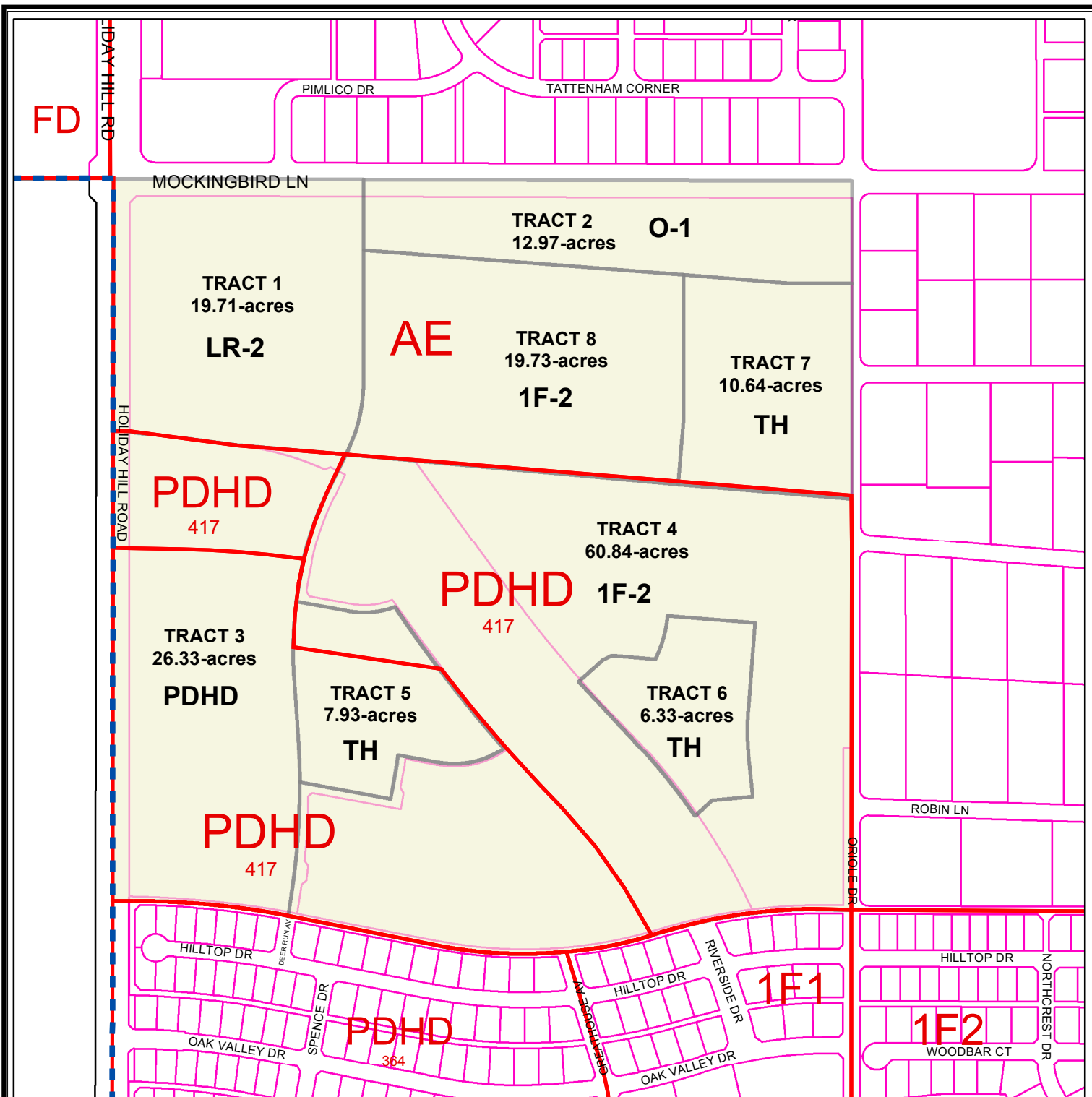
Scale: 1" = 500'

City of Midland, Texas
Planning Division

Z - 11 - 036



Map by MH 8/5/11



ZONING MAP

Consider a request for a zone change from AE, Agriculture Estate District to LR-2, Local Retail District on a 19.71-acre tract of land (Tract 1); to O-1, Office District on a 12.97-acre tract of land (Tract 2); to TH, Townhouse Dwelling District on a 10.64-acre tract of land (Tract 7); and to 1F-2, One-Family Dwelling District on a 19.73-acre tract of land (Tract 8); and from Planned Districts for Housing Developments to PD, Planned District for Housing Development on a 26.33-acre tract of land (Tract 3); to 1F-2, One-Family Dwelling District on a 60.84-acre tract of land (Tract 4); to TH, Townhouse Dwelling District on a 7.93-acre tract of land (Tract 5); to TH, Townhouse Dwelling District on a 6.33-acre tract of land (Tract 6) all out of Section 6, Block "X", H. P. Hilliard Survey, City and County of Midland, Texas.

Z - 11 - 036

LEGEND

Scale: 1" = 500'



ZONING



CITY LIMITS



CITY PARCELS



COUNTY PARCELS

ZONING DISTRICTS:

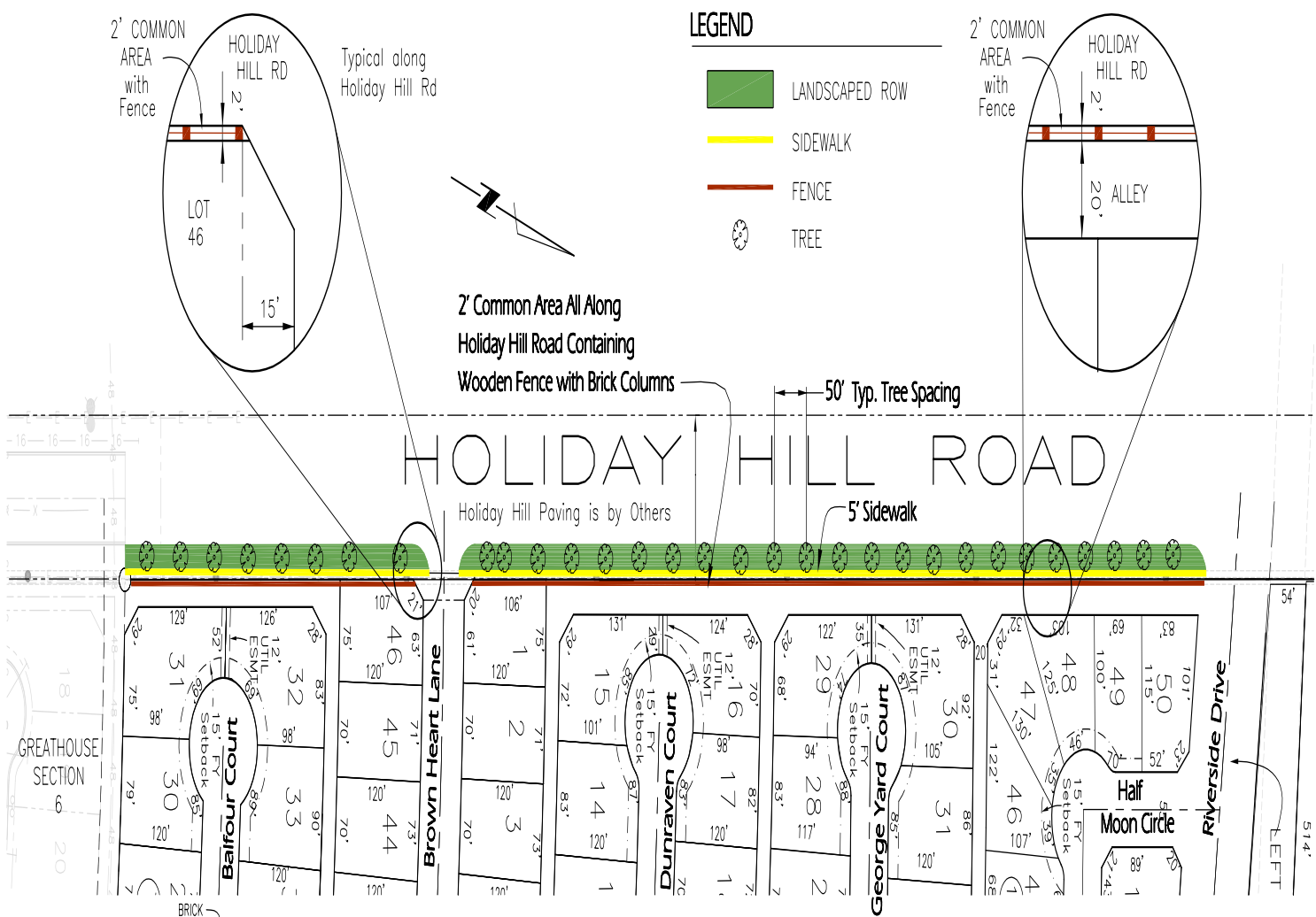
FD FUTURE DEVELOPMENT
PD PLANNED DISTRICT
AE AGRICULTURE ESTATE
CE COUNTRY ESTATE
IF1, IF2, IF3 ONE-FAMILY DWELLING
MH MOBILE HOME DWELLING
TH TOWNHOUSE DWELLING
2F TWO-FAMILY DWELLING
MF1, MF2 MULTIPLE FAMILY DWELLING

BP BUSINESS PARK
P PARKING
01, 02 OFFICE
NS NEIGHBORHOOD SERVICE
LR1, LR2, LR3 LOCAL RETAIL
C1, C2, C3 COMMERCIAL
IP, IP1, IP2, IP3 INDUSTRIAL PARK
LI LIGHT INDUSTRY
HI HEAVY INDUSTRY

BP BUSINESS PARK
P PARKING
01, 02 OFFICE
NS NEIGHBORHOOD SERVICE
LR1, LR2, LR3 LOCAL RETAIL
C1, C2, C3 COMMERCIAL
IP, IP1, IP2, IP3 INDUSTRIAL PARK
LI LIGHT INDUSTRY
HI HEAVY INDUSTRY

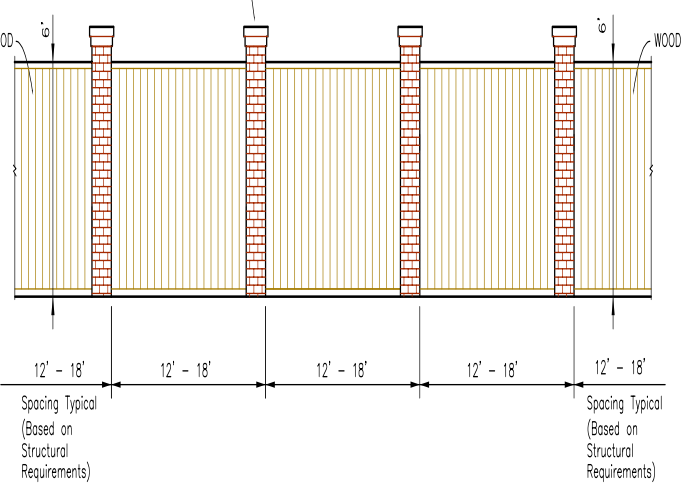


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LEGEND

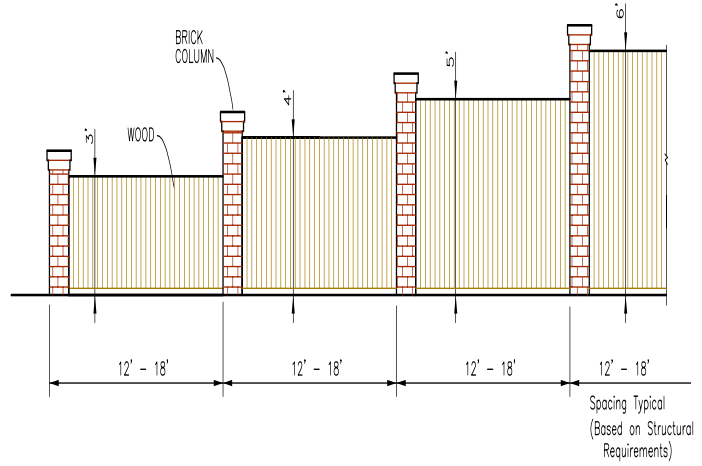
- LANDSCAPED ROW
- SIDEWALK
- FENCE
- TREE



ELEVATION along HOLIDAY HILL ROAD
at CUL-DE-SACS

NOT TO SCALE

NOTE:
THIS ARRANGEMENT TYPICAL
FOR WALL SHOWN ALONG HOLIDAY HILL ROAD.
REFER TO PLAN FOR LOCATION.
WALL HEIGHT IS 6' TYPICAL, EXCEPT AS NOTED.
COLUMN SPACING IS 12' - 18'
TYPICAL, EXCEPT WHERE NOTED.
ALL DIMENSIONS ARE NOMINAL.



ELEVATION along HOLIDAY HILL ROAD
at STREET ENTRANCES

NOT TO SCALE

NOTE:
THIS ARRANGEMENT TYPICAL ON BOTH SIDES OF BROWN
HEART LANE ENTRANCE AND THE SOUTH SIDE OF THE
RIVERSIDE DRIVE ENTRANCE. REFER TO PLAN FOR
LOCATION. WALL HEIGHT IS 6' TYPICAL EXCEPT AS NOTED.
COLUMN SPACING IS 12' - 18' TYPICAL, EXCEPT WHERE
NOTED. ALL DIMENSIONS ARE NOMINAL.

GREATHOUSE SECTION 7

PLANNED DISTRICT SITE PLAN



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: P-11-027, Greathouse Addition, Section 7

Purpose:

Consider a motion on a request by Los Conchos Ventures, LLC to approve the preliminary plat of Greathouse Addition, Section 7.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to approve this request.

Discussion:

Provided the City Council approves the associated zone change request, the Council must next consider the preliminary plat. This plat contains 155 acres and is bounded by Holiday Hill Road, Mockingbird Lane and Oriole Drive. It contains 354 single-family lots, three office lots and one retail lot. There are also eight common areas, which enacts the requirement for City Council approval. Common areas A and B are located along the east side of Holiday Hill Road and will be developed with a six-foot tall solid wood fence with brick pilasters. The fence is needed to screen the alley and lots adjacent to Holiday Hill Road. Five of the common areas are labeled "Reserved for Mineral Development". The applicant has been working in conjunction with the mineral owner to accommodate four oil wells that have already received Railroad Commission approval; however, no oil and gas well applications have been submitted at this time. The lots abutting the common areas are proposed for townhouse (attached single-family residences) development. One common area is the planned location for a tank battery and one containing existing pipelines will be left as open space.

Staff finds that this proposed preliminary meets the requirements of the Major Thoroughfare Plan, the Subdivision Code and the Comprehensive Plan. It is consistent with the requested zoning, and appears to be a reasonable subdivision plan. We understand that the Fire Department has issues with locating a tank battery within the City limits and in such close proximity to residential development. However, we believe these concerns are better addressed through the oil well permit process. In addition, the City Council would need to approve variances to either the drilling company or the developer to allow residences within 500 feet of a well site.

The Planning and Zoning Commission voted unanimously to recommend conditional approval of this request. Staff recommends approval.

Attachments:

November 14, 2011 P&Z Staff Report
Proposed Preliminary Plat



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: P-11-027, Greathouse Addition, Section 7

Purpose:

Consider a motion on a request by Los Conchos Ventures, LLC to approve the preliminary plat of Greathouse Addition, Section 7.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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Discussion:

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The Planning and Zoning Commission voted unanimously to recommend conditional approval of this request. Staff recommends approval.

Attachments:

November 14, 2011 P&Z Staff Report
Proposed Preliminary Plat

**Planning and Zoning Commission
Minutes
November 14, 2011**

P-11-027 - Consider a proposed *preliminary plat* of **Greathouse Addition, Section 7**, being a 155.99-acre tract of land out of Section 6, Block X, H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the south side of Mockingbird Lane, between Oriole Drive and Holiday Hill Road.)

Mr. West reviewed the request, stating that the plat matches the zoning in the previous item and, with approval, will allow moving forward with the design of the first phase. In answer to a question concerning the oil wells, he answered that the townhomes will wrap around the first well drilled.

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

PLANNING AND ZONING COMMISSION

November 14, 2011

CASE: P-11-027, Greathouse Addition, Section 7.

STATUS: Proposed Preliminary Plat.

APPLICANT/OWNER: Los Conchos Ventures, LLC.

REPRESENTATIVE: Parkhill, Smith and Cooper.

LEGAL DESCRIPTION: A 155.99-acre tract out of Section 7, Block "X", H. P. Hilliard Survey, Midland County, Texas.

LOCATION: South side of Mockingbird Lane, between Oriole Drive and Holiday Hill Road.

CURRENT ZONING: PD, Planned Districts for Housing Developments, and AE, Agriculture Estate District.

ASSOCIATED CASE: Z-11-036, Zone Change.

DETAILS OF REQUEST:

1. This property contains a quarter section of land. It is bounded on the north by Mockingbird Lane and on the west by Holiday Hill Road. Staff has received this preliminary plat that indicates a development plan consisting of single-family lots, some office lots and a retail tract. There are also seven common areas, five of which are labeled as being "Reserved for Mineral Development". We are advised that four oil wells and a tank battery are planned within these common areas. This plat contains 354 single-family lots, three office lots and one retail tract. Common Areas A and B are for a screening fence along Holiday Hill Road to screen the alley. Common Area G contains four petroleum pipelines, which prevents this right-of-way from being developed with anything other than native grasses. Common Area H is the planned location for the tank battery. There are also two storm water detention basins shown. Before any development can occur, a subdivision plat must be approved. An associated zone change request is also scheduled on the November 14th agenda; the Commission must first recommend approval of the zoning plan prior to considering this preliminary plat application. The City Council must approve the zone change prior to final plat approval.

RIGHTS-OF-WAY:

2. The width of both Holiday Hill Road and Mockingbird Lane is 120 feet. This satisfies the requirements of the Major Thoroughfare Plan. Collector streets include Brown Heart Lane, Dear Run and Greathouse Avenue, which are sixty feet wide. Another collector street, Riverside Drive, is 100 feet wide because it will also be used to convey storm water. The remaining streets are 55 feet wide. All alleys are 20 feet wide. The dimensions of these rights-of-way meet the requirements of the Subdivision Code for each respective street. An alley is planned adjacent to Holiday Hill Road, a condition prohibited by the Subdivision Code without a common area containing a screening fence and landscaping. Common Areas A and B have been designated for that purpose, thereby addressing this concern. The associated rezoning includes a planned district site plan that illustrates the characteristics of the screening fence. As we generally do for tracts zoned for business use, we recommend the dedication of a blanket refuse collection easement for the retail lots.

DRAINAGE:

3. As this vacant land develops, there will be an increase in storm water run-off. Further, there is an existing volume of storm water draining onto this property from the northwest. For these reasons, the staff has requested a drainage study, and recommends that final plat approval be conditioned upon approval of the drainage plan.

PUBLIC IMPROVEMENTS:

4. A development of this size requires a substantial amount of public improvements that the developer is responsible for installing. These include street paving, curb and gutter, alley paving if rear-entry garages are planned, water lines, fire hydrants, sanitary sewer lines, drainage improvements, and the screening fence, landscaping, irrigation system and public sidewalks in Holiday Hill Road. Since some of these improvements are considered oversized, the applicant may request that the City participate in these costs.

COMMON AREAS:

5. All plats that contain common areas must be accompanied by a declaration of restrictive covenants. The City's interest in the covenants is to ensure that the ownership and maintenance responsibilities of the common areas are addressed. The covenants must require the establishment of a non-profit association to carry out this objective.

Further, plats with common areas must also receive approval from both the Planning and Zoning Commission and the City Council.

OIL WELL VARIANCES:

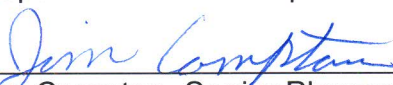
6. The developer has advised the staff that he anticipates that the oil wells will be drilled, pending City Council approval, prior to the construction of homes. As such, the Oil and Gas Code requires the developer to secure a variance from the City Council to construct homes within 500 feet of an oil well. While not a part of the platting process, we mention this condition to place the developer on notice. He indicates that he is aware of this condition.

STAFF RECOMMENDATION:

We recommend approval of the proposed preliminary plat of Greathouse Addition, Section 7, subject to the following conditions:

- A. That the preliminary plat and associated zone change request is approved by the City Council.
- B. That the required public improvements are adequately addressed.
- C. That a drainage plan is approved.
- D. That a declaration of restrictive covenants is approved.
- E. That a blanket refuse collection easement is dedicated for the retail tract.

Cameron Walker, AICP
Planning Division Manager
Department of Development Services


Jim Compton, Senior Planner
Department of Development Services

Attachments:

Preliminary Plat Application
Maps
Proposed Preliminary Plat

CITY OF MIDLAND

Planning Division

PRELIMINARY PLAT APPLICATION

I. APPLICATION

Proposed Title of Final Plat: Greathouse Addition – Section 7
 Legal Description of Plat (or see attached metes and bounds) Being 155.99 acres of land located Section 6, Block X, H.P. Hilliard Survey, City & County of Midland, Texas

Owner Information:

Black Family Partnership, Ltd., et. al.
 (Name)

(432) 683-2950

(Phone)

P.O. Box 50820
 (Address)

Midland, Texas 79710

(City, State, Zip)

Developer Information (if different from Owner)

Los Conchos Ventures, LLC
 (Name)

(432) 413-9888

(Phone)

P.O. Box 52587
 (Address)

Midland, Texas 79710

(City, State, Zip)

Representative Information (if acting as Agent, see Note on page2):

Parkhill, Smith & Cooper, Inc.
 (Name)

(432) 697-1447

(Phone)

1700 W. Wall, Ste 100
 (Address)

Midland, Texas 79701

(City, State, Zip)

II. FEES

Standard Plat or Residential Replat

For plats up to 50 acres:

\$250.00

For plats over 50 acres, \$1.00 for each additional acre, up to \$500.00

TOTAL

\$ 356.00 ✓

III. SUBMITTAL INFORMATION

Submittal Date: Minimum of 12 days (21 days for plats requiring a public hearing) prior to the Planning and Zoning Commission meeting at which consideration is desired. The Planning and Zoning Commission generally meets the first and third Monday of each month.

Check items if submitted with this application form

- | | |
|--|----------|
| 1. Application Fee: | <u>X</u> |
| 2. Copies: (16 prints) | <u>X</u> |
| 3. Digital file: (.jpg format) | <u>X</u> |
| 4. Drainage plan: (submitted to Engineering Dept.) | <u>X</u> |

For Office Use Only	
Rec'd By/	Date
_____	____/____/____
_____	____/____/____
_____	____/____/____
_____	____/____/____

The Preliminary Plat shall be considered officially received in the Planning office only when it is in compliance with the provisions of the City of Midland Subdivision Code and when items 1 - 4 above are received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

IV. REQUEST FOR A VARIANCE

The following variances are requested: (attach additional sheets if necessary)

1. Sidewalk waiver: If property is located within the City Limits and is currently undeveloped, do you intend to seek a waiver from the Building Code requirement to construct public sidewalks? YES _____ NO X
2. Street/Alley alignment, width or length: _____
3. Other: _____

V. REQUEST FOR A DEVELOPMENT AGREEMENT

Do you expect to request a development agreement with the City? YES X NO _____

VI. PROVISIONS

The Planning and Zoning Commission may approve, disapprove, or conditionally approve a preliminary plat. Conditional approval is subject to conformity with prescribed conditions and is considered disapproval of the plat until said conditions are met. Approval of a preliminary plat shall be considered to be approval of the general arrangement of lots, streets and alleys and the width of streets and alleys, but is not considered to be final acceptance of the subdivision plat. In some cases, a preliminary plat must be considered by the City Council, and any approval by the Planning and Zoning Commission shall be considered a recommendation to the City Council.

VII. 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 Black Family Partnership, Ltd., et. al., 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)

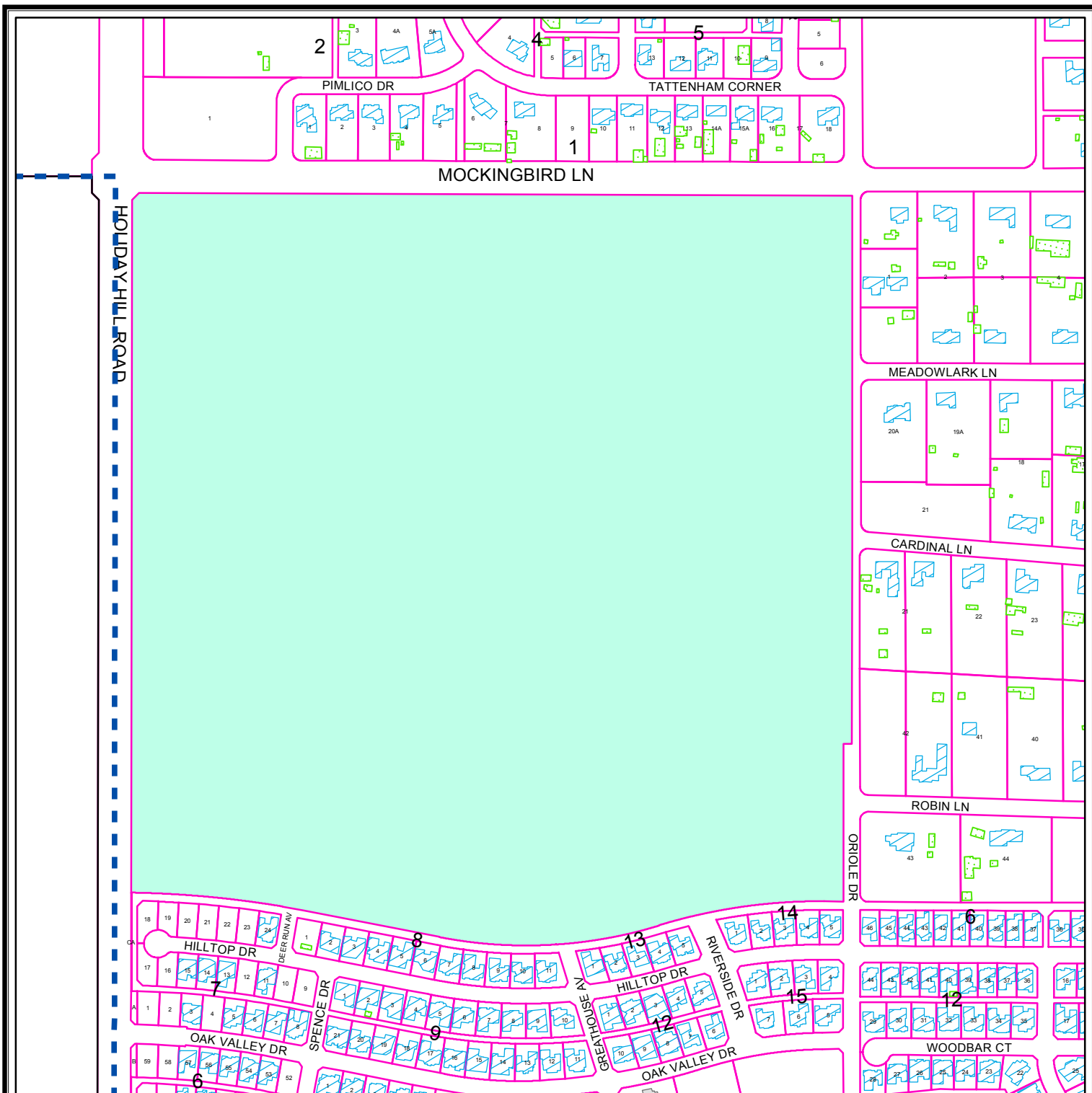
Subscribed and sworn to before me, this 20th day of May, 20 11, to certify which witness my hand and seal of office.

FOR OFFICE USE ONLY	
Rec'd BY: <u>KP</u>	DATE: <u>7/27/11</u>
RES REPLAT: YES _____	NO _____
ASSIGNED: <u>JC</u>	
FOR: _____	ON: _____
Council Action Required: Y N	

Darcy Y. Knight
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS



****Application will not be scheduled for hearing until reviewed by a planner.****



LOCATION MAP

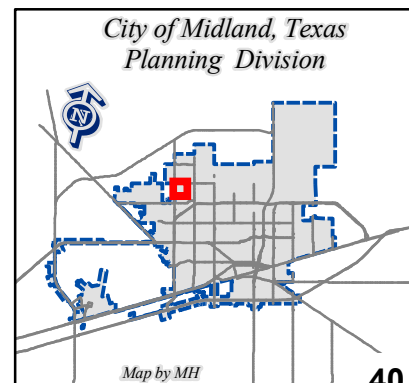
P - 11 - 027

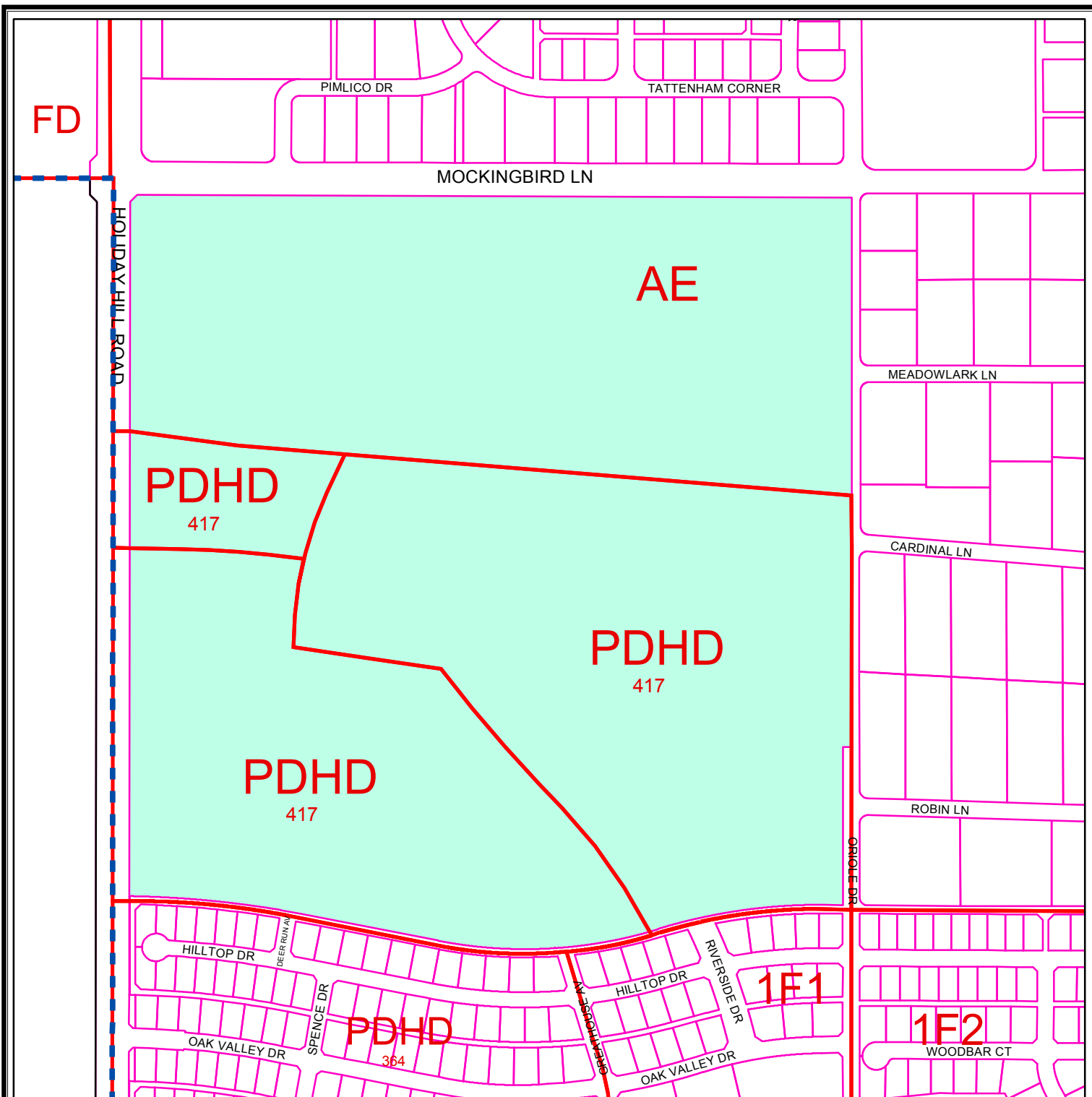
Scale: 1" = 500'

Proposed plat of Greathouse Addition, Section 7, being a 155.99-acre tract of land out of Section 6, Block X, H. P. Hilliard Survey, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- COUNTY PARCEL
- CITY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS





ZONING MAP

P - 11 - 027

Scale: 1" = 500'

Proposed plat of Greathouse Addition, Section 7, being a 155.99-acre tract of land out of Section 6, Block X, H. P. Hilliard Survey, City and County of Midland, Texas.

LEGEND



ZONING



CITY LIMITS



CITY PARCELS



COUNTY PARCELS

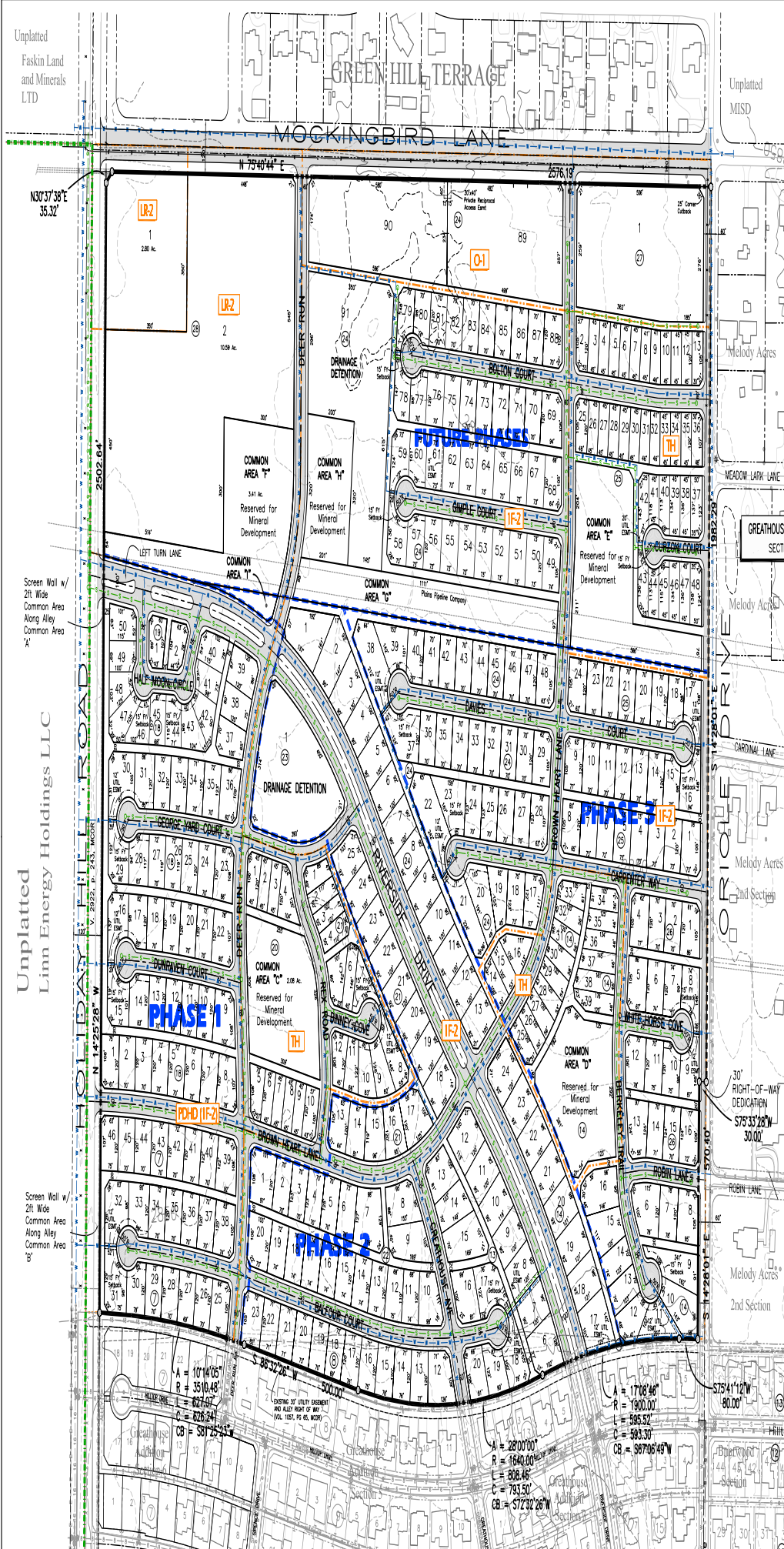
ZONING DISTRICTS:

FD FUTURE DEVELOPMENT
PD PLANNED DISTRICT
AE AGRICULTURE ESTATE
CE COUNTRY ESTATE
IF1, IF2, IF3 ONE-FAMILY DWELLING
MH MOBILE HOME DWELLING
TH TOWNHOUSE DWELLING
2F TWO-FAMILY DWELLING
MF1, MF2 MULTIPLE FAMILY DWELLING

BP BUSINESS PARK
P PARKING
01, 02 OFFICE
NS NEIGHBORHOOD SERVICE
LR1, LR2, LR3 LOCAL RETAIL
C1, C2, C3 COMMERCIAL
IP, IP1, IP2, IP3 INDUSTRIAL PARK
LI LIGHT INDUSTRY
HI HEAVY INDUSTRY

BP BUSINESS PARK
P PARKING
01, 02 OFFICE
NS NEIGHBORHOOD SERVICE
LR1, LR2, LR3 LOCAL RETAIL
C1, C2, C3 COMMERCIAL
IP, IP1, IP2, IP3 INDUSTRIAL PARK
LI LIGHT INDUSTRY
HI HEAVY INDUSTRY







City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011
TO: CITY COUNCIL/CITY MANAGER
FROM: Cameron Walker
SUBJECT: Z-11-046, Rodney Roberts

Purpose:

Hold a public hearing at approximately 10:33 a.m. and consider an ordinance on a request by Rod Roberts for a zone change from AE, Agriculture Estate District to LR-2, Local Retail District.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

No City funds are required in association with this application.

Discussion:

This 3.3-acre lot is located at the northeast corner of Holiday Hill Road and Mockingbird Lane. It was platted with the original Green Hill Terrace subdivision in 1959. Upon annexation in 1980, it was zoned AE District, based upon the surrounding land uses. The owner is requesting a zone change to an LR-2 District for a potential retail use. The Comprehensive Plan recommends that retail zoning be located at the intersection of arterial streets. This lot meets that guideline. Additionally, Midland is experiencing growth in this general area and retail development is appropriate to serve this growth. The Planning and Zoning Commission recommended unanimous approval of this request and no public opposition was noted.

Attachments:

October 31, 2011 P&Z Staff Report
Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 2, GREEN HILL TERRACE, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE NORTHEAST CORNER OF HOLIDAY HILL ROAD AND MOCKINGBIRD LANE) ; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter 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 LR-2, Local Retail 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 AE, Agriculture Estate District, and it shall be used as an LR-2, Local Retail District, said property being described as follows:

Lot 1, Block 2, Green Hill Terrace, City and County of Midland, Texas.

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., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the

following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker

SUBJECT: Z-11-046, Rodney Roberts

Purpose:

Hold a public hearing at approximately 10:33 a.m. and consider an ordinance on a request by Rod Roberts for a zone change from AE, Agriculture Estate District to LR-2, Local Retail District.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

No City funds are required in association with this application.

Discussion:

This 3.3-acre lot is located at the northeast corner of Holiday Hill Road and Mockingbird Lane. It was platted with the original Green Hill Terrace subdivision in 1959. Upon annexation in 1980, it was zoned AE District, based upon the surrounding land uses. The owner is requesting a zone change to an LR-2 District for a potential retail use. The Comprehensive Plan recommends that retail zoning be located at the intersection of arterial streets. This lot meets that guideline. Additionally, Midland is experiencing growth in this general area and retail development is appropriate to serve this growth. The Planning and Zoning Commission recommended unanimous approval of this request and no public opposition was noted.

Attachments:

October 31, 2011 P&Z Staff Report
Proposed Ordinance

**Planning and Zoning Commission
Minutes
October 31, 2011**

Z-11-046 - Hold a public hearing and consider a request by **Rodney Roberts** for a *zone change* from AE, Agriculture Estate District to LR-2, Local Retail District on Lot 1, Block 2, Green Hill Terrace, City and County of Midland, Texas. (Generally located northeast corner of the intersection of Holiday Hill Road and Mockingbird Lane.)

The applicant yielded to the staff. Planning Division Manager Cameron Walker stated that the property for the proposed retail district is located at the intersection of two arterial streets.

Chairman Carney opened the public hearing for those in favor to speak.

Richard Dunham, 4400 N. Big Spring, C-28, spoke in support of the rezoning request.

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

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

PLANNING AND ZONING COMMISSION

October 31, 2011

CASE: Z-11-046.

REQUEST: Hold a public hearing and consider a request for a zone change from AE, Agriculture Estate District to LR-2, Local Retail District.

APPLICANT: Rodney Roberts.

OWNER: Hemingway Holdings, LLC.

REPRESENTATIVE: Rodney Roberts.

LEGAL DESCRIPTION: Lot 1, Block 2, Green Hill Terrace, City and County of Midland, Texas.

LOCATION: Northeast corner of Mockingbird Lane and Holiday Hill Road.

DETAILS OF REQUEST:

1. The subject lot is part of the original Green Hill Terrace subdivision, which was approved by the County Commissioners Court in 1959. Upon annexation by the City Council in 1980, this land was zoned AE District, and has since remained vacant. Staff has received a request to rezone this 3.3-acre lot to an LR-2, Local Retail District.

SURROUNDING ZONING AND LAND USE:

2. This property is located at the intersection of two arterial streets. The lot is surrounded by AE District zoning, except for the northwest corner of the intersection, which was zoned FD District upon annexation in 2007. The areas to the north and east are developed with single-family homes; however, the lot sizes are much smaller than the minimum lot area of the AE District requirement of two acres. The AE District was chosen in 1980 because of the rural character of the area. A request for a zone change and preliminary plat for the land to the south is anticipated to be presented to the Planning Commission on November 14th.

ANALYSIS:

3. The Comprehensive Plan recommends arterial street intersections as the appropriate location for retail zoning. Arterial streets are best able to accommodate the higher traffic volume associated with retail uses. The location of this lot meets this criterion. This part of Midland is experiencing residential and non-residential growth what will create demand for retailers. We find this request to be appropriate.

STAFF RECOMMENDATION:

We recommend approval of this request for a zone change from AE, Agriculture Estate District to LR-2, Local Retail District.

Cameron Walker, AICP
Planning Division Manager
Department of Development Services

Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps

Case Number: 2-11-046

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

RODNEY R. ROBERTS rodney@radricproperties.com
Applicant Name (Phone/e-mail)

210 N. MAIN ST. MIDLAND, TX 79701
Address Zip Code

HEMINGWAY HOLDINGS LLC 432-687-1272
Property Owner Name (Phone/e-mail)

310 W. WALL SUITE 803, MIDLAND, TX 79701
Address Zip Code

KARL REITER, MANAGER 432-687-1272
Representative Name (Phone/e-mail)

310 W. WALL SUITE 803, 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. 5306 MOCKINGBIRD LANE

3.306 ACRES, BLK: 002, LOT: 601
ADDN: GREEN HILL TERRACE

PRESENT ZONE: AE REQUESTED ZONE: LR-2
(List by tracts if more than one district is requested)

Reason for Zone Change Request: INTENT TO DEVELOPMENT
CONVENIENCE STORE & RETAIL CENTER.

Present Use of Property: VACANT

Proposed Use of Property: CONVENIENCE STORE & RETAIL CENTER

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 VACANT SINCE PLATTING IN 1950'S.
THE CITY HAS DOUBLED IN SIZE SINCE & GROWN TO PROPERTY.

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): Karl Reiter Date: 9-30-11

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

RODNEY R. ROBERTS who, being by me duly sworn, upon oath says: That (s)he is authorized by KARL REITER, 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.

[Signature]

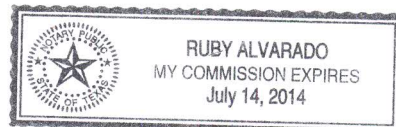
Authorized Agent (signature)

Subscribed and sworn to before me, this 30 day of September, 20 11, to certify which witness my hand and seal of office.

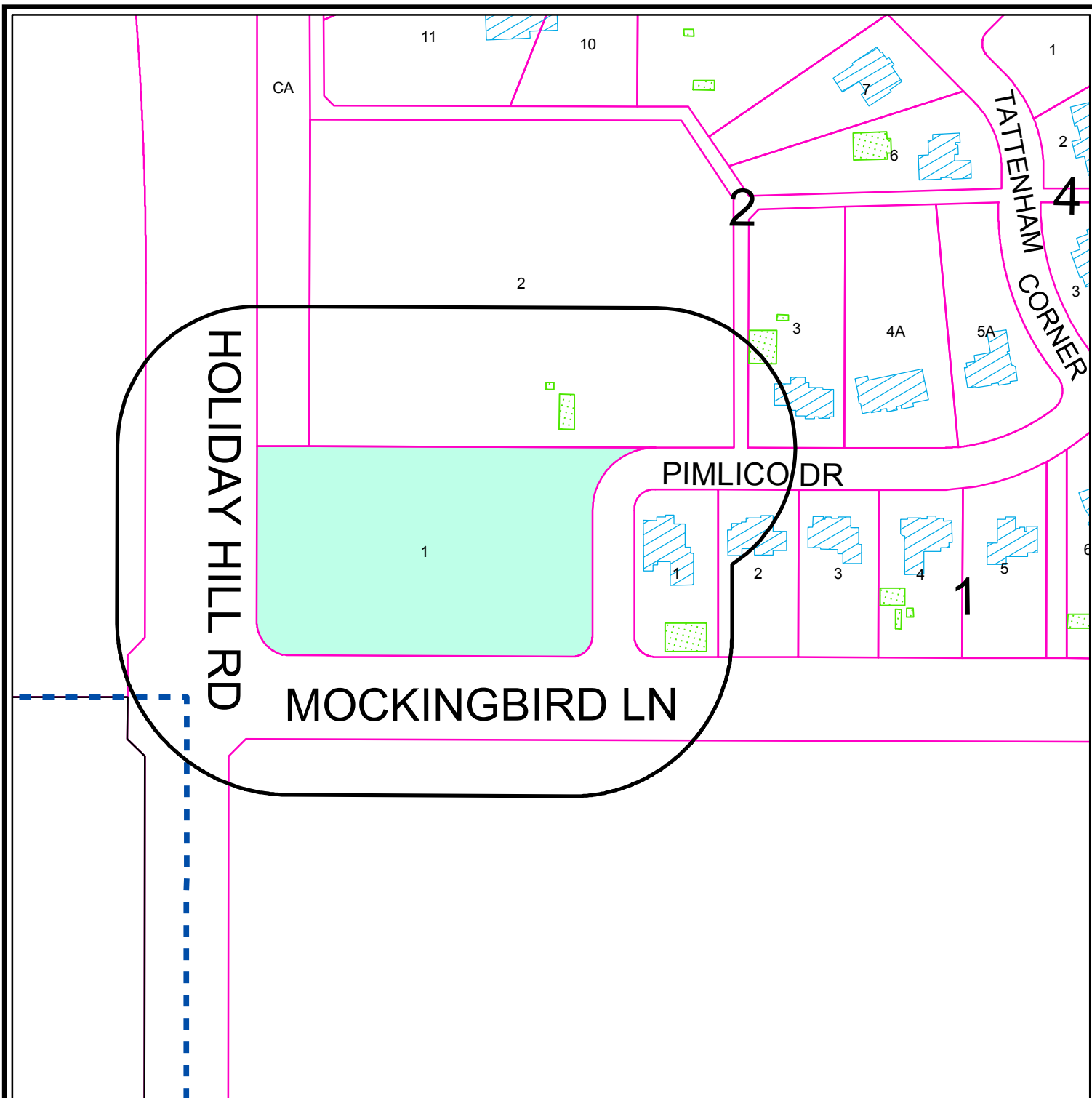
[Signature]

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>CW</u>	Date: <u>9/30/11</u>
Assigned: <u>JU</u>	
For: <u>P+2</u>	On: <u>10/31/11</u>



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



PROPERTY OWNER NOTIFICATION MAP

Z - 11 - 046

Scale: 1" = 200'

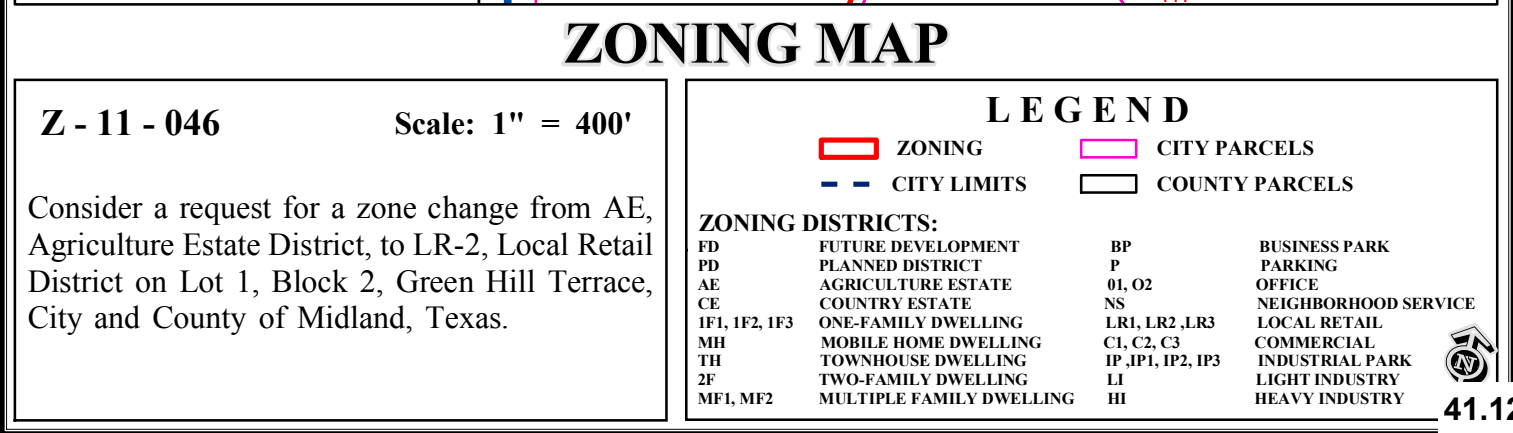
Consider a request for a zone change from AE, Agriculture Estate District, to LR-2, Local Retail District on Lot 1, Block 2, Green Hill Terrace, City and County of Midland, Texas.

LEGEND

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



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 THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC. IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND. THE CITY OF MIDLAND MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, ZONING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-11-047, Midland Bible Church

Purpose:

Hold a public hearing at approximately 10:36 a.m. and consider an ordinance on a request by Midland Bible Church for a zone change from PD, Planned District for a Housing Development, to a PD, Planned District for an Office Center.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

Midland Bible Church is planning to construct a church 65 feet in height on 15.27 acres of land. The current Planned District is governed by 1F-1, One-Family Dwelling District regulations with a height limitation of 38 feet. The applicant's request is to rezone to a Planned District for an Office Center, subject to O-2 regulations which would permit the desired building use and height of 64'. Staff supports this zone change, subject to development in accordance with Exhibits A & B, as the project would be suitably fit for this neighborhood. With the church more than 200 feet from the road and the tiered design leading to its maximum height; the structure will appear modestly scaled on this large lot.

Attachments:

Maps
October 31, 2011 Planning & Zoning Commission Staff Report

Exhibit A – Site Plan
Exhibit B – Elevations
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 1, BLOCK 4, MAYFIELD PLACE ADDITION, 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 EAST SIDE OF WHITMAN DRIVE, APPROXIMATELY ½ MILE NORTH OF MOCKINGBIRD LANE); 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 1, Block 4, Mayfield Place Addition, 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 governed by O-2, Office District regulations.
2. That this property shall be developed in accordance with the site plan attached hereto as Exhibits “A” and “B” and incorporated herein.
3. That the future parking lot and/or the future church ministry building shown on Exhibit “A” shall be subject to administrative site plan review.
4. That, except as noted above, any subsequent changes to the attached site plan shall be approved prior to obtaining a building permit in the same manner as a zone change.
5. That the landscaping shall conform to City of Midland regulations in place at the time of development.
6. That a blanket refuse collection easement is granted to the City of Midland for access to and removal of waste from this property.
7. That the air conditioners and dumpsters shall be appropriately screened.
8. That all signage shall be in compliance with City of Midland regulations.
9. That City of Midland Ordinance No. 8444 is hereby amended by this ordinance.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of

Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ____ day of _____, A.D., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the ____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-11-047, Midland Bible Church

Purpose:

Hold a public hearing at approximately 10:36 a.m. and consider an ordinance on a request by Midland Bible Church for a zone change from PD, Planned District for a Housing Development, to a PD, Planned District for an Office Center.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

Midland Bible Church is planning to construct a church 65 feet in height on 15.27 acres of land. The current Planned District is governed by 1F-1, One-Family Dwelling District regulations with a height limitation of 38 feet. The applicant's request is to rezone to a Planned District for an Office Center, subject to O-2 regulations which would permit the desired building use and height of 64'. Staff supports this zone change, subject to development in accordance with Exhibits A & B, as the project would be suitably fit for this neighborhood. With the church more than 200 feet from the road and the tiered design leading to its maximum height; the structure will appear modestly scaled on this large lot.

Attachments:

Maps
October 31, 2011 Planning & Zoning Commission Staff Report

Exhibit A – Site Plan
Exhibit B – Elevations
Proposed Ordinance

**Planning and Zoning Commission
Minutes
October 31, 2011**

Z-11-047 - Hold a public hearing and consider a request by **Midland Bible Church** for a *zone change* from PD, Planned District for a Housing Development to an Amended Planned District on Lot 1, Block 4, Mayfield Place Addition, City and County of Midland, Texas. (Generally located on the east side of Whitman Drive, approximately ½ mile north of Mockingbird Lane.)

The applicant yielded to the staff. Mr. Van Dyne explained that the requested zone change was for the purpose of constructing a 40,400 square foot church building on 15.27 acres in the north part of Midland. He stated that the purpose of the request is to allow a 65-foot tall church.

Chairman Carney opened the public hearing and there being no one wishing to speak in favor or in opposition to the item, closed the public hearing.

Following a brief discussion, a motion for approval, subject to Conditions A-H, was made by Commissioner Ferguson; seconded by Commissioner York. The motion carried by the following vote: AYE: Wolf, York, Gatten, Carney, Ferguson, Wilton and Watkins. NAY: None. ABSTAIN: None. ABSENT: Lanning and Woodruff

PLANNING AND ZONING COMMISSION

October 31, 2011

CASE: Z-11-047.

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

APPLICANT: LCA.

OWNER: Midland Bible Church.

LEGAL DESCRIPTION: Lot 1, Block 4, Mayfield Place Addition, City and County of Midland, Texas.

LOCATION: Generally located at the east side of Whitman Drive, approximately ½ mile north of Mockingbird Lane.

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

ASSOCIATED CASE: Z-06-017.

DETAILS OF REQUEST:

1. This 15.27-acre property is being proposed for the location of a new building by Midland Bible Church. The current zoning will accommodate the use of this property for a church site, however, the maximum height for this Planned District is governed by its underlying zoning designation, 1F-1, One-Family Dwelling District, which allows a maximum height of 38 feet. The proposed church building has a maximum height of nearly 65 feet; therefore, the applicant requests a zone change to a PD, Planned District for an Office Center. A Planned District with an underlying zoning designation, O-2, Office District will accommodate both the use and the additional height of the church. Therefore, the purpose of this zone change is to allow for this new structure and adopt a site plan for a PD, Planned District for an Office Center.

SURROUNDING ZONING AND LAND USE:

2. This property is located on the east side of Whitman Drive, north of the Midland Classical Academy. West of Whitman Drive is a Planned District for a Housing Development that is built-out to about fifty-percent completion. North is an undeveloped AE, Agricultural Estates District, with an undeveloped 1F-1, One-Family Dwelling District to the east of the subject property.

ANALYSIS:

3. The underlying zoning for the property's proposed Planned District for Office Center is the O-2, Office District. Staff recommends this rezoning which will accommodate the proposed new structure and use while maintaining the property's suitability within the area by also requiring a site plan. At over 15 acres, we believe that this is a large enough area to stand on its own and should not be considered spot zoning.

SITE PLAN:

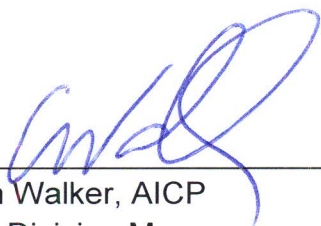
4. The proposed church is a 40,400 square foot building positioned near the center of the southern half of this 15.27-acre lot. This positioning of the building is to avoid a large pipeline easement running from the north to the east property line and a proposed drainage easement that will run west to east near the north property line (Exhibit A – Site Plan). The two parking lots planned for in this phase on the east and west sides of the building provide 203 parking spaces which is more than the current 182 spaces the facility requires. The phase two parking lot and future building to the north should be considered illustrative and any subsequent site plan will be subject to administrative review. The building façade is primarily a masonry veneer CMU block with angled metal roofing (Exhibit B – Elevations). With the church more than 200 feet from the road and the tiered design leading to its maximum height; the structure will appear modestly scaled on this large lot. HVAC units are roof mounted, but are appropriately screened for appearance and sound buffering.
5. Landscaping on the site is adequate in terms of tree-count given the number of current parking spaces proposed and the lot's street frontage. However, landscape regulations state that the placement of the trees attributable to the linear street frontage require that those trees are visible from the street. Landscaping should therefore be considered illustrative and staff will work with the developer to space/cluster the requisite number of trees along Whitman Drive as required by the landscaping code at the time of development.

STAFF RECOMMENDATION:

We recommend approval of this request for a zone change from a PD, Planned District for a Housing Development, to PD, Planned District for an Office Center subject to the following conditions:

- A. This Planned District shall be governed by O-2, Office District regulations;
- B. Except as noted, this property shall be developed in accordance with Exhibits A and B;
- C. Except as noted, any subsequent changes to the attached site plan must be approved prior to obtaining a building permit in the same manner as a zone change;
- D. That the landscaping shall conform to City regulations in place at the time of development;

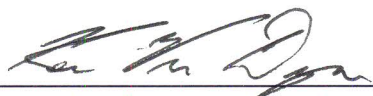
- E. That a blanket refuse collection easement is granted to the city for this site;
- F. That the air conditioners and dumpsters shall be appropriately screened;
- G. All signage must be in accordance with city regulations;
- H. That Ordinance 8444 is amended by this action.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services

Attachments:

Application
Maps
Exhibit A – Site Plan
Exhibit B – Elevations



Ken Van Dyne, Senior Planner
Department of Development Services

Case Number:

Z-11-047

CITY OF MIDLAND

Planning Division

APPLICATION TO AMEND A PLANNED DISTRICT

Applicant: LCA

Address: 521 N. Texas Ave. 432-332-5058 lca@lcaodessa.com

Street Address

Odessa, Texas

(Phone/e-mail)

79762

City

State

Zip Code

Property Owner: Midland Bible Church

Address: 2800 N. A. Street

432-684-9722

Street Address

Midland

Texas

(Phone/e-mail)

79705

City

State

Zip Code

Street address and Legal Description of Planned District (complete Lot, Block, and Subdivision Name description below, or, if not in a recorded plat, attach a sealed Metes and Bounds Description:

LOT 1, BLK. 4, MAYFIELD PLACE

Current PD Classification: PDHD

Requested PD Classification: PDHD

PDOC

(List by tracts if more than one zoning district is requested)

Reason for amendment request: Amend height restriction to maximum of 65'

Describe how conditions affecting the property have changed since it was designated its present zone: Design development for building

Will a Specific Use Permit with Term for alcoholic beverage sales be needed? Yes X No

FEES:

Single, Planned District amendment: **\$550**. Multiple, PD proposal: add **\$75** per district.

SUBMITTALS:

16 copies of the PD site plan (FOLDED): _____

Site Plan in digital format .pdf and .jpg: _____

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): _____ Date: _____

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

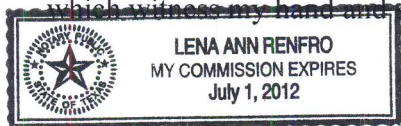
STATE of TEXAS
COUNTY OF MIDLAND

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

Joe M. Tucker, P.E. who, being by me duly sworn, upon oath says: That (s)he is authorized by Midland Bible Church the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Joseph M. Tucker
Authorized Agent (signature)

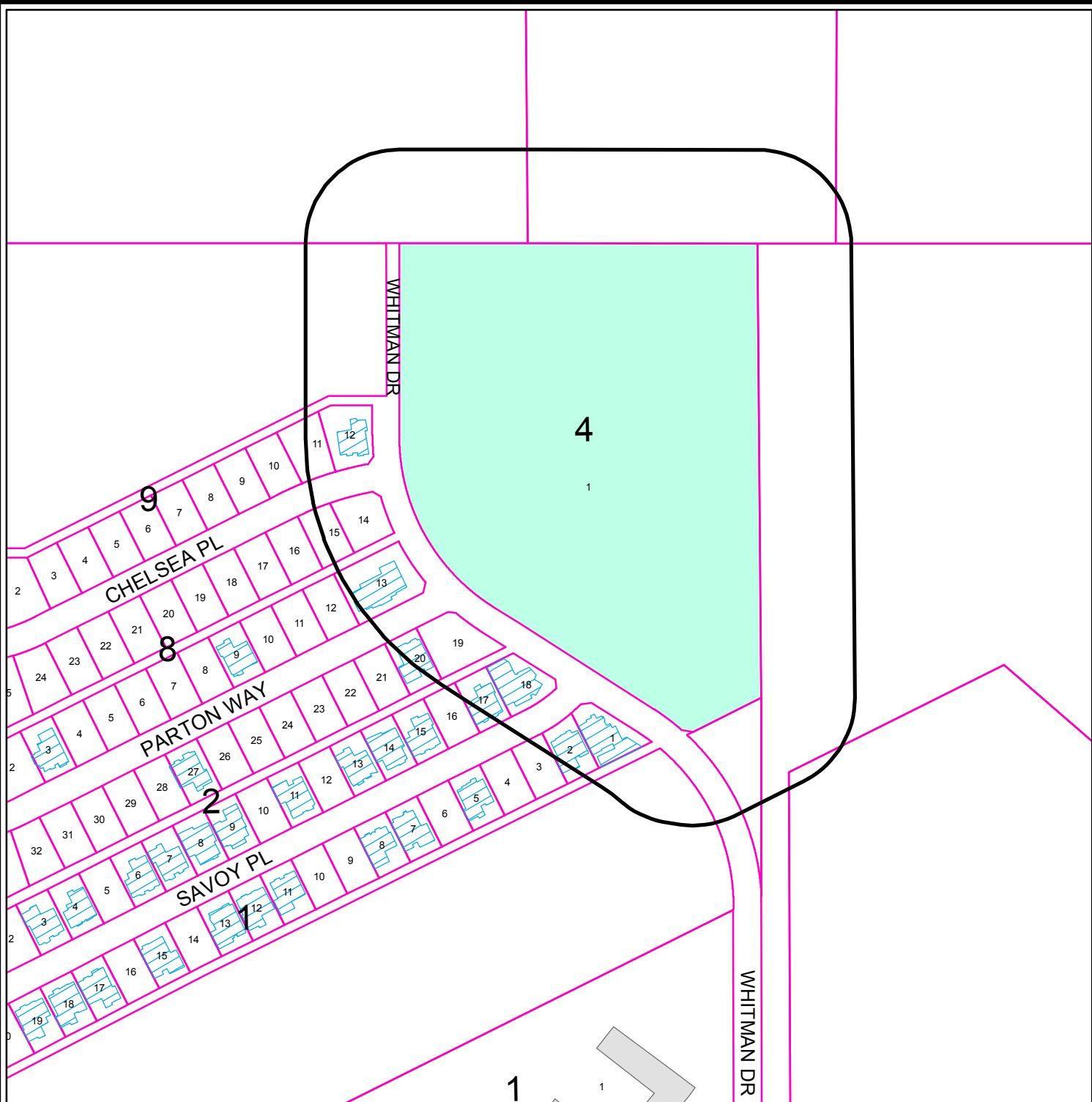
Subscribed and sworn to before me, this 30th day of September, 20 11, to certify which witness my hand and seal of office.



Lena Ann Renfro
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>CV</u>	Date: <u>9/29/11</u>
Assigned: <u>KV</u>	
For: <u>P+Z</u>	On: <u>10/31/11</u>

CC 11/6/11
****Application will not be considered for scheduling until reviewed by a planner. ****



PROPERTY OWNER NOTIFICATION MAP

Z - 11 - 047

Scale: 1" = 300'

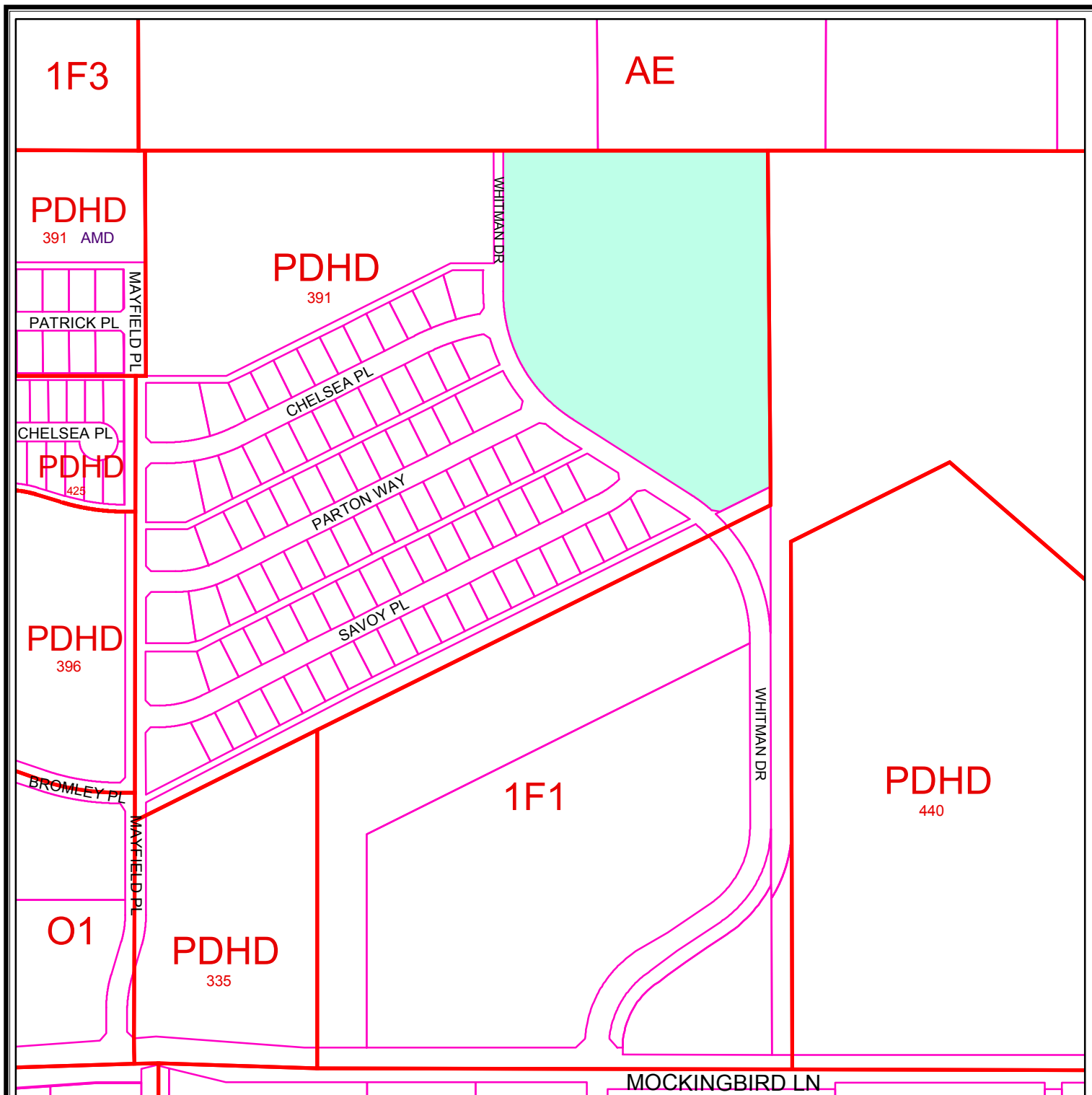
Consider a request for a zone change from PD, Planned District for a Housing Development, to an Amended Planned District on Lot 1, Block 4, Mayfield Place Addition, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE 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. THE CITY OF MIDLAND MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, ZONING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.



ZONING MAP

Z - 11 - 047

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 1, Block 4, Mayfield Place Addition, City and County of Midland, Texas.

LEGEND

ZONING

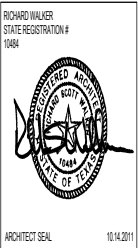
PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT
PD	PLANNED DISTRICT
AE	AGRICULTURE ESTATE
CE	COUNTRY ESTATE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING
MH	MOBILE HOME DWELLING
TH	TOWNHOUSE DWELLING
2F	TWO-FAMILY DWELLING
MF1, MF2	MULTIPLE FAMILY DWELLING

BP	BUSINESS PARK
P	PARKING
01, 02	OFFICE
NS	NEIGHBORHOOD SERVICE
LR1, LR2, LR3	LOCAL RETAIL
C1, C2, C3	COMMERCIAL
IP, IP1, IP2, IP3	INDUSTRIAL PARK
LI	LIGHT INDUSTRY
HI	HEAVY INDUSTRY



[illegible]ARCHITECTURAL SITE
PLAN



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-11-017, Gary Dawson

Purpose:

Hold a public hearing at approximately 10:39 a.m. and consider an ordinance on a request by Gary Dawson for a Specific Use Permit for an Accessory Building to be used as a Living and Sleeping Quarters.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with this application.

Discussion:

Mr. Dawson owns a 20-acre lot on the west side of Elkins Road, one mile north of Business 20. The land is zoned AE District. He wishes to construct another residential structure on his property, however, he does not wish to subdivide his lot at this time. Consequently, he has submitted this permit request. The size of the proposed accessory building (1,780 square feet) would be less than 35% of the existing residential structure. There is no vehicular access from the rear of the property and the residence would only be occupied by family members or guests. Approval of this permit request would be conditioned upon the property not being utilized as a separate rental dwelling. The Planning and Zoning Commission recommended unanimous approval, and no public opposition was expressed at that meeting.

Attachments:
October 31, 2011 P&Z Staff Report
Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF LOT 1, BLOCK 1, CAMELOT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF ELKINS ROAD, APPROXIMATELY ONE MILE NORTH OF BUSINESS INTERSTATE 20), WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR AN ACCESSORY BUILDING TO BE USED FOR LIVING OR SLEEPING QUARTERS; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter and the State law with reference to the granting of specific use permits under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings and affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the health, safety and general welfare will be best served by the granting of a Specific Use Permit Without Term, set out hereinafter, subject to the special conditions and restrictions set out hereinafter on the property described in Section One hereof;

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

SECTION ONE. That the zoning use classification of the following described property, which is presently zoned AE, Agriculture Estate District, to wit:

Lot 1, Block 1, Camelot Addition, City and County of Midland, Texas;

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

permitted in an AE, Agriculture Estate District, subject to the following conditions:

1. That the accessory building shall be located as shown on Exhibit “A”, which is attached hereto and incorporated herein.
2. That the accessory building shall not exceed 1,800 contiguous square feet in area.
3. That the use of the accessory building for living or sleeping quarters shall be limited to family members or guests of the occupant of the primary residence; the accessory building shall not be rented out as a separate residence or used for any commercial purpose.
4. That the applicant shall obtain all necessary permits from the City of Midland related to the construction of the accessory building.

SECTION TWO. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on

first reading, the _____ day of _____, A.D., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-11-017, Gary Dawson

Purpose:

Hold a public hearing at approximately 10:39 a.m. and consider an ordinance on a request by Gary Dawson for a Specific Use Permit for an Accessory Building to be used as a Living and Sleeping Quarters.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with this application.

Discussion:

Mr. Dawson owns a 20-acre lot on the west side of Elkins Road, one mile north of Business 20. The land is zoned AE District. He wishes to construct another residential structure on his property, however, he does not wish to subdivide his lot at this time. Consequently, he has submitted this permit request. The size of the proposed accessory building (1,780 square feet) would be less than 35% of the existing residential structure. There is no vehicular access from the rear of the property and the residence would only be occupied by family members or guests. Approval of this permit request would be conditioned upon the property not being utilized as a separate rental dwelling. The Planning and Zoning Commission recommended unanimous approval, and no public opposition was expressed at that meeting.

Attachments:

October 31, 2011 P&Z Staff Report
Proposed Ordinance

**Planning and Zoning Commission
Minutes
October 31, 2011**

S-11-017 - Hold a public hearing and consider a request by **Gary Dawson** for a *Specific Use Permit Without Term* for an accessory building for living or sleeping quarters on Lot 1, Block 1, Camelot Addition, City and County of Midland, Texas. (Generally located on the west side of Elkins Road, approximately 1 mile north of Business I-20.)

Mr. Compton explained that the applicant wishes to construct an additional small residence on the lot, that current zoning allows for only one residence on the lot, but the specific use permit will allow for the requested residence. He stated that an accessory building may not be rented as a separate living unit.

Chairman Carney opened the public hearing and there being no one wishing to speak in favor or in opposition to the item, closed the public hearing.

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

PLANNING AND ZONING COMMISSION

October 31, 2011

CASE: S-11-017.

REQUEST: Hold a public hearing and consider a request for a Specific Use Permit, Without Term, for an Accessory Building for Living and Sleeping Quarters.

APPLICANT/OWNER: Gary Dawson.

LEGAL DESCRIPTION: Lot 1, Block 1, Camelot Addition, City and County of Midland, Texas.

LOCATION: West side of Elkins Road, approximately one mile north of Business I-20.

CURRENT ZONING: AE, Agriculture Estate District.

DETAILS OF REQUEST:

1. Mr. Dawson owns a 19.67-acre lot on the west side of Elkins Road. He wishes to construct another small residence on this lot. Since the AE District only allows one residence per lot, he is requesting a specific use permit to allow an accessory building that can be used for living and sleeping quarters. The accessory building is proposed to be 1,780 square feet in area, and is located as shown on the attached Exhibit A.

SURROUNDING ZONING AND LAND USE:

2. This lot is located on the west side of Elkins Road. The land on the east side is outside the City limit, and is generally vacant except of an oil well. The land to the north, west and south of this property is zoned AE District, and is generally vacant with the exception of the occasional pump jack. The nearest residence is over one-quarter mile from the applicant's home.

ANALYSIS:

3. * The Planning and Zoning Commission has developed several policies that are helpful in reviewing applications for accessory buildings that are used as a living and sleeping quarter:
 - A. The maximum floor area should not exceed 600 square feet, or 35 percent of the size of the principle residence, whichever is larger.

- B. Vehicular access to the accessory building should not be allowed from the rear of the lot.
- C. The specific use permit should delineate who is allowed to stay in the accessory building.

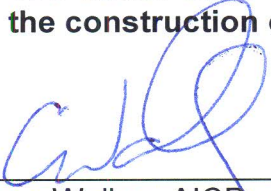
In addition to these policies, the Zoning Code prohibits the use of the accessory building as rental property.

- 4. The principle residence contains 6,250 square feet, while the accessory building is proposed to be 1,780 square feet, which represents 28 percent the principle residence. With no alley system serving this lot, all access to the accessory building must be through the front of the lot. The applicant indicates that the guesthouse will only be occupied by family members or guests, and he has been advised that it cannot be rented as a separate dwelling unit. We find that this application meets the policy guidelines and regulations of the Zoning Code. Further, there are no nearby residences that could be negatively impacted by approval of this request.

STAFF RECOMMENDATION:

We recommend approval of this request for a Specific Use Permit, Without Term, to allow an accessory building to be used as a living and sleeping quarters, subject to the following conditions:

- A. That the accessory building shall not exceed 1,800 square feet in area.
- B. That the accessory building shall be located in the location illustrated on Exhibit A.
- C. That the accessory building may be occupied only by family members or guests of the owner. It may never be rented as a separate dwelling unit.
- D. The owner shall obtain all of the necessary permits from the City of Midland related to the construction of the accessory building.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Exhibit A

Case Number: 5-11-017

CITY OF MIDLAND
Planning Division

SPECIFIC USE PERMIT APPLICATION

GARY DAWSON 432 352 5365
Applicant Name Contact Phone #s
3201 ELKINS Rd 79705
Address Zip Code
E-Mail address: joshua.gd1977@yahoo.com

S A A
Property Owner Name Contact Phone #s
Address Zip Code
E-Mail address:

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

Type of Permit: SPECIFIC USE
ACCESSORY LIVING QUARTERS
SUP with Term: ☐ Yes ☐ No
(For Office Use)

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

3201 ELKINS Rd Lot 1 Bk. 1 CAMELOT Sub.

Current Zoning: AE

Maximum Floor Area: 1780 sq ft. Max. Occupancy: 1 Adult

Proposed hours and days of use or operation: NA

Reason for request: Family friend. place to stay

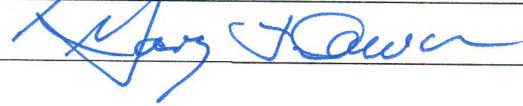
Applicant's opinion as to why the request will not adversely affect the public safety, health, morals, general welfare, and convenience: NO NEIGHBORS WITHIN 1/4 MILE
PROPERTY IS 20 AC IN SIZE THIS WILL BE THE
ONE AND ONLY OUT BUILDING USED AS A LIVING QUARTERS

REQUIRED SUBMITTALS

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

SIGNATURES:

Applicant:  Date: 9/15/11

Property Owner:  Date: 9/15/11

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

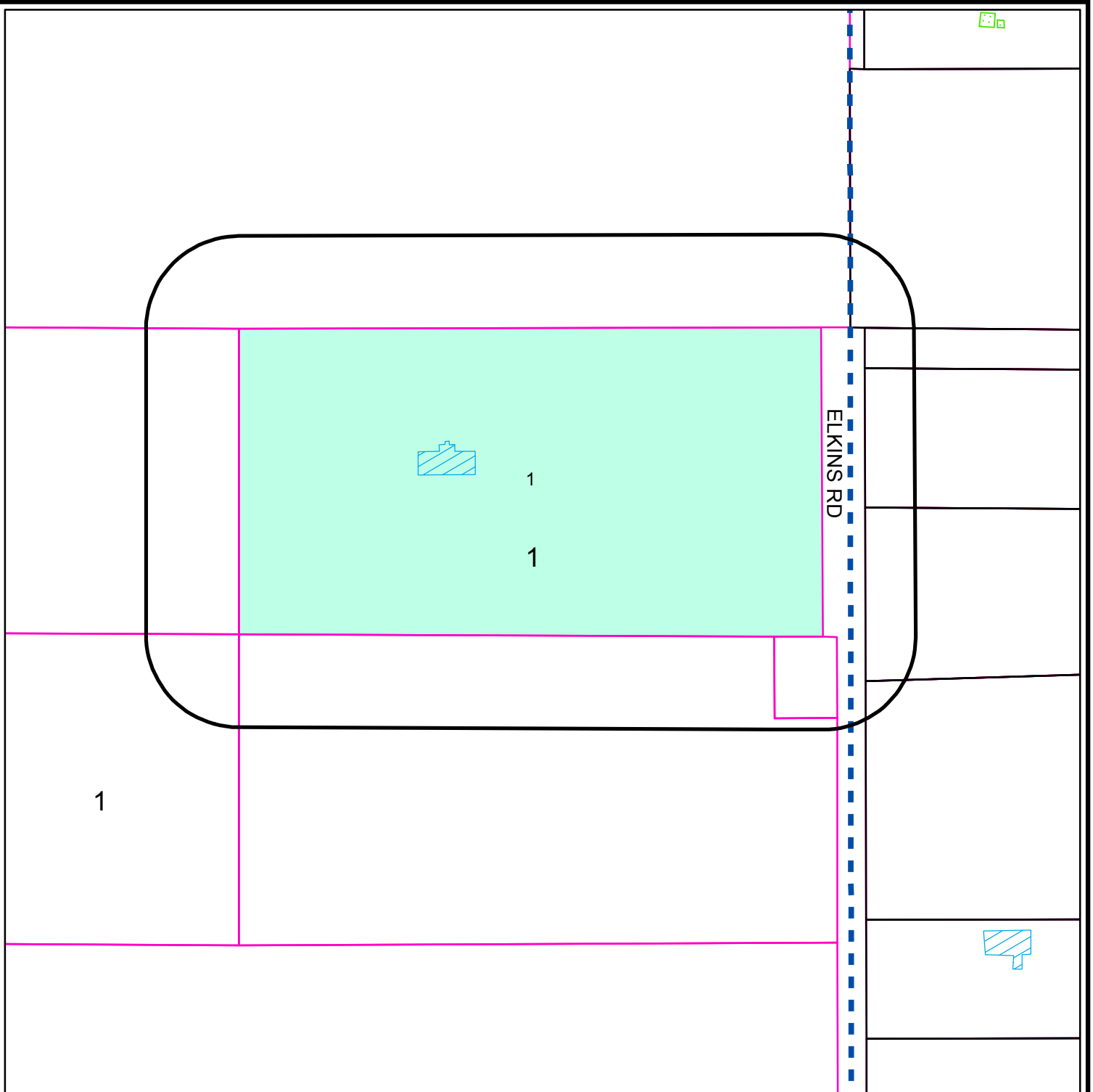
_____ who, being by me duly sworn, upon oath says: That (s)he is authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

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>BL</u>	Date: <u>09/16/11</u>
Assigned: <u>JC</u>	
For: <u>P+2</u>	On: <u>10/31/11</u>

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



OWNER NOTIFICATION WITHIN CITY LIMITS ONLY

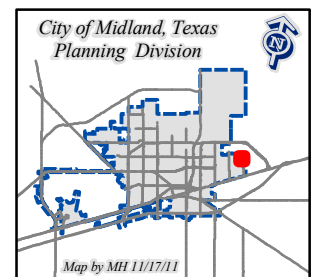
S - 11 - 017

Scale: 1" = 300'

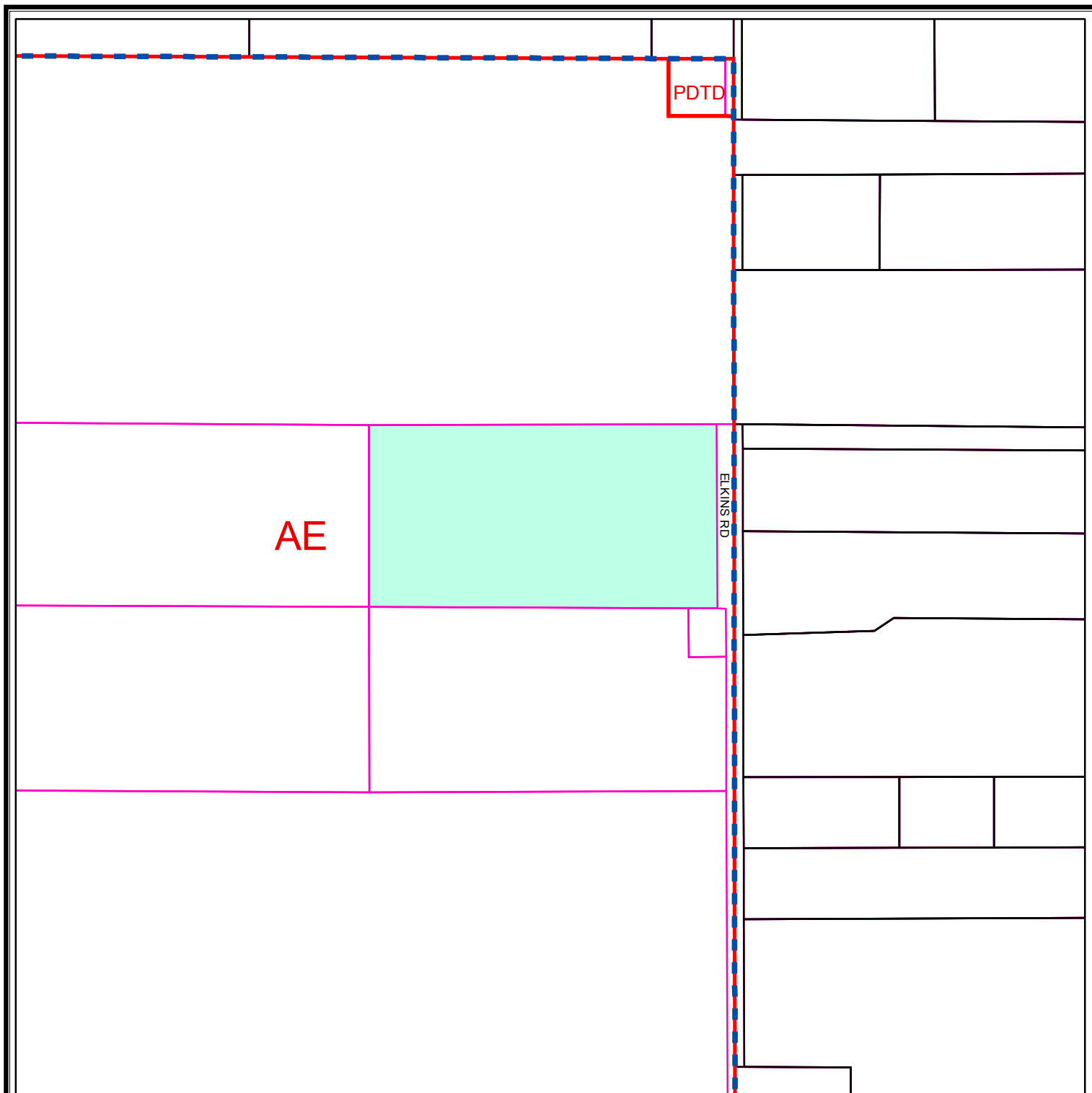
Consider a request for a Specific Use Permit Without Term for an accessory building for living or sleeping quarters on Lot 1, Block 1, Camelot Addition, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

S - 11 - 017

Scale: 1" = 500'

Consider a request for a Specific Use Permit Without Term for an accessory building for living or sleeping quarters on Lot 1, Block 1, Camelot Addition, City and County of Midland, Texas.

LEGEND

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

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



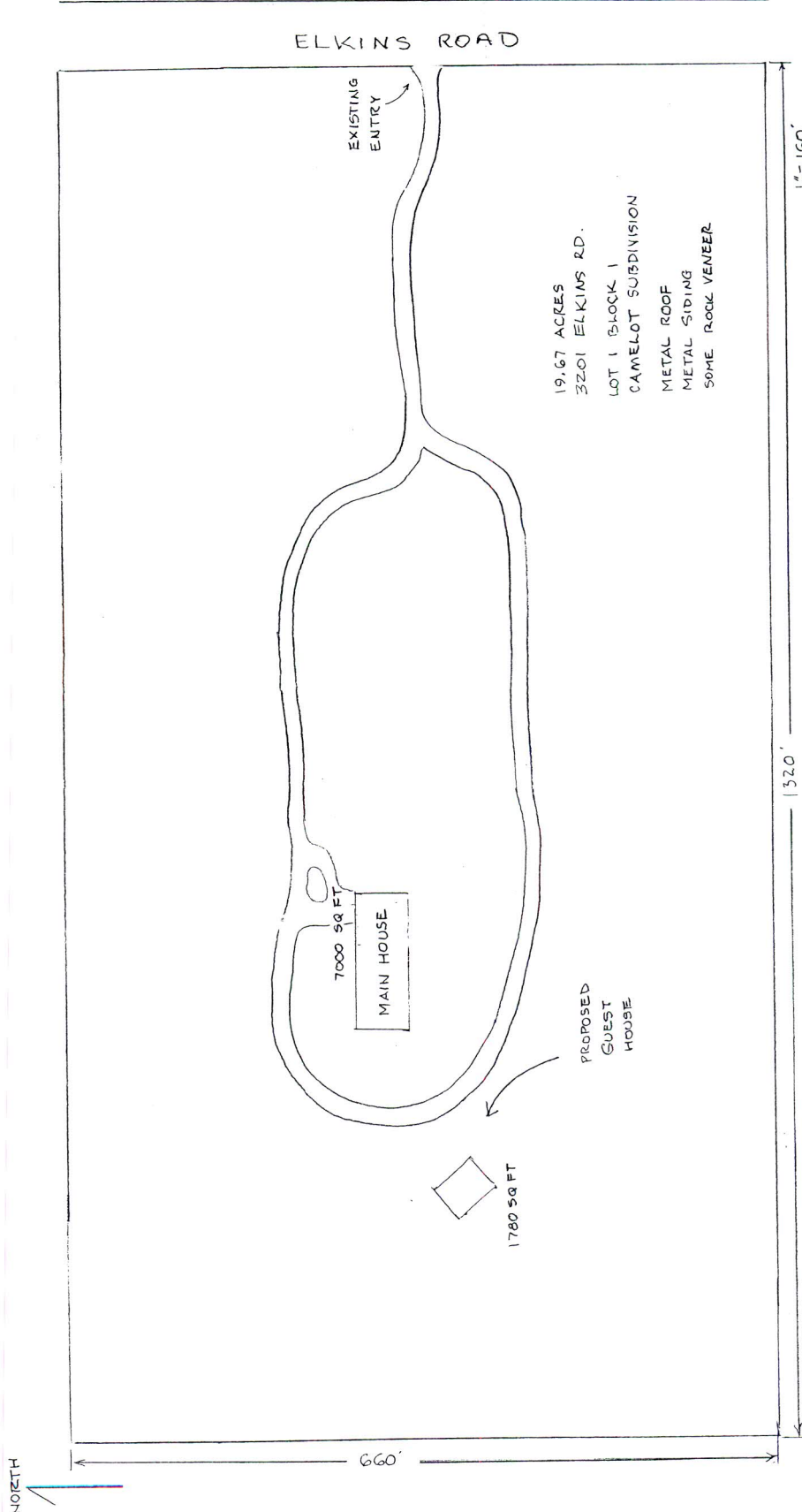


EXHIBIT A

S-11-017



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-11-018, Sonny Aguilar.

Purpose:

Hold a public hearing at approximately 10:42 a.m. and consider an ordinance on a request by Sonny Aguilar for a Specific Use Permit with Term for on-premise consumption of all alcoholic beverages in a lounge on Lots 2 and 3, Block 27, Original Town, City and County of Midland, Texas. (Generally located near the southwest corner of the intersection of N. Colorado Street and W. Ohio Avenue.)

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The applicant plans to renovate a vacant building for the purpose of opening a new lounge offering alcoholic beverages for on-premise consumption in addition to providing a full-service menu for food and other beverages in a 3,500 square area of the building and enclosed patio. Proposed hours of operation are Mondays through Saturdays 11:00 a.m. to 2:00 a.m. and Sundays 12 noon to 9:00 p.m., with a maximum occupancy of 240 persons. The proposed name for Mr. Aguilar's business is "The Brass Munkey" (spelling correct as proposed). The Planning & Zoning Commission noted that this proposal fits with on-going efforts to revitalize the downtown. Staff concurs and is recommending approval.

Attachments:

October 31, 2011 Planning & Zoning Commission Staff Report
Proposed Ordinance
Two Letters of Opposition were rec'd (one person spoke against at P&Z)

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOTS 2 AND 3, BLOCK 27, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH COLORADO STREET AND WEST OHIO AVENUE), WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter and the State law with reference to the granting of specific use permits under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by the granting of a Specific Use Permit With Term, set out hereinafter, on the property described in Section One hereof;

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

SECTION ONE. That the zoning use classification of the following described property, which is presently zoned C-1, Central Area District, to-wit:

Lots 2 and 3, Block 27, Original Town, City and County of Midland, Texas;

is hereby changed to permit said property to be used under a Specific Use Permit With Term for the sale of all alcoholic beverages for on-premises consumption in a lounge, together with

the uses permitted in the present C-1, Central Area District.

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

- A. That the maximum area of the lounge shall be 3,500 square feet and the maximum occupancy shall be 250 persons.
- B. That all applicable provisions of the Building Code and Fire Code must be complied with prior to commencing business operations.
- C. That the days and hours of alcoholic beverage sales and consumption shall be limited to Monday through Saturday, 11:00 a.m. to 2:00 a.m. of the following day, and Sunday, 12:00 p.m. (Noon) to 9:00 p.m., unless otherwise prohibited by law.
- D. That the operation of the lounge shall conform to all applicable laws established by the City of Midland and the State of Texas.

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., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-11-018, Sonny Aguilar.

Purpose:

Hold a public hearing at approximately 10:42 a.m. and consider an ordinance on a request by Sonny Aguilar for a Specific Use Permit with Term for on-premise consumption of all alcoholic beverages in a lounge on Lots 2 and 3, Block 27, Original Town, City and County of Midland, Texas. (Generally located near the southwest corner of the intersection of N. Colorado Street and W. Ohio Avenue.)

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The applicant plans to renovate a vacant building for the purpose of opening a new lounge offering alcoholic beverages for on-premise consumption in addition to providing a full-service menu for food and other beverages in a 3,500 square area of the building and enclosed patio. Proposed hours of operation are Mondays through Saturdays 11:00 a.m. to 2:00 a.m. and Sundays 12 noon to 9:00 p.m., with a maximum occupancy of 240 persons. The proposed name for Mr. Aguilar's business is "The Brass Munkey" (spelling correct as proposed). The Planning & Zoning Commission noted that this proposal fits with on-going efforts to revitalize the downtown. Staff concurs and is recommending approval.

Attachments:

October 31, 2011 Planning & Zoning Commission Staff Report
Proposed Ordinance

Two Letters of Opposition were rec'd (one person spoke against at P&Z)

**Planning and Zoning Commission
Minutes
October 31, 2011**

S-11-018 - Hold a public hearing and consider a request by **Sonny Aguilar** for a *Specific Use Permit with Term* for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, on Lots 2 and 3, Block 27, Original Town, City and County of Midland, Texas. (Generally located near the southwest corner of the intersection of N. Colorado Street and W. Ohio Street.)

The applicant yielded to the staff. Mr. Van Dyne explained the request to sell alcoholic beverages in a lounge, stating that the applicant wishes to renovate a two-story building located near Colorado and Ohio.

Chairman Carney opened the public hearing for those in favor to speak.

Gloria Salazar, 2504 Candle Tree Cove, spoke in favor of the request, stating that she believed this business to be in line with the entertainment aspect for the revitalization of downtown.

There being no one else wishing to speak in favor, Chairman Carney asked for anyone in opposition to speak.

Jerri Hawley, 1801 W. Texas, stated that this building is across the street from the historic original Midland Hospital and felt that this type of business would devalue the property.

The applicant, Sonny Aguilar, 4120 Springfield Court, spoke in favor of the request, stating that the name of the restaurant will be "The Brass Munky".

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

A motion for approval was made by Commissioner Ferguson, seconded by Commissioner Gatten. The motion carried by the following vote: AYE: York, Gatten, Carney, Ferguson, Wilton and Watkins. NAY: None. ABSTAIN: Wolf. ABSENT: Lanning and Woodruff

PLANNING AND ZONING COMMISSION

October 31, 2011

CASE: S-11-018.

REQUEST: Hold a public hearing and consider a request for a Specific Use Permit with Term for on-premise consumption of all alcoholic beverages in a Lounge.

APPLICANT: Sonny Aguilar.

OWNER: Maria Chavez.

LEGAL DESCRIPTION: Lots 2 and 3, Block 27, Original Town, City and County of Midland, Texas.

LOCATION: Generally located near the southwest corner of the intersection of N. Colorado Street and W. Ohio Avenue.

CURRENT ZONING: C-1, Central Area District.

DETAILS OF REQUEST:

1. The applicant plans to open a lounge offering alcoholic beverages for on-premise consumption in addition to providing a full-service menu for food and other beverages in a 3,500 square area of the proposed building and enclosed patio. Proposed hours of operation are Mondays through Saturdays 11:00 a.m. to 2:00 a.m. and Sundays 12 noon to 9:00 p.m., with a maximum occupancy of 240 persons.

SURROUNDING ZONING AND LAND USE:

2. The proposed building and the surrounding area is zoned C-1, Central Area District. Located on N. Colorado Street just south of W. Ohio Avenue, this building is currently vacant as is the adjacent building to the north. The other adjacent building has the active business, Reynolds Brothers Reproduction, positioned to the south. Immediately behind the subject property is Johnny's Barbecue with its frontage on Big Spring Street. Other properties in the area include a bank across the intersection to the northeast and there are a number of offices and surface parking lots within the area.

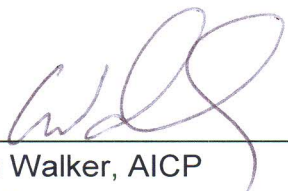
ANALYSIS:

3. The request is to sell alcoholic beverages at this downtown building, which would require redeveloping a vacant structure for this proposed use. The lot offers very little on-site parking; however, there are no minimum parking spaces required in the C-1, Central Area District. Staff concurs that the proposal fits in with on-going efforts to revitalize the downtown. Additionally, while the basis of this request is for the sale of alcohol, the applicant's plans to offer a full-service food menu which would provide another offering to the selection of restaurants currently within walking distance for downtown office workers.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a Specific Use Permit with Term for the sale and on-premise consumption of alcoholic beverages in a Lounge, subject to the following conditions:

- A. That the maximum area of the Lounge shall be 3,500 square feet and the occupancy shall be 250 persons;**
- B. All applicable Building and Fire Codes must be met prior to business operations;**
- C. That the days and hours of alcoholic beverage sales and consumption shall not exceed the following: Mondays through Saturdays 11:00 a.m. to 2:00 a.m. and Sundays 12 noon to 9:00 p.m.;**
- D. That the operation of the Lounge shall conform to all laws established by the City of Midland and the State of Texas.**



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Site Plan – Exhibits A & B
Maps

Case Number: S-11-018

CITY OF MIDLAND
Planning Division

APPLICATION FOR A SPECIFIC USE PERMIT WITH TERM
FOR THE SALE OF ALCOHOLIC BEVERAGES
FOR ON-PREMISE CONSUMPTION

Sonny Aguilar 432-352-6386 sonnyaguilar22@gmail.com
Applicant Name Phone/e-mail
P.O. Box 7747 79708
Address Zip Code

MARIA CHAVEZ
Property Owner Name Phone/e-mail
Address Zip Code

Operator (if different from Applicant or Property Owner) Phone/e-mail
Address Zip Code

Type of Business: Lounge Restaurant
(Restaurant, Bar, Lounge, Nightclub, etc.)

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

321 N Colorado BLK: 027, Lots: 002 + 3, ADDN: Original
319 Town

Current Zoning: C1

Max. Floor Area: 3500 sq ft Seating Capacity: 240

Proposed hours and days of alcoholic beverage sales: Mon-Sat 11-2am
Sun Noon-9pm

Reason for request: TO HAVE A FULL SERVICE MENU OF FOOD & BEVERAGE

REQUIRED SUBMITTALS

1. Application fee: \$300 ✓.
2. Site plan – 16 copies (FOLDED) ✓.
3. On a CD in .pdf and .jpg digital format ✓.

SIGNATURES:

Applicant: [Signature] Date: 9-28-11

Property Owner: Maia Chang Date: 9-28-11

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

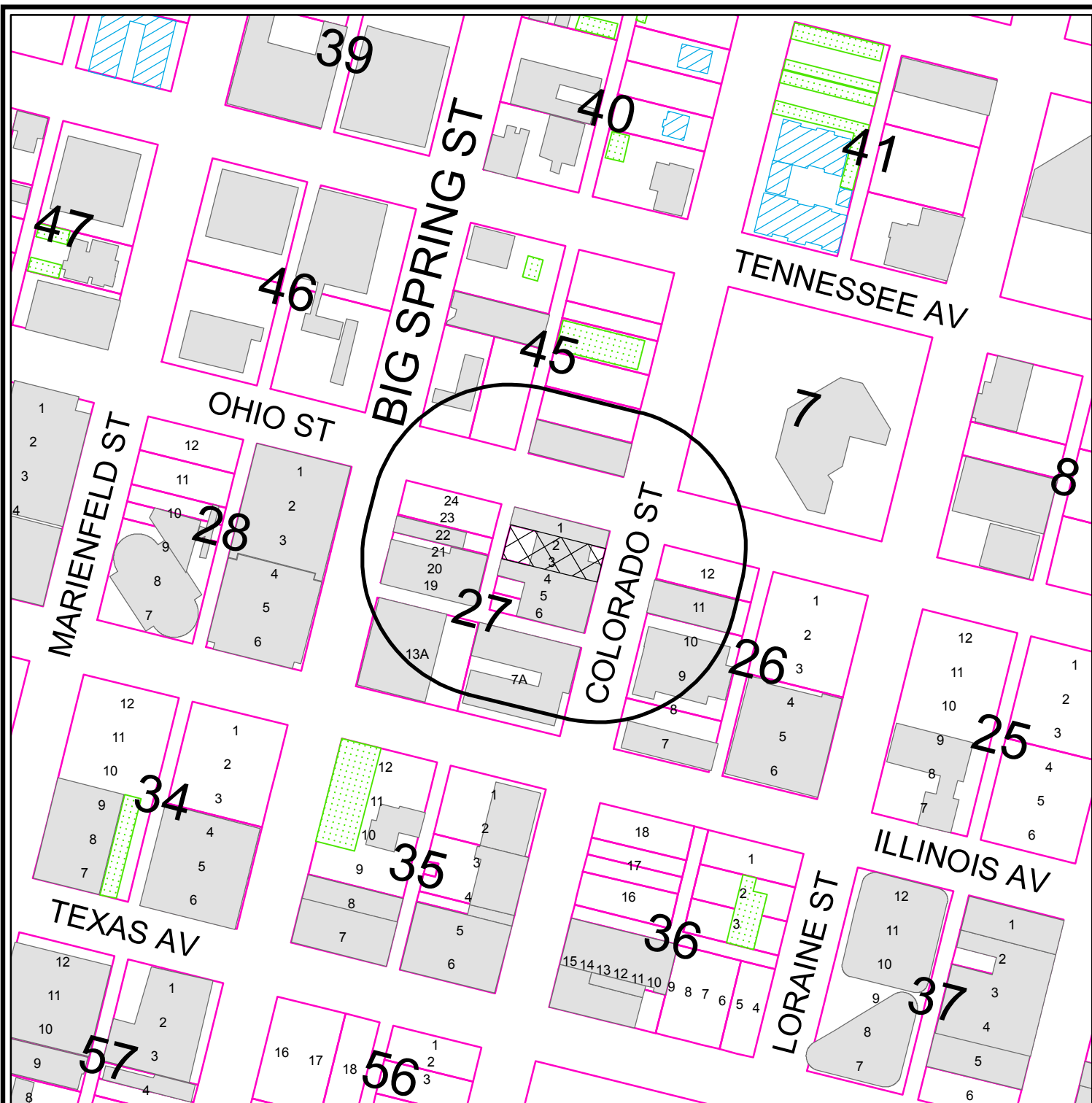
Before me, the undersigned authority, on this day personally appeared _____ who, being by me duly sworn, upon oath says: That (s)he is authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority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

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>KV</u>	Date: <u>9/28</u>
Assigned: <u>KV</u>	
For: <u>P+Z</u>	On: <u>10/31/11</u>

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



PROPERTY OWNER NOTIFICATION MAP

S - 11 - 018

Scale: 1" = 200'

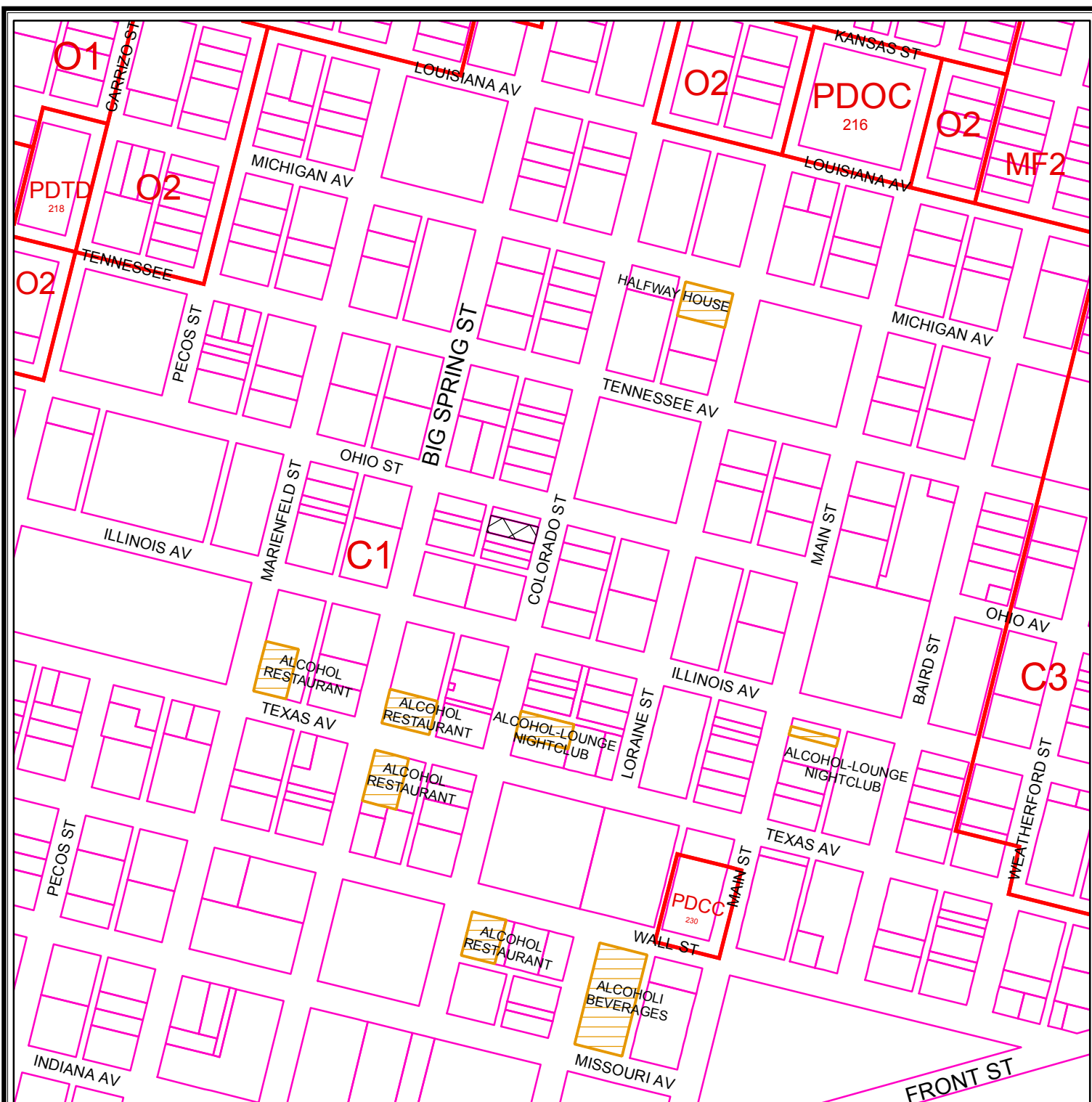
Consider a request for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, on Lots 2 and 3, Block 27, Original Town, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

S - 11 - 018

Scale: 1" = 400'

Consider a request for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, on Lots 2 and 3, Block 27, Original Town, City and County of Midland, Texas.

LEGEND

ZONING PARCELS SPECIFIC USE PERMITS

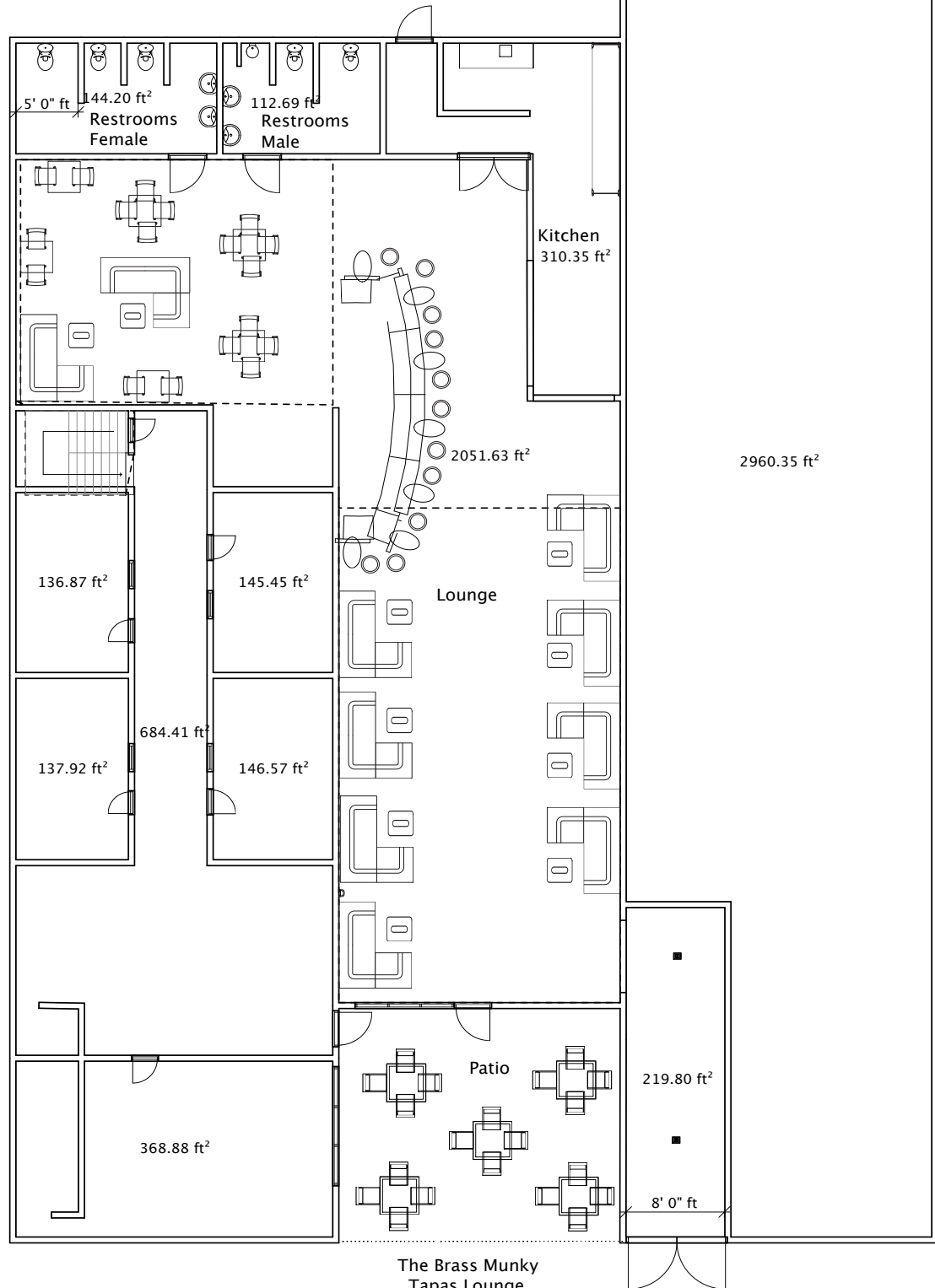
ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT
PD	PLANNED DISTRICT
AE	AGRICULTURE ESTATE
CE	COUNTRY ESTATE
IF1, IF2, IF3	ONE-FAMILY DWELLING
MH	MOBILE HOME DWELLING
TH	TOWNHOUSE DWELLING
2F	TWO-FAMILY DWELLING
MF1, MF2	MULTIPLE FAMILY DWELLING

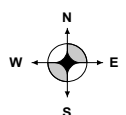
BP	BUSINESS PARK
P	PARKING
O1, O2	OFFICE
NS	NEIGHBORHOOD SERVICE
LR1, LR2, LR3	LOCAL RETAIL
C1, C2, C3	COMMERCIAL
IP, IP1, IP2, IP3	INDUSTRIAL PARK
LI	LIGHT INDUSTRY
HI	HEAVY INDUSTRY

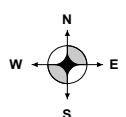
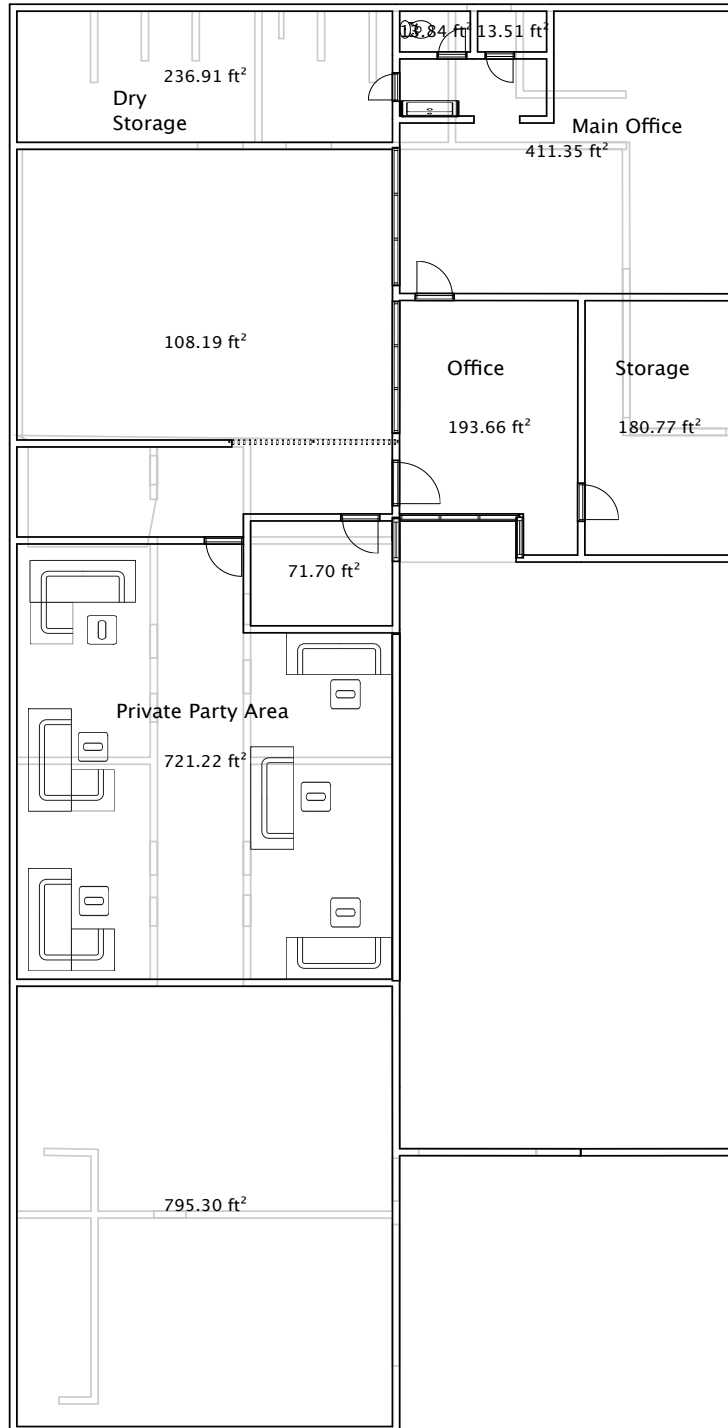
BP	BUSINESS PARK
P	PARKING
O1, O2	OFFICE
NS	NEIGHBORHOOD SERVICE
LR1, LR2, LR3	LOCAL RETAIL
C1, C2, C3	COMMERCIAL
IP, IP1, IP2, IP3	INDUSTRIAL PARK
LI	LIGHT INDUSTRY
HI	HEAVY INDUSTRY





The Brass Munky
Tapas Lounge
321 N Colorado







City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-11-021, InSite Towers

Purpose:

Hold a public hearing at approximately 10:45 a.m. and consider an ordinance on a request by InSite Towers for a Specific Use Permit, Without Term, for a Wireless Communication Tower.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

InSite Towers wishes to construct a 150-foot tall wireless communication tower at the northeast corner of Scharbauer Drive and N "A" Street. Since this lot is zoned LR-2 District, approval of a specific use permit is required. This site meets all City requirements, including maximum height, minimum spacing from residential zoning boundaries, and this tower can accommodate at least two wireless service providers. The applicant has provided Exhibits A, B and C to illustrate the layout of the proposed site. No building is planned and the site will be surrounded by an eight-foot tall wooden fence with a locked gate. No public opposition has been noted. The Planning and Zoning Commission recommended unanimous approval of this request. Staff recommends approval.

Attachments:
November 14th, 2011 P&Z Staff Report
Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 2, BLOCK 5, NORTHLAND SHOPPING CENTER, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF SCHARBAUER DRIVE AND NORTH "A" STREET), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A WIRELESS COMMUNICATION TOWER; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter and the State law with reference to the granting of specific use permits under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by the granting of a Specific Use Permit Without Term, set out hereinafter, on the property described in Section One hereof;

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

SECTION ONE. That the zoning use classification of the following described property, which is presently zoned LR-2, Local Retail District, to-wit:

Lots 2, Block 5, Northland Shopping Center, Section 4, City and County of Midland, Texas;

is hereby changed to permit said property to be used under a Specific Use Permit Without Term for a wireless communication tower, together with the uses permitted in the present LR-2, Local Retail District.

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

- A. That the development of this property with a wireless communication tower shall conform in all respects to the conditions shown on Exhibits “A”, “B” and “C”, which are attached hereto and incorporated herein.
- B. That the tower must be a monopole design, and shall not exceed 150 feet above site grade.
- C. That the tower site shall be enclosed with a solid wooden fence at least 8 feet above grade. Said gate shall be locked at all times except during required maintenance. No landscaping shall be required.
- D. That the tower must accommodate a minimum of 2 communication providers.
- E. That no equipment building shall be constructed.
- F. That the base of the tower shall be installed at a minimum elevation of 2,778 feet above sea level to avoid the 100-year flood plain.
- G. That the City of Midland reserves the right to affix emergency warning system equipment and materials, including but not limited to emergency warning sirens, to the wireless communication system or tower at any time; the City shall not be charged any rental or license fee for the initial placement or continued placement of such equipment or materials on the wireless communication system or tower, but shall only be responsible for the cost of installation or maintenance of the City’s emergency warning system.

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., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-11-021, InSite Towers

Purpose:

Hold a public hearing at approximately 10:45 a.m. and consider an ordinance on a request by InSite Towers for a Specific Use Permit, Without Term, for a Wireless Communication Tower.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

InSite Towers wishes to construct a 150-foot tall wireless communication tower at the northeast corner of Scharbauer Drive and N "A" Street. Since this lot is zoned LR-2 District, approval of a specific use permit is required. This site meets all City requirements, including maximum height, minimum spacing from residential zoning boundaries, and this tower can accommodate at least two wireless service providers. The applicant has provided Exhibits A, B and C to illustrate the layout of the proposed site. No building is planned and the site will be surrounded by an eight-foot tall wooden fence with a locked gate. No public opposition has been noted. The Planning and Zoning Commission recommended unanimous approval of this request. Staff recommends approval.

Attachments:

November 14th, 2011 P&Z Staff Report
Proposed Ordinance

**Planning and Zoning Commission
Minutes
November 14, 2011**

S-11-021 - Hold a public hearing and consider a request by **InSite Tower, LLC**. *Specific Use Permit without Term* for a Wireless Communication System on Lot 2, Block 5, Northland Shopping Center, Section 4, City and County of Midland, Texas. (Generally located on the northeast corner of the intersection of N. "A" Street and W. Scharbauer Drive.)

Mike O'Neal with InSite Towers, 790 Cypress, Abilene, Texas, yielded to the staff. Mr. Compton stated that the 150-foot high wireless communication tower (cell tower) would be located at the northeast corner of Scharbauer Drive and N. "A" Street where there are a variety of retail uses.

Chairman Carney opened the public hearing and there being no one wishing to speak in favor or in opposition to the item, closed the public hearing.

Following a brief discussion, a motion for approval, subject to Conditions A-G, was made by Commissioner Gatten; seconded by Commissioner Wolf. The motion carried by the following vote: AYE: Wolf, Lanning, Gatten, Carney, Ferguson, Wilton and Watkins. NAY: None. ABSTAIN: None. ABSENT: York and Woodruff

PLANNING AND ZONING COMMISSION

November 14, 2011

CASE: S-11-021.

REQUEST: Hold a public hearing and consider a request for a Specific Use Permit, without term, for a Wireless Communication Tower.

APPLICANT: InSite Towers, LLC.

OWNER: Midland County.

REPRESENTATIVE: Mike O'Neal

LEGAL DESCRIPTION: Lot 2, Block 5, Northland Shopping Center, Section 4, City and County of Midland, Texas.

LOCATION: Northeast corner of Scharbauer Drive and N. "A" Street.

CURRENT ZONING: LR-2, Local Retail District.

DETAILS OF REQUEST:

1. Midland County has entered into a contract with InSite Towers to construct a wireless communication tower (cell tower) at this location. The property is zoned LR-2 District. Therefore a specific use permit must be approved before the tower can be constructed. The tower is a monopole design with a maximum height of 150 feet. Additional details are shown on the attached Exhibits A, B and C.

SURROUNDING ZONING AND LAND USE:

2. This property is located in the shopping center at the northeast corner of Scharbauer Drive and N. "A" Street. This center is developed with a variety of retail uses. In addition, the Midland County Annex is located here, where several administrative offices are maintained. The land to the north is zoned MF-1 District, and is developed with apartments. The area to the east is zoned Planned District for a Housing Development, and is developed with a retirement home. To the south, across Scharbauer Drive, are tracts zoned for retail uses and for a housing development. The land to the west, across N. "A" Street, is zoned 1F-1 District and is developed with single-family homes.

CODE REQUIREMENTS:

3. Cell towers are allowed by right in the C-1 through HI and the BP Districts, and by specific use permit in the O-1 through LR-3 Districts. The base of towers must observe a minimum 200-foot setback from the nearest residential zoning district boundary. Unmanned equipment buildings cannot exceed 750 square feet in area or 12 feet in height, and the maximum tower height may not exceed 150 feet. All towers must be designed to accommodate a minimum of two cellular providers. The provider is required to contact the owners of surrounding towers and request collocation, if available. Given the proximity to Midland Executive Airpark, staff has requested a letter from the Federal Aviation Administration. Towers may not be illuminated unless required by the FAA. The tower site must be surrounded by a fence at least eight feet tall, with access through a locked gate. The tower site must be screened with either landscaping or by a decorative screening fence. Finally, if the wireless system is ever abandoned, the tower must be removed within 180 days.

ANALYSIS:

4. In order to justify this location for a cell tower, the application indicates that the nearest existing tower location is 1.12 miles from this site. However, it also indicates that there is a 1.75 mile radius centered on this site that is underserved, and that a tower at this location will solve this problem. The tower design is that of a monopole, which eliminates the need for guy wires, and minimizes the aesthetic impact of a tower. Because the applicant is requesting the maximum tower height permitted, it is important to consider setbacks from residential zoning boundaries. The Zoning Code defines zoning boundaries as running down streets, alleys and property lines. The tower base would be 218 feet from the 1F-1 District to the west, 225 feet from the planned district to the south, and over 470 feet from the apartment complex to the north. Thus, this proposal meets the setback requirements established in the Zoning code. Exhibit C shows three separate antennas on this tower, thereby meeting the requirement to potentially accommodate at least two carriers. The tower site would be enclosed with an eight-foot tall wooden fence without landscaping. A 12-foot wide gate with a lock is planned for maintenance access. The applicant has submitted a letter from the FAA indicating that this tower will not present a hazard to air navigation. It further states that this tower does not require lighting under its requirements.

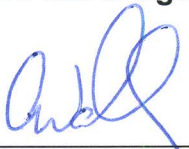
This tower site is located within the 100-year flood zone. We have checked with the City Engineer and Building Official, who have provided the applicant with the flood elevation at this location, which is 2,777 feet above sea level. The tower is

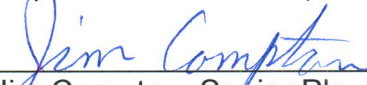
required to be a minimum of 12-inches above this elevation, a condition that the applicant indicates he will be able to satisfy. For this installation, no equipment building is proposed. Staff finds that the details associated with this request meet all of the requirements set out in the Zoning Code, and that meeting the flood plain requirement is manageable.

STAFF RECOMMENDATION:

We recommend approval of this request for a Specific Use Permit, without term, for a Wireless Communication Tower, subject to the satisfaction of the following conditions:

- A. That the development of a communication tower at this location shall conform to the conditions shown on the attached Exhibits A, B and C in all respects.**
- B. The tower must be a monopole design, and shall not exceed 150 feet above the site grade.**
- C. The tower site shall be enclosed with a solid wooden fence with a minimum height of eight feet above grade. The indicated gate shall be locked at all times, except when maintenance access is required. No landscaping shall be required.**
- D. The tower must accommodate a minimum of two communication providers.**
- E. No equipment building shall be constructed.**
- F. The base of the tower shall be installed at a minimum elevation of 2,778 feet above sea level to avoid the 100 year flood plain.**
- G. No tower lighting shall be allowed.**


Cameron Walker, AICP
Planning Division Manager
Department of Development Services


Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A, B and C

Case Number: 5-11-021

CITY OF MIDLAND
Planning Division

SPECIFIC USE PERMIT APPLICATION

InSite Towers, LLC 800-555-8935 Direct to Mike O'Neal: 325-691-1285

Applicant Name Contact Phone #s
790 Cypress Street, Abilene, Texas 79601 or P.O. Box 6060 Abilene, TX 79608
Address Zip Code
E-Mail address: Mike O'Neal [moneal@insitewireless.com]

Property Owner Name Contact Phone #s
County of Midland, Texas, a Texas political subdivision. Attn: Judge Michael R. Bradford
Address Zip Code
E-Mail address: County Attorney Russell Malm: malm@co.midland.tx.us (432) 688-4490
500 North Loraine, Ste. 1101, Midland, Texas 79701

Operator (if different from Applicant or Property Owner) Contact Phone #s
NOT APPLICABLE: no operator

Address Zip Code

Type of Permit: SUP Communication Cellular Tower site SUP with Term: Yes No
(For Office Use)

Street address and Legal Description of property on which SUP is desired (complete Lot, Block, and Subdivision, or if unplatted, attach a Metes and Bounds description with surveyor's seal.)
Pending 9-1-1 E Address: 2104 "A" Street, Midland, Texas. See Legal Description
Metes and Bounds for Site, and for the County land in its entirety, per site
plan filed with application. See 1A Surveyor Certified Legal and GPS Attached.

Current Zoning: Per Jim Compton of Planning & Zoning, [REDACTED] LR2

Maximum Floor Area: Not Applicable Max. Occupancy: Not Applicable

Proposed hours and days of use or operation: 8-foot fenced and locked gate admission
available 24 hours per day, seven days per week, for repair access only, by
approved tenant employees only or those of InSite Towers, LLC.

Reason for request: Nearest tower in Precinct 1 area is 1.12 miles away (AT&T site,
one carrier only). Second site is roof top site for Personal Usage of Pioneer Nat.
Resources. A 1.75 Mile Radius is UNDER-SERVED for Public needs for signal & Wi-Fi
Applicant's opinion as to why the request will not adversely affect the public safety, health, morals,
general welfare, and convenience: No Adverse effects upon the Public; no health hazards;
all proven by studies. No moral issues: site is not occupied. Tower Carriers will offer
Public ability to use cell phones in homes & business with stronger signal, % data
support for emails, linking systems, on-line usage and 9-1-1 service area.

REQUIRED SUBMITTALS

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

SIGNATURES: InSite Towers, LLC by:

Applicant: C. Mike O'Neal Date: 10/21/2011

Property Owner: County of Midland, Texas Date: _____

(see Memorandum of Site Lease Agreement signed by Judge Bradford, October 11, 2011)

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~~ Taylor

Before me, the undersigned authority, on this day personally appeared
C. Mike O'Neal, Senior Lease Dir. who, being by me duly sworn, upon oath says: That (s)he is
authorized by County of Midland, Texas, 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, as limited to the approval, construction and
operation of a Communication Celluar Tower and Site on the County Annex Site shown
by Site Plan, Legal Description, and Metes & Bounds, as allowed in the Master Option*
Subscribed and sworn to before me, this 21st day of October, 2011, to certify which
witness my hand and seal of office.

Jane Spraberry
NOTARY PUBLIC, ~~MIDLAND~~ COUNTY, TEXAS

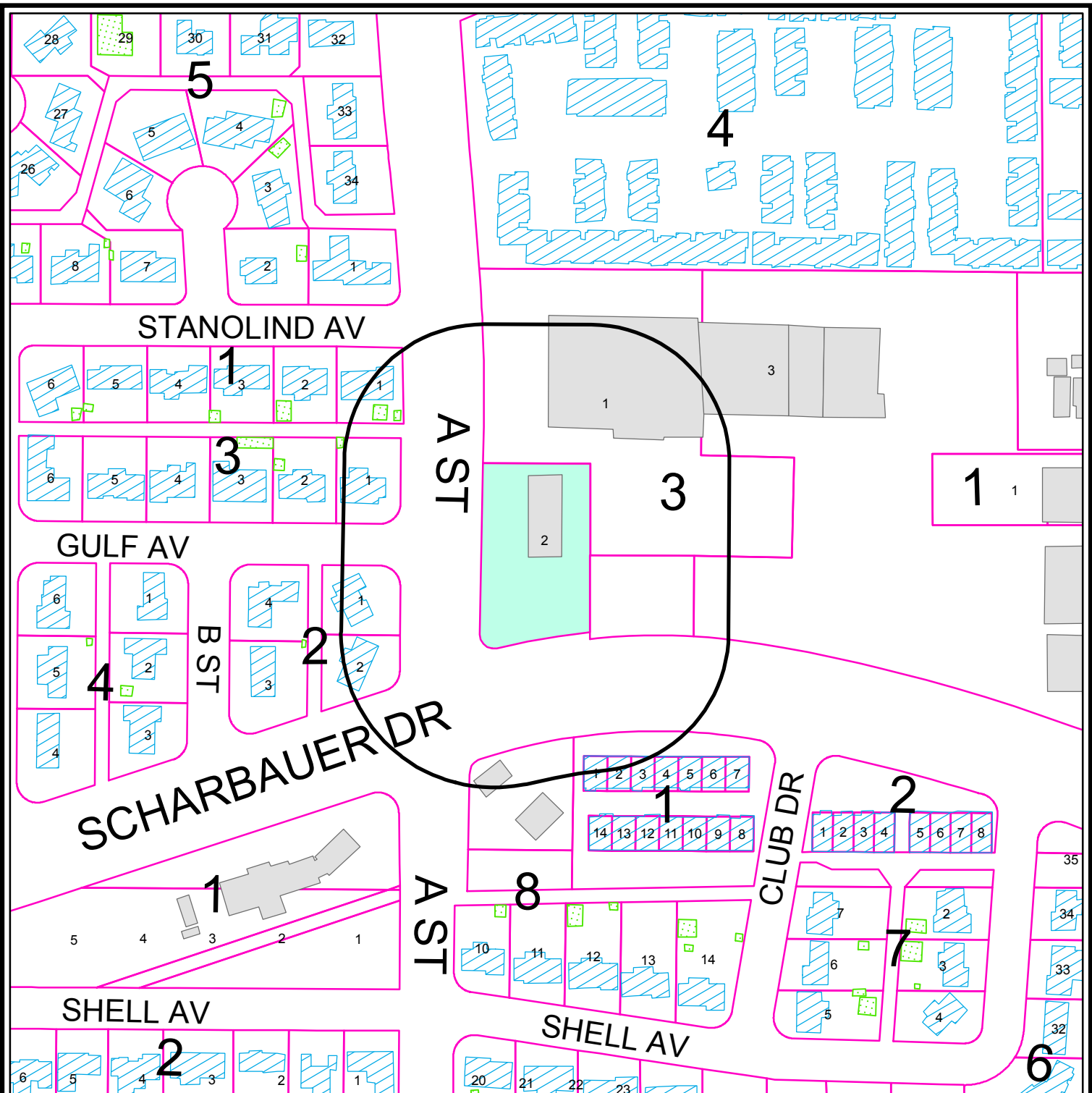
*contined from above:

and Lease Agreement signed by the County on October 11, 2011

FOR OFFICE USE ONLY	
Rec'd By: <u>CW</u>	Date: <u>10/24/11</u>
Assigned: <u>JC</u>	
For: <u>P+Z</u>	On: <u>11/14/11</u>



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



PROPERTY OWNER NOTIFICATION MAP

S - 11 - 021

Scale: 1" = 200'

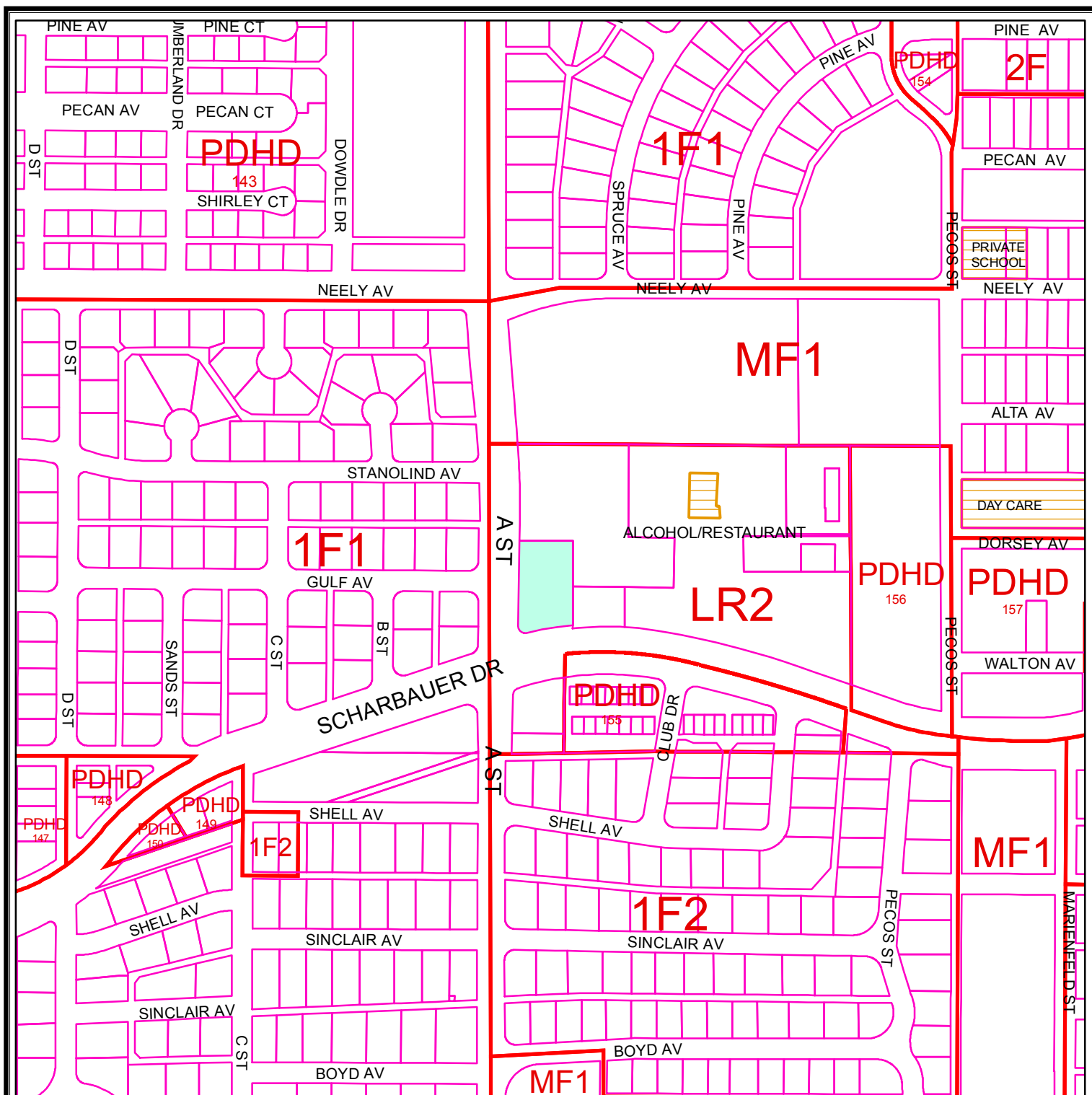
Consider a request for a Specific Use Permit Without Term for a Wireless Communication System on Lot 2, Block 5, Northland Shopping Center, Section 4, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

S - 11 - 021

Scale: 1" = 400'

Consider a request for a Specific Use Permit Without Term for a Wireless Communication System on Lot 2, Block 5, Northland Shopping Center, Section 4, City and County of Midland, Texas.

LEGEND

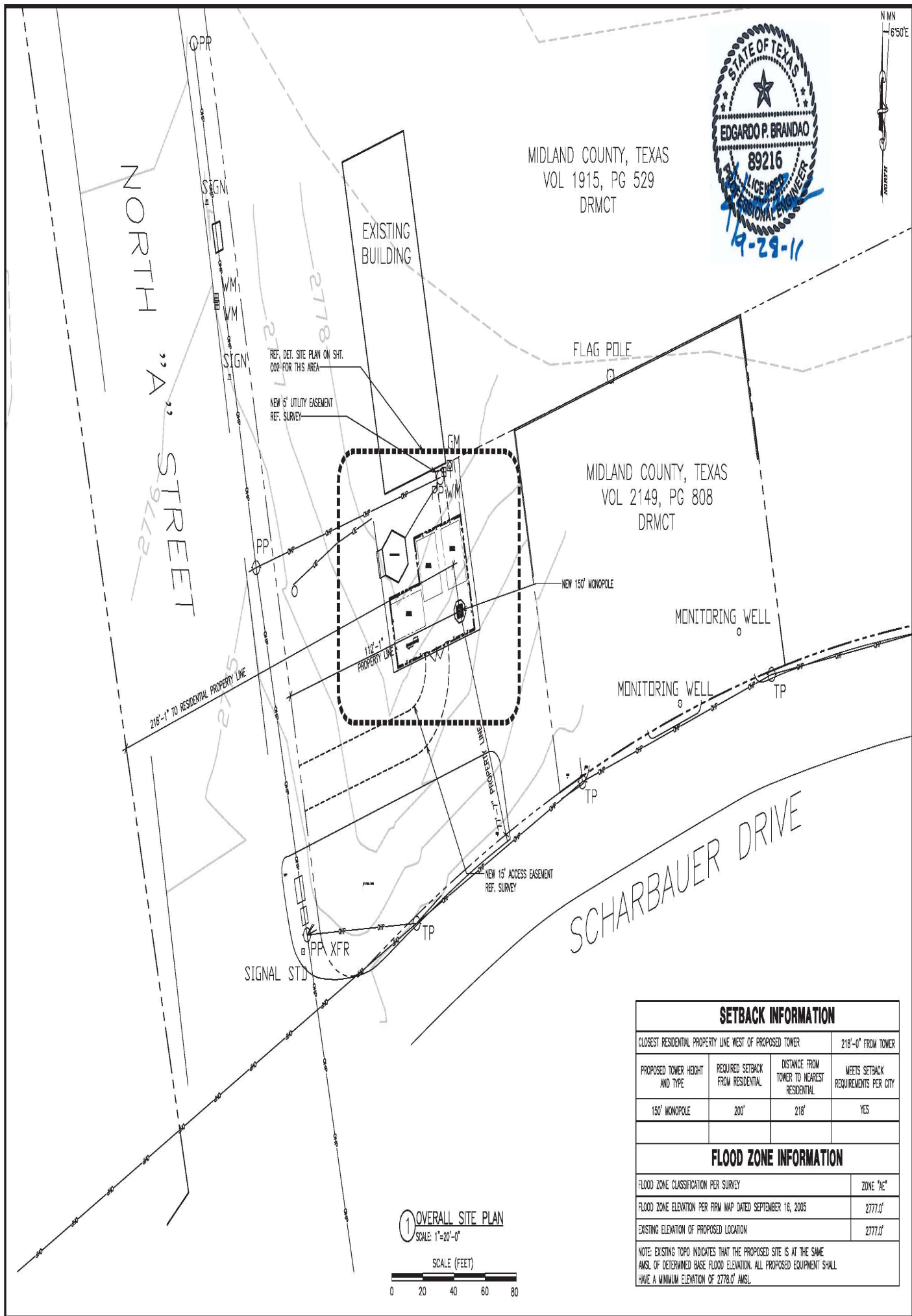
ZONING PARCELS SPECIFIC USE PERMITS

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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MIDLAND COUNTY, TEXAS
VOL 1915, PG 529
DRMCT



REVISIONS	DATE
ISSUED FOR CONSTRUCTION	08/27/11

CELERS PROJECT NO.: 11-3018

The Celeris Group
a subsidiary of Microwave Transmission Systems, Inc.
2201 N. Collins St., Suite 125
Arlington, TX 76011
Office: 817.446.1700
Fax: 817.496.0896

EPB Associates, Inc.
Consulting Engineers
5501 LBJ Freeway, Ste. 225
Dallas, Texas 75240
(972) 239-5495
Registration No. F-9923

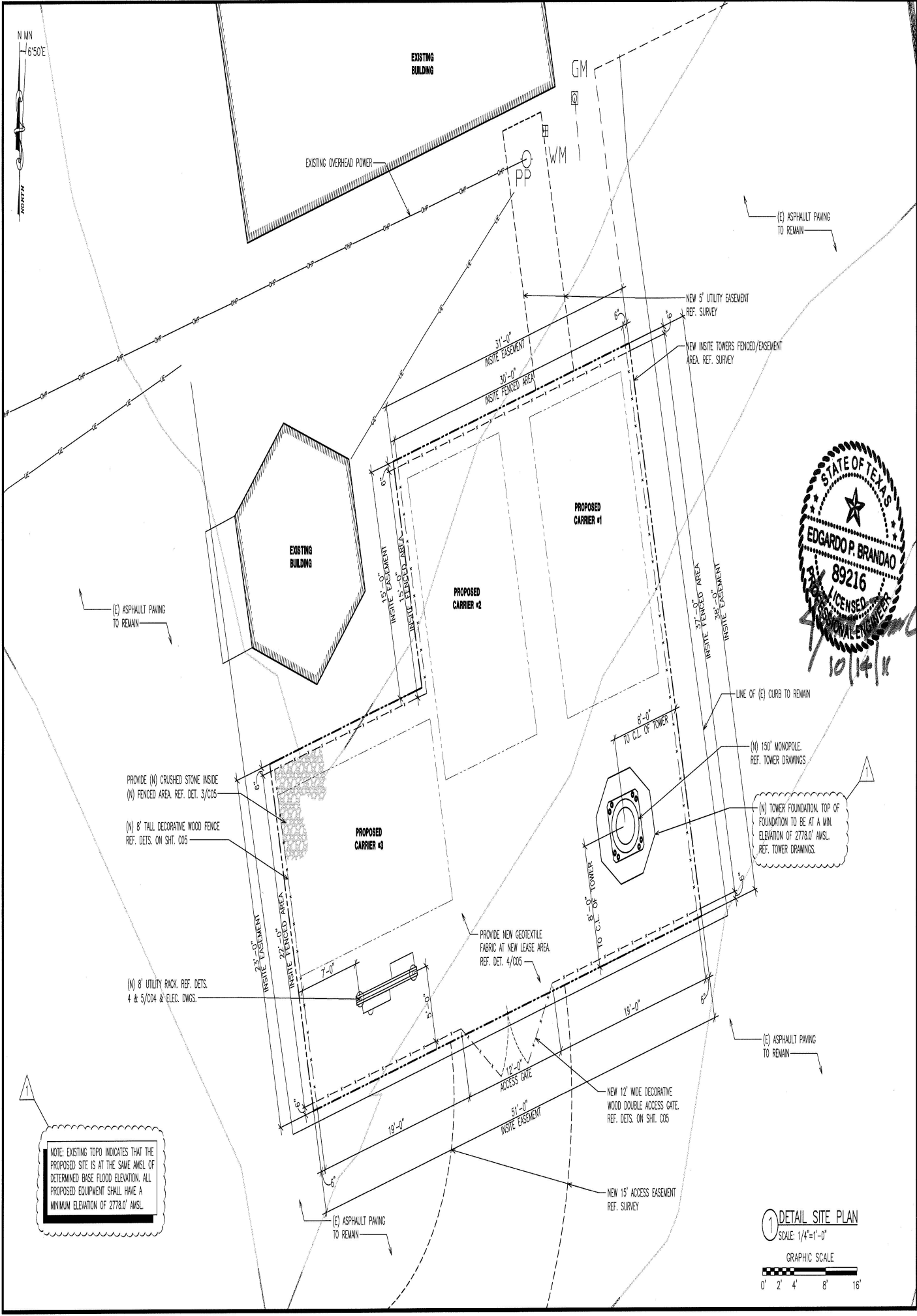
insite Towers, LLC

SITE NAME
MIDLAND COUNTY ANNEX
SITE NUMBER
TX152

DESIGN BY:
JAK
CHECKED BY:
EPB
DATE:
08/27/11
PLOT SCALE:
1/2"
DRAWING NAME:
OVERALL SITE PLAN
SHEET No.
45.15

SETBACK INFORMATION			
CLOSEST RESIDENTIAL PROPERTY LINE WEST OF PROPOSED TOWER			218'-0" FROM TOWER
PROPOSED TOWER HEIGHT AND TYPE	REQUIRED SETBACK FROM RESIDENTIAL	DISTANCE FROM TOWER TO NEAREST RESIDENTIAL	MEETS SETBACK REQUIREMENTS PER CITY
150' MONOPOLE	200'	218'	YES
FLOOD ZONE INFORMATION			
FLOOD ZONE CLASSIFICATION PER SURVEY			ZONE "A"
FLOOD ZONE ELEVATION PER FIRM MAP DATED SEPTEMBER 16, 2005			2777.0'
EXISTING ELEVATION OF PROPOSED LOCATION			2777.0'
NOTE: EXISTING TOPO INDICATES THAT THE PROPOSED SITE IS AT THE SAME AMSL OF DETERMINED BASE FLOOD ELEVATION. ALL PROPOSED EQUIPMENT SHALL HAVE A MINIMUM ELEVATION OF 2778.0' AMSL.			

1 OVERALL SITE PLAN
SCALE: 1"=20'-0"
SCALE (FEET)
0 20 40 60 80



REVISIONS	DATE
ISSUED FOR CONSTRUCTION	09/27/11
REVISED FOR CONSTRUCTION	10/14/11

CELESTIS PROJECT NO.: 11-3018

The Celeris Group
 a subsidiary of Microwave Transmission Systems, Inc.
 2201 N. Collins St., Suite 125
 Arlington, TX 76011
 Office: 817.446.1700
 Fax: 817.496.0895

EPB Associates, Inc.
 Consulting Engineers
 5501 LBJ Freeway, Ste. 225
 Dallas, Texas 75240
 (972) 239-5495
 Registration No. F-9923



Inste Towers, LLC

SITE NAME
MIDLAND COUNTY ANNEX
 SITE NUMBER
TX152

DRAWN BY:
JAK
 CHECKED BY:
EPB
 DATE
10/14/11
 PLOT SCALE
1:2
 DRAWING NAME
DETAIL SITE PLAN
 SHEET No.
45.16

1 DETAIL SITE PLAN
 SCALE: 1/4"=1'-0"
 GRAPHIC SCALE
 0' 2' 4' 8' 16'

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REVISIONS	DATE
ISSUED FOR CONSTRUCTION	08/27/11
REVISED FOR CONSTRUCTION	10/14/11

CELERIS PROJECT NO.: 11-3018

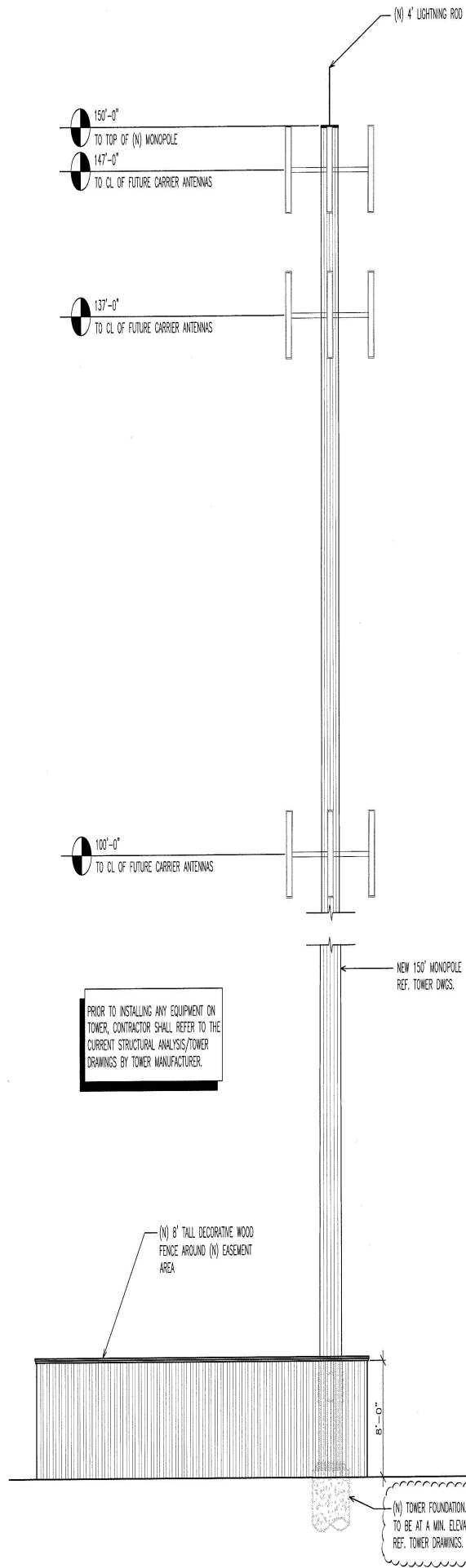
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 5501 LBJ Freeway, Ste. 225
 Dallas, Texas 75240
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 Registration No. F-9923

insite Towers, LLC

SITE NAME
MIDLAND COUNTY ANNEX
 SITE NUMBER
TX152

DRAWN BY:
JAK
 CHECKED BY:
EPB
 DATE
10/14/11
 PLOT SCALE
1:2
 DRAWING NAME
ELEVATION
 SHEET NO.
003
45.17



PRIOR TO INSTALLING ANY EQUIPMENT ON
TOWER, CONTRACTOR SHALL REFER TO THE
CURRENT STRUCTURAL ANALYSIS/TOWER
DRAWINGS BY TOWER MANUFACTURER.

NOTE: EXISTING TOPO INDICATES THAT THE
PROPOSED SITE IS AT THE SAME AMSL OF
DETERMINED BASE FLOOD ELEVATION. ALL
PROPOSED EQUIPMENT SHALL HAVE A
MINIMUM ELEVATION OF 2778.0' AMSL.

STATE OF TEXAS
 EDGARDO P. BRANDAO
 89216
 LICENSED PROFESSIONAL ENGINEER
 10/14/11

1 TOWER ELEVATION
 SCALE: NTS

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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-11-019; Matt Gallagher

Purpose:

Hold a public hearing at approximately 10:48 a.m. and consider an ordinance on a request by Matt Gallagher for approval of a Specific Use Permit Without Term for an accessory building for living or sleeping quarters on Lot 19, Block 9, Replat Block 9 2nd Section Ma-Mar Terrace, City and County of Midland, Texas.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with this application.

Discussion:

Mr. Gallagher resides at 3109 Stanolind Circle and plans to convert a garage structure located at the rear portion of his lot into a living and sleeping quarters for visitors. The 1F-1 District allows only one residence per lot. However, approval of a Specific Use Permit can allow an accessory building to be used for living and sleeping quarters. The attached site plan labeled Exhibit A, indicates this existing structure totals approximately 576 square feet in area. A garage door currently exists on the rear of this structure providing vehicular access to the alley. Mr. Gallagher plans to replace this door with a permanent wall so that access into the structure will not be available from the alley. Sufficient improved parking surfaces exist for this additional use and staff finds that this request meets all development requirements for this type of use. The request was approved unanimously by the Planning and Zoning Commission on November 14th, 2011. No letters of public opposition have been received to date. Staff recommends approval of this application.

Attachments:
Application, Map, Exhibit A – Site Plan

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF LOT 19, BLOCK 9, REPLAT OF BLOCK 9, 2ND SECTION, MA-MAR TERRACE, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF STANOLIND CIRCLE, APPROXIMATELY 350 FEET EAST OF CESSNA DRIVE), WHICH IS PRESENTLY ZONED 1F-1, ONE-FAMILY DWELLING DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR AN ACCESSORY BUILDING TO BE USED FOR LIVING OR SLEEPING QUARTERS; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter and the State law with reference to the granting of specific use permits under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings and affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the health, safety and general welfare will be best served by the granting of a Specific Use Permit Without Term, set out hereinafter, subject to the special conditions and restrictions set out hereinafter on the property described in Section One hereof;

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

SECTION ONE. That the zoning use classification of the following described property, which is presently zoned 1F-1, One-Family Dwelling District, to wit:

Lot 19, Block 9, Replat of Block 9, 2nd Section, Ma-Mar Terrace, City and County of Midland, Texas;

is hereby changed to permit same to be used under a Specific Use Permit Without Term for

an accessory building to be used for living or sleeping quarters, together with the uses permitted in an 1F-1, One-Family Dwelling District, subject to the following conditions:

1. That the development of this property shall adhere to Exhibit “A”, which is attached hereto and incorporated herein.
2. That the accessory building shall not exceed 576 contiguous square feet in area.
3. That the garage door existing on the accessory building shall be removed.
4. That no entry into the accessory building shall be allowed from the adjacent alley.
5. That the use of the accessory building for living or sleeping quarters shall be limited to family members or guests of the occupant of the primary residence; the accessory building shall not be rented out as a separate residence or used for any commercial purpose.
6. That the applicant shall obtain a Certificate of Occupancy to ensure that the conditions of this permit are satisfied.

SECTION TWO. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The City Secretary is hereby authorized and directed to publish

the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-11-019; Matt Gallagher

Purpose:

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Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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Discussion:

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Attachments:
Application, Map, Exhibit A – Site Plan

**Planning and Zoning Commission
Minutes
November 14, 2011**

S-11-019 - Hold a public hearing and consider a request by **Matt Gallagher** for an *Specific Use Permit without Term* for an accessory building for living or sleeping quarters on Lot 19, Block 9, Replat Block 9, 2nd Section Ma-Mar Terrace, City and County of Midland, Texas. (Generally located on the west side of Stanolind Circle, approximately 350 feet east of Cessna Drive.)

The applicant yielded to the staff and Mr. Melland explained that the request was for an existing garage structure to be converted into an accessory dwelling to be used for guests. He also stated that the zoning in this area prohibits the renting of an accessory dwellings and that the garage door will be removed for access from the alley.

Chairman Carney opened the public hearing and there being no one wishing to speak in favor or in opposition to the item, closed the public hearing.

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

PLANNING AND ZONING COMMISSION

November 14, 2011

CASE: S-11-019; Matt Gallagher

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

APPLICANT/OWNER: Matt Gallagher

LEGAL DESCRIPTION: Lot 19, Block 9, Replat Block 9 2nd Section, Ma-Mar Terrace, City and County of Midland, Texas.

LOCATION: Generally located on the west side of Stanolind Circle, approximately 350 feet east of Cessna Drive.

CURRENT ZONING: 1F-1, Single Family Dwelling District.

DETAILS OF REQUEST:

1. Mr. Gallagher resides at 3109 Stanolind Circle and plans to convert a garage structure located at the rear portion of his lot into a living and sleeping quarters for visitors. The 1F-1 District allows only one residence per lot. However, approval of a Specific Use Permit can allow an accessory building to be used for living and sleeping quarters. The Zoning Code prohibits such accessory dwellings from being rented as a separate dwelling.

ANALYSIS:

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

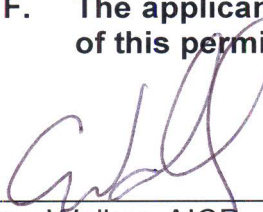
The attached site plan labeled Exhibit A, indicates the dimensions the dimensions of this existing structure which totals approximately 576 square feet in area. A garage door currently exists on the rear of this structure providing vehicular access to the alley. Mr. Gallagher plans to replace this door with a permanent wall so that access into this structure is only available from the back yard.

As Mr. Gallagher plans to add an additional dwelling to his property, two additional parking spaces will be required, but must be located at the primary residence so as to mitigate the additional parking needs of the accessory dwelling, yet not encourage its use for non-conforming purposes. As Exhibit A illustrates, sufficient improved parking surfaces exist at the front of this lot to accommodate two additional vehicles.

STAFF RECOMMENDATION:

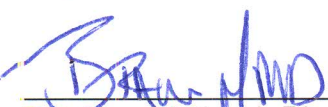
We recommend approval of this request for a Specific Use Permit for an accessory building for living and sleeping quarters, subject to the following conditions:

- A. That the development of this property shall adhere to the attached site plan labeled Exhibit A.**
- B. That the floor area of this accessory building shall not exceed 576 square feet.**
- C. That garage door existing on this structure shall be removed.**
- D. No entry into this accessory building shall be allowed from the adjacent alley.**
- E. That the accessory building may be occupied only by family members or guests of the occupant of the primary residence. It shall not be rented as a separate dwelling at any time.**
- F. The applicant shall secure a Certificate of Occupancy to ensure that the conditions of this permit are satisfied.**


Cameron Walker, AICP
Planning Division Manager
Department of Development Services

Attachments:

Application
Maps
Exhibit A – Site Plan


Brandon Melland, Planner
Department of Development Services

Case Number: 5-11-019

CITY OF MIDLAND
Planning Division

SPECIFIC USE PERMIT APPLICATION

Matt Gallagher 432-254-8446
Applicant Name Contact Phone #s
3109 Stanolind Circle 79705
Address Zip Code
E-Mail address: mgallagher@parsleyenergy.com

Matt Gallagher 432-254-8446
Property Owner Name Contact Phone #s
3109 Stanolind Circle 79705
Address Zip Code
E-Mail address: mgallagher@parsleyenergy.com

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

Address Zip Code
Type of Permit: Specific Use Permit - Accessory Building SUP with Term: Yes No
for Living & Sleeping Quarters (For Office Use)

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

3109 Stanolind Circle, Lot 19, Bk 9, 2nd Section, Ma-Mar Terrace, Midland, TX

Current Zoning: 1-F1

Maximum Floor Area: 576 ft² Max. Occupancy: 2 people

Proposed hours and days of use or operation: Over night accommodations for out of town guests during holidays & special visits

Reason for request: To house family guests during holidays & special visits.

Applicant's opinion as to why the request will not adversely affect the public safety, health, morals, general welfare, and convenience: The building is contained within our property & will be built to code. General public will not have access.

REQUIRED SUBMITTALS

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

SIGNATURES:

Applicant: _____ Date: _____

Property Owner: Math Gellagly Date: 10-14-11

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.

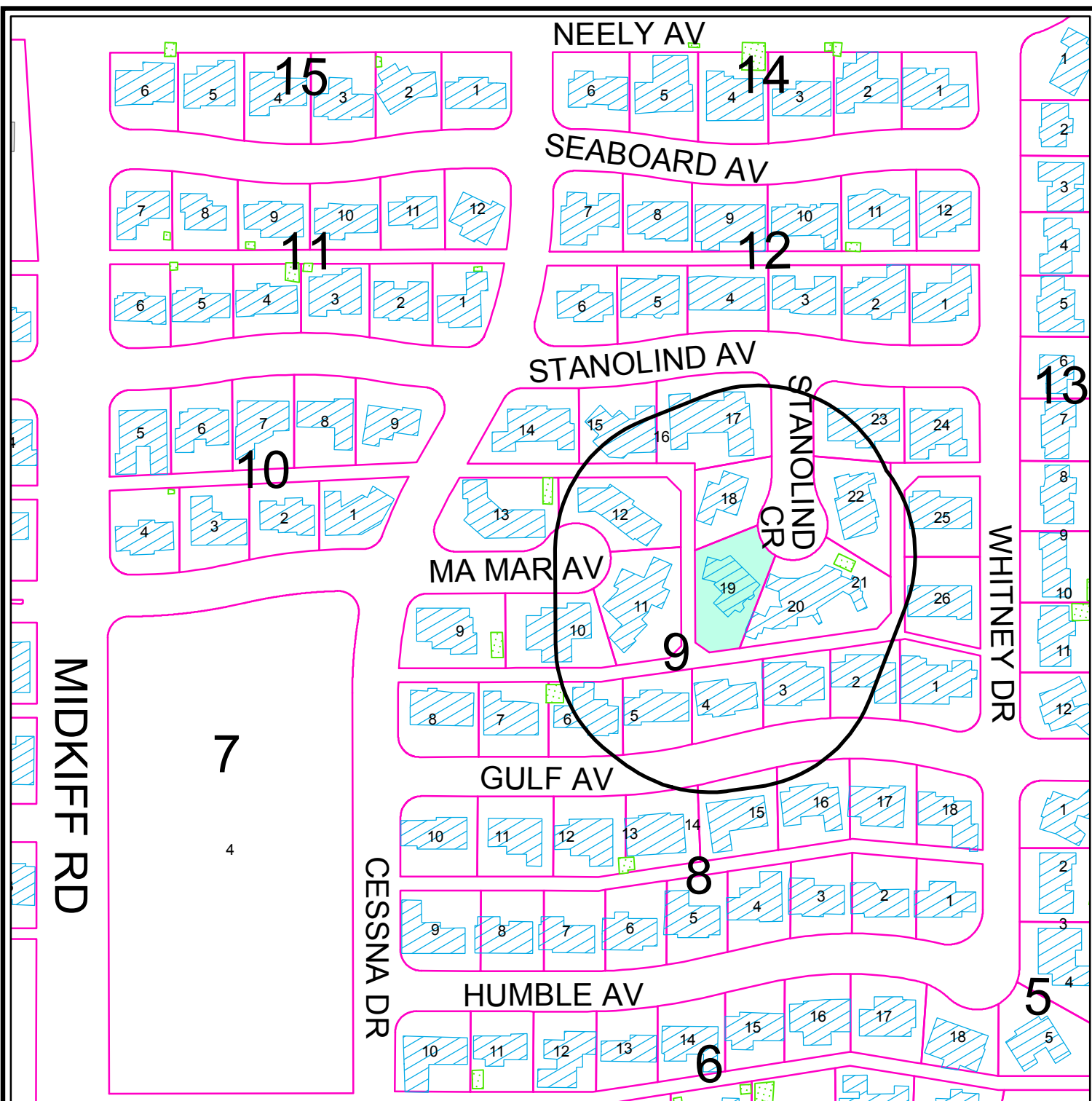
Subscribed and sworn to before me, this _____ day of _____, 20 ____, to certify which witness my hand and seal of office.

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

Rec'd By: JL Date: 10-14-11
Assigned: BM
For: P+Z On: 11-14-11

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



PROPERTY OWNER NOTIFICATION MAP

S - 11 - 019

Scale: 1" = 200'

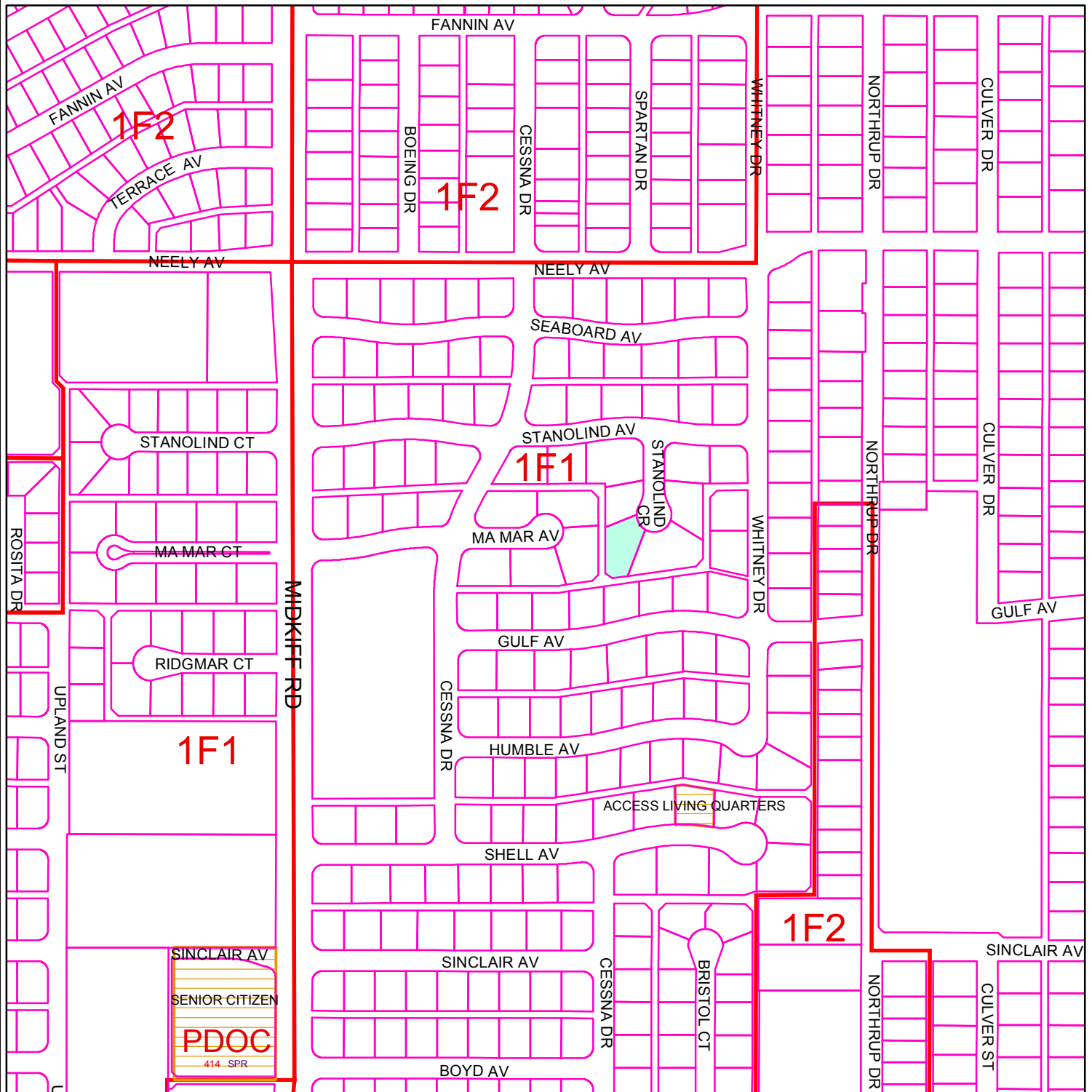
Consider a request for a Specific Use Permit Without Term for an accessory building for living or sleeping quarters on Lot 19, Block 9, Replat Block 9 2nd Section Ma-Mar Terrace, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

S - 11 - 019

Scale: 1" = 400'

Consider a request for a Specific Use Permit Without Term for an accessory building for living or sleeping quarters on Lot 19, Block 9, Replat Block 9 2nd Section Ma-Mar Terrace, City and County of Midland, Texas.

LEGEND

ZONING PARCELS SPECIFIC USE PERMITS

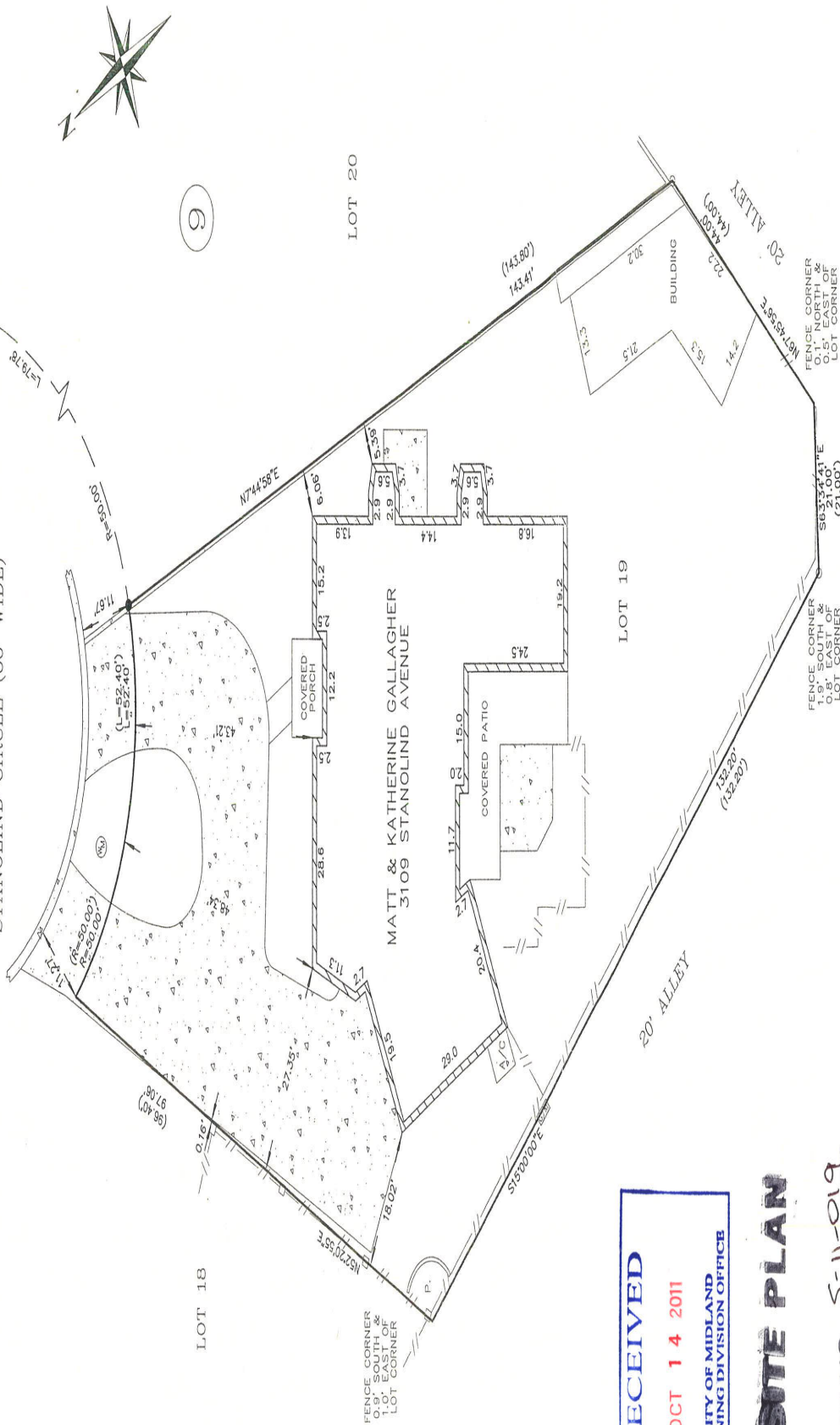
ZONING DISTRICTS:

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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* COPYRIGHT 2010
This survey is being provided solely for the use of: Matt & Katherine Gallagher, HINE, Finerfield & West Texas Abstract & Title Co., and that no license has been created, express or implied, to copy the survey plat which shall take place within 90 days after the survey was provided.

STANOLIND CIRCLE (60' WIDE)



LEGEND
 • Set 1 1/2" R.R.S. 4170"
 • Fnd. 1/2" I.R.
 (28) Gas Meter
 (W) Water Meter
 (L) Light Pole
 (P) Power Pole
 (FH) Fire Hydrant
 OVERHEAD ELECTRIC
 Guy Wire
 Telephone Junct. Box
 Cable TV Junct. Box
 Buried Pipeline Marker
 Sewer Cleanout
 Underground Electric Box
 Utility Box
 Misc. Sign
 Sanitary Sewer Manhole
 Water Valve
 Gas Valve
 Satellite Dish
 Propane Tank
 (Propane)
 QWW Water Well

PLAT OF
 LOT NINETEEN (19), BLOCK NINE (9),
 (REPLAT OF BLOCK 9) 2ND SECTION, MA-MAR TERRACE,
 AN ADDITION TO THE CITY OF MIDLAND
 MIDLAND COUNTY, TEXAS
 ACCORDING TO THE MAP OR PLAT THEREON RECORDED IN
 CABINET B, PAGE 36, PLAT RECORDS, MIDLAND COUNTY, TEXAS

Basis of Bearings:
 EAST Line of this Lot
 Bearings and Distances Shown
 Inside () Indicate Record Information

SCALE: 1" = 20'



RECEIVED

OCT 14 2011

CITY OF MIDLAND
 PLANNING DIVISION OFFICE

SITE PLAN

CASE NO. S-11-019

The following Easements, Rights-of-way, and Restrictive covenants as listed on the title Abstract & Title Co., Inc.,
 West Texas Abstract and Title Co., Inc.,
 G.F. No.: 1004-028-BW
 Restrictive Covenants:
 Vol. 294, Pg. 246.
 Deed Records, 34,
 Midland Co., Texas

Census Tract: 3.03
 This tract is in Flood Zone "X" as shown on the Flood Insurance Rate Map, Dated 04/27/10, and is provided by the Federal Emergency Management Agency Flood Map Number: 48329C008 F
 The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no visible discrepancies, conflicts, shortages in area, boundary, or other matters of record, and that said property has access to and from a dedicated roadway.

Dated this 27th day of April 2010.

Bruce R. Pennell

Registered Professional Land Surveyor No. 4170

IRVEYORS SIGNATURE IS NOT SIGNED IN RED INK, THIS IS NOT AN ORIGINAL DOCUMENT

PENNELL & MARLOWE LAND SURVEYORS, INC.

PROFESSIONAL LAND SURVEYING

P.O. BOX 51622, (432)682-3362 TEXAS MOBILE: (432)528-1027

DICE: (432)570-6256

COMMITMENT EFFECTIVE DATE: 03/31/10

CAD FILE: BRP13970 DATA FILE: 3109STANOLIND DRAWN BY: MARGY S. BOOK/PAGE: 1/1



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: M-11-020; Westlake Hardware, Inc.

Purpose:

Hold a public hearing at approximately 10:51 a.m. and consider a resolution on a request by Westlake Hardware, Inc. for a Temporary Land Use Permit for Outdoor Sales.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with this application.

Discussion:

Westlake Hardware, located at 1004 Andrews Highway, is requesting a temporary land use permit to use a portion of their parking lot for an outdoor sales area from February 15, 2012 to June 30, 2012. The City Council has a history of approving similar requests within the Midland Park Mall parking lot for durations not exceeding three to four weeks. In those cases, the applicants are generally not local, nor are they already permanently operating on the site. In this case however, Westlake Hardware is planning to create a temporary sales area for a use already occurring on the property. This sales area will include plants and various other landscaping materials and supplies such as mulch and rock. Parking conditions will remain satisfactory and adequate circulation will be maintained. Sales will occur within this area during normal business hours from 7:00 a.m. to 9:00 p.m. daily. Staff recommends approval of this request.

Attachments:
Proposed Ordinance and Exhibit A – Site Plan

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE TEMPORARY USE
OF LAND FOR OUTDOOR SALES ON LOT 1, BLOCK 5,
PARK PLACE, SECTION 3, CITY AND COUNTY OF
MIDLAND, TEXAS (GENERALLY LOCATED ON THE
NORTHEAST CORNER OF THE INTERSECTION OF
ANDREWS HIGHWAY AND CUTHBERT 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, Westlake Hardware, Inc. has applied for authorization to temporarily use land for outdoor sales on Lot 1, Block 5, Park Place, Section 3, 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 Westlake Hardware, Inc. is hereby authorized by the City Council to have outdoor sales on the following described land:

On Lot 1, Block 5, Park Place, Section 3, 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 use of this property for outdoor sales shall conform in all respects to Exhibit "A", which is attached hereto and incorporated herein for all purposes.
- B. That the days and hours of operation shall be limited to the following: February 15, 2012 to June 30, 2012, seven days a week, from 7:00 a.m. to 9:00 p.m.
- C. That the applicant shall obtain approval from the Utilities Department for a refuse collection and clean-up plan prior to February 15, 2012.
- D. That said temporary use shall comply with all requirements of the Fire Code; the applicant shall call for an inspection by the Fire Marshal prior to commencing sales.
- E. That the Code Administration Division shall be notified no later than 48 hours preceding the beginning of operations.

- F. That the operator, Westlake Hardware, Inc., 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., 2011, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: M-11-020; Westlake Hardware, Inc.

Purpose:

Hold a public hearing at approximately 10:51 a.m. and consider a resolution on a request by Westlake Hardware, Inc. for a Temporary Land Use Permit for Outdoor Sales.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with this application.

Discussion:

Westlake Hardware, located at 1004 Andrews Highway, is requesting a temporary land use permit to use a portion of their parking lot for an outdoor sales area from February 15, 2012 to June 30, 2012. The City Council has a history of approving similar requests within the Midland Park Mall parking lot for durations not exceeding three to four weeks. In those cases, the applicants are generally not local, nor are they already permanently operating on the site. In this case however, Westlake Hardware is planning to create a temporary sales area for a use already occurring on the property. This sales area will include plants and various other landscaping materials and supplies such as mulch and rock. Parking conditions will remain satisfactory and adequate circulation will be maintained. Sales will occur within this area during normal business hours from 7:00 a.m. to 9:00 p.m. daily. Staff recommends approval of this request.

Attachments:
Proposed Ordinance and Exhibit A – Site Plan

Case No.:

M-11-020

CITY OF MIDLAND, TEXAS Planning Division

TEMPORARY LAND USE PERMIT APPLICATION

Submission Requirements: Application shall be submitted to the Planning Division not less than twenty-eight (28) days prior to the City Council meeting at which action is desired.

Application is hereby made to the City Council for a Temporary Land Use Permit:

Name of Applicant: Westlake Hardware, Inc. Phone: 913-888-0808
E-mail: bobm@westlakehardware.com

Applicant's Address: 14000 Marshall Drive, Lenexa, KS 66215

Property Owner: Realty Income Texas Properties
1, LLC Phone: 760-741-2111
E-mail: _____

Owner's Address: c/o Realty Income Corp., P.O. Box 460069, Escondido, CA 92046

Other required information:

1. Street address and legal description of property: 1004 Andrews Highway, Midland TX 79701 (See Attached Legal Description) LOT 1, Block 5, Park Place, Sec. 3
2. Zoning District: PD
3. Type of temporary use requested: Outdoor retail sales
4. Duration of temporary use: February 15 - June 30, 2012 - 4.5 mos.
If more than One (1) day and is located within any residential district or is located within 1000 feet of any residential district, then a public hearing is required.
5. Proposed days and hours: Product will remain during duration, sales will occur daily between 7 a.m. - 9 p.m.
6. Will alcoholic beverages be sold? _____ Yes ☒ No
7. A detailed Site Plan is required (16 copies needed (FOLDED), plus digital - .jpg and .pdf). Show existing buildings, parking, access arrangements, surrounding streets, activity areas, areas of alcoholic beverage sales, proposed street closures, etc.
Site Plan received: ☒ Yes _____ No

8. Are you requesting the temporary closure of any streets? _____ Yes X No

If yes, you must:

A. Obtain and complete the "Special Event and Street Closure Application", available in the Transportation Division office (5th Floor, City Hall).

B. Provide the City with a **general liability insurance certificate**, naming the **City** as an **Additional Insured**, in the amount of one million dollars (\$1,000,000) for the term of the closure.

9. Other information: Number of security guards provided: 0

Number of restrooms provided: N/A

Type of music (carnival, live, etc.): N/A

Showmobile requested _____ Days and hours _____

10. A **\$500.00 Clean-up Deposit** and a **\$500.00 Damage Deposit** are required for all events. Checks need to be dated day of event. Inspection of site after the event for trash and damage is a City responsibility. The deposits, or a portion thereof, may be refunded following inspection.

Clean-up Deposit received: __ (Y) __ (N) **Clean-up Deposit refunded:** __ (Y) __ (%) __ (N)

✓ **Damage Deposit received:** __ (Y) __ (N) **Damage Deposit refunded:** __ (Y) __ (%) __ (N)

11. A **\$200 Application Review fee** is required. **Fee received:** _____ Yes _____ No
\$25.00 for each additional event date.

Owner or Operator (if other than Applicant) responsible for ensuring that the conditions of this permit will be observed:

Printed Name of Owner/Operator _____ Address _____ Zip _____ Phone _____

Signature of Owner/Operator _____ Date _____

R. Massengill
Signature of Applicant

, Robert Massengill, Corp. Counsel

Date

22
9/15/11

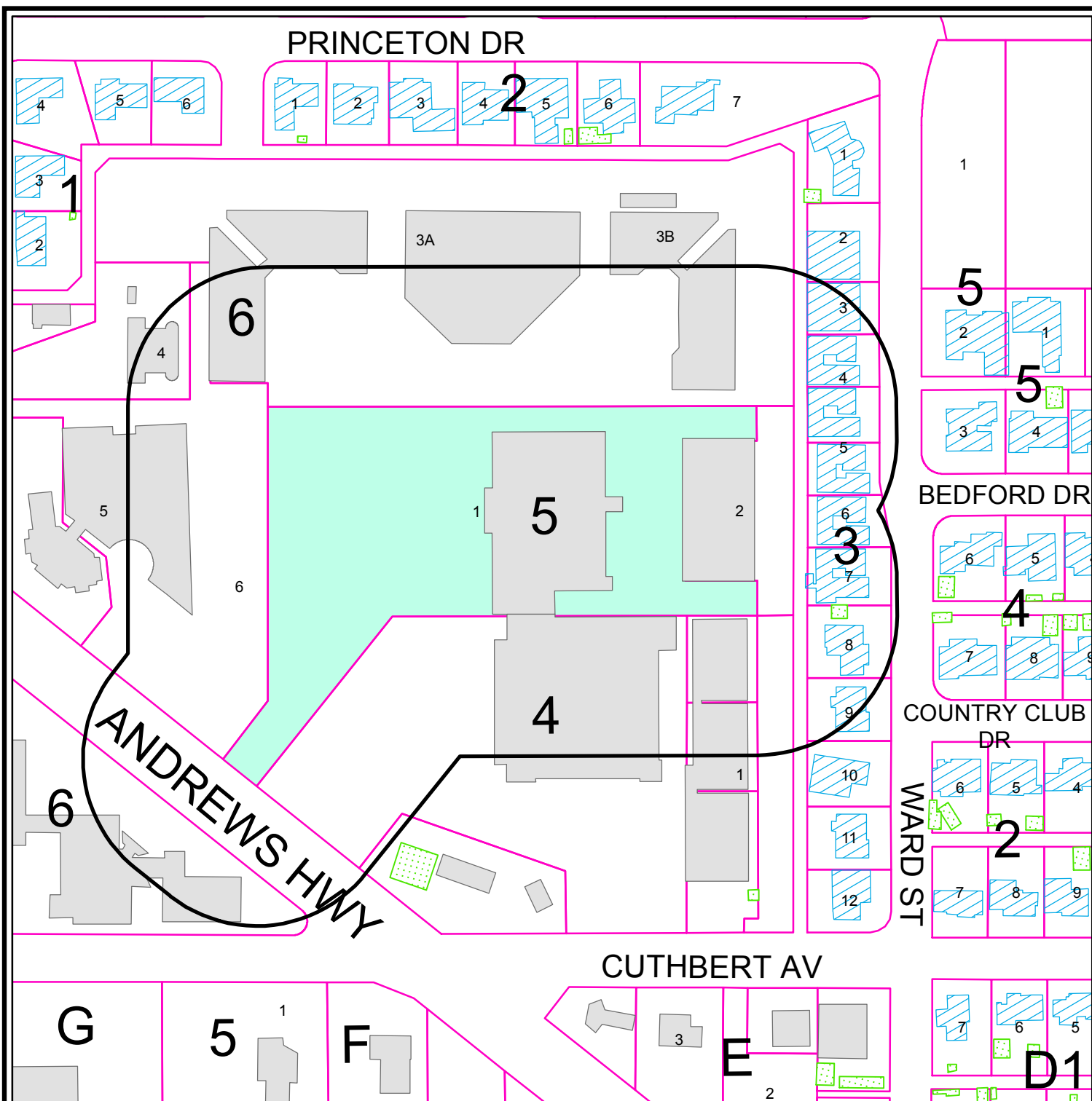
See attached Letter

Signature of Property Owner, if other than Applicant

Date

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

FOR OFFICE USE ONLY	
Received By: <u>BM</u>	Date: <u>9/27/11</u>
Assigned: <u>BM</u>	
For: <u>CC [initials]</u>	On: <u>11/8/11</u>



PROPERTY OWNER NOTIFICATION MAP

M - 11 - 020

Scale: 1" = 200'

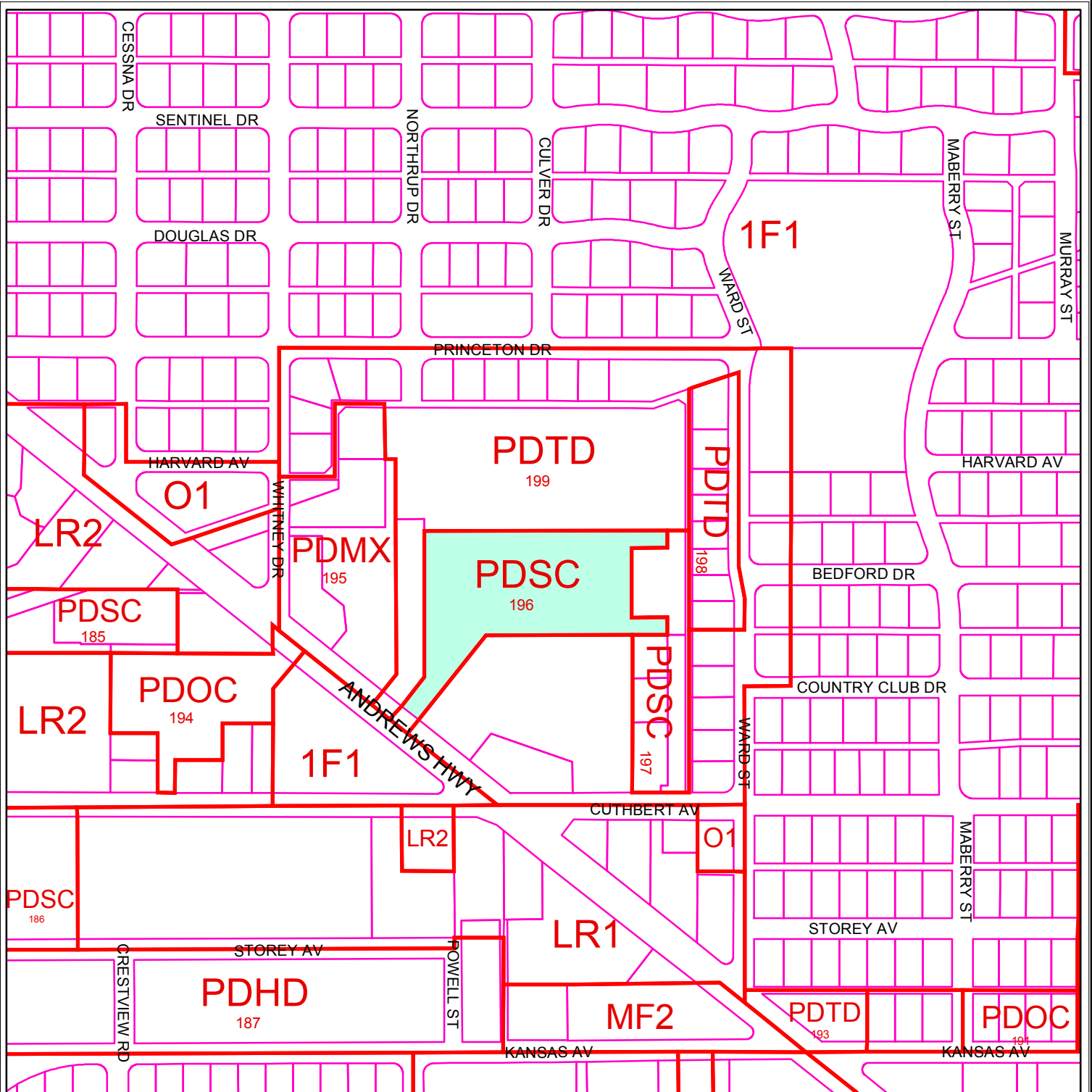
Consider a request for a Temporary Land Use Permit for Outdoor Sales on Lot 1, Block 5, Park Place, Section 3, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

M - 11 - 020

Scale: 1" = 400'

Consider a request for a Temporary Land Use Permit for Outdoor Sales on Lot 1, Block 5, Park Place, Section 3, City and County of Midland, Texas.

LEGEND

ZONING

PARCELS

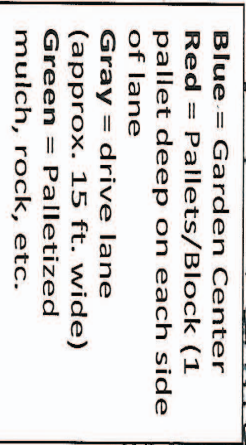
ZONING DISTRICTS:

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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STEEL

14-0000000000
FALSE INVESTMENT
372





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: E-11-003; Mid-Cities Community Church

Purpose:

Hold a public hearing at approximately 10:57 a.m. and consider an ordinance on a request by Mid-Cities Community Church for approval of a Special Exception to the Zoning Code concerning building height on Lot 1, Block 1, Westlake Addition, City and County of Midland, Texas.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with this application.

Discussion:

Mid-Cities Community Church is planning to construct an addition to their existing facility located on the north side of Highway 191 just east of N County Road 1275 within the area recently zoned for retail use. Development standards within the LR-2, Local Retail District, limit building height to 28 feet, 9 inches. Mid-Cities is proposing an addition that would be 38 feet, 9 inches in height. Thus they are requesting a Special Exception to the zoning code to allow for this variation. The Zoning Code allows for Special Exceptions for architectural and other projections of a minor extent beyond maximum height limits. In this case, Mid-Cities Community Church is planning to construct a building, indicated on the attached Site Plan labeled Exhibit A as "New Children's Addition", which exceeds building height limitations within the LR-2, Local Retail district by 10 feet. Although 10 feet beyond the maximum 28 feet 9 inches may seem excessive, this proposed addition will observe a front yard building setback of over 250 feet. That being considered, staff finds that a 10-foot exception is reasonable. No letters of public opposition have been received to date. Staff recommends approval of this request.

Attachments:
Application, Map, Exhibit A – Site Plan



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: E-11-003; Mid-Cities Community Church

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Attachments:
Application, Map, Exhibit A – Site Plan

Case #: E-11-003

CITY OF MIDLAND
Planning Division

SPECIAL EXCEPTION APPLICATION

Mid-Cities Community Church P.O. Box 81300, 8700 SH 191, Midland, Texas 79708-1300 432-522-1330

NAME OF APPLICANT ADDRESS ZIP PHONE

Word of Life of Midland, Inc. P.O. Box 81300, 8700 SH 191, Midland, Texas 79708-1300 432-522-1330

OWNER OF PROPERTY ADDRESS ZIP PHONE

NOTE: ATTACH SITE PLAN (FOLDED) _____ APPLICATION FEE: \$400.00 _____

ADDRESS AND LEGAL DESCRIPTION OF PROPERTY FOR WHICH APPLICATION IS MADE: (COMPLETE LOT AND BLOCK DESCRIPTION OR IF NOT A LOT IN A RECORDED PLAT, ATTACH A METES AND BOUNDS DESCRIPTION)

Lot 1, Block 1, Westlake Addition

ZONING OF PROPERTY: LR-2

THE PROPERTY QUALIFIES AS AN EXCEPTION TO THE CITY CODE BECAUSE:

- ____ a. IT IS AN EXPANSION OF A NONCONFORMING USE
____ b. EXISTENCE OF NONCONFORMING STRUCTURES IN AREA
X c. ARCHITECTURAL OR OTHER PROJECTIONS OF A MINOR EXTENT

PROPERTY OWNER DATE

BY: Larry G. Bell, P.E. 11/4/2011
(IF APPLICABLE-SEE NOTE)

NOTE: IF PROPERTY OWNER IS TO BE REPRESENTED BY AUTHORIZED AGENT, THE AGENT SHOULD SIGN THE PROPERTY OWNER AND HIS OWN NAME ON THE LINE PROVIDED ABOVE AND COMPLETE THE AFFIDAVIT BELOW.

State of Texas)
County of Midland)

Before me, the undersigned authority, on this day personally appeared Larry G. Bell, P.E. who, being duly sworn, upon oath says: That he is authorized by Word of Life of Midland, Inc. the owner of the above described property, to fully represent him in this application and that he has the legal right, power and authority to sign said owner's name hereto as his attorney in fact.

Signature of Affiant

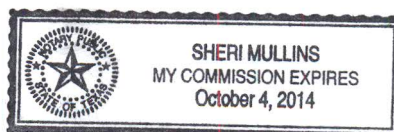
Subscribed and sworn to before me, by the said Larry G. Bell this 4 day of November, 2011, to certify which witness my hand and seal of office.

Sheri Mullins
Notary Public, Midland County, Texas

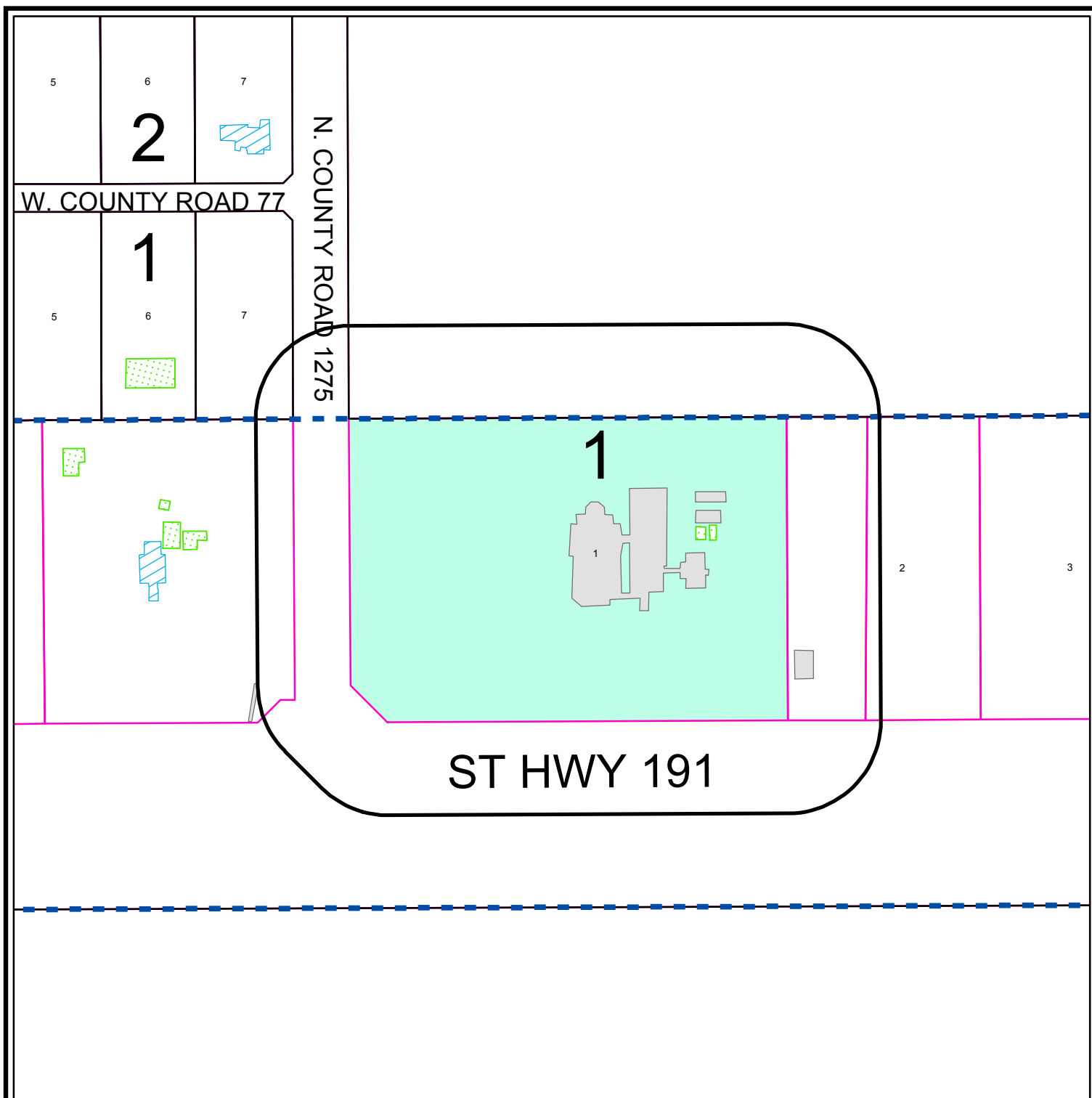
****Application will not be considered for scheduling until reviewed by a planner.****

FOR OFFICE USE ONLY

Rec'd By: BM Date: 11/4/11
Assigned: BM
For: PtZ On: 12/5/11



(revised 5/2/11)



OWNER NOTIFICATION WITHIN CITY LIMITS ONLY

E - 11 - 003

Scale: 1" = 300'

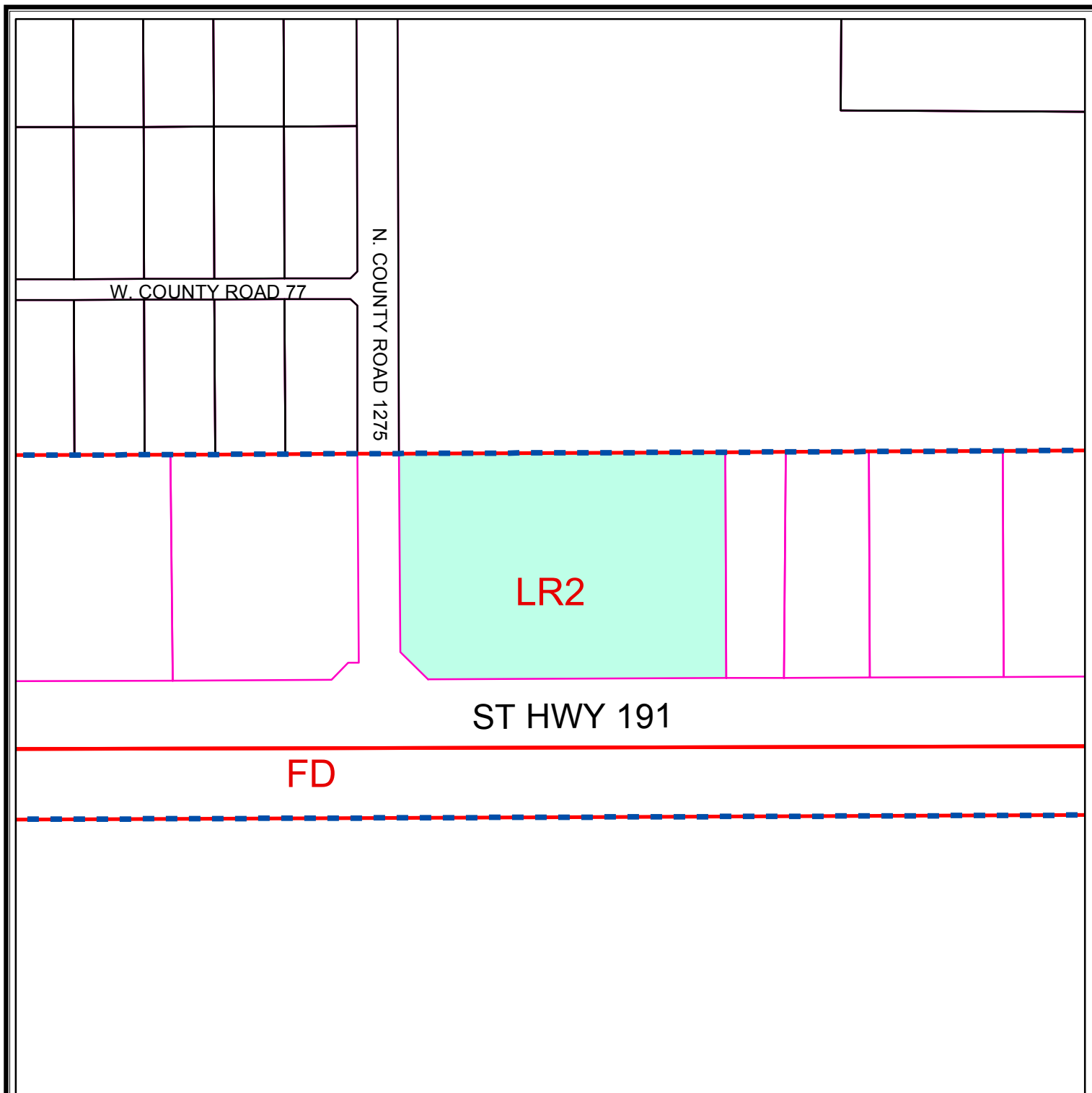
Consider a request for a Special Exception to the Zoning Code for a building height on Lot 1, Block 1, Westlake Addition, City and County of Midland, Texas.

LEGEND

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



©THE CITY OF MIDLAND - 2011
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 WHO MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, ZONING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.



ZONING MAP

E - 11 - 003

Scale: 1" = 400'

Consider a request for a Special Exception to the Zoning Code for a building height on Lot 1, Block 1, Westlake Addition, City and County of Midland, Texas.

LEGEND

 ZONING	 CITY PARCELS
 CITY LIMITS	 COUNTY PARCELS

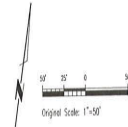
ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
IF1, IF2, IF3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY



WESTLAKE ADDITION

LOT 1 BLOCK 1

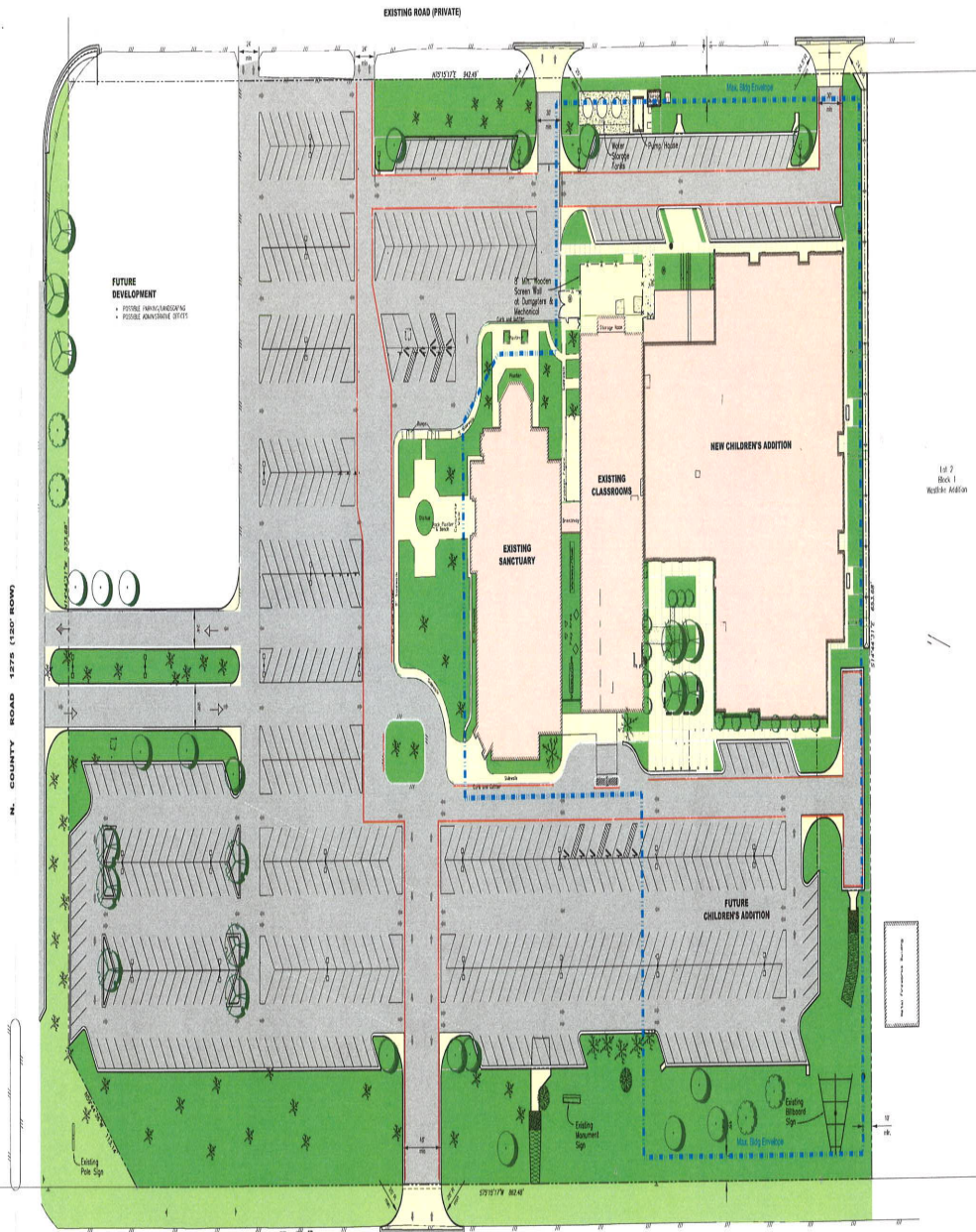


Site Plan submitted to P&Z
on September 28, 2011.

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] TO BE IRRIGATED GRASS AND GROUND COVER.
- SHADED AREAS DENOTED BY [Pattern] ARE BUILDINGS.
- FIRE LANE DENOTED BY [Line Style].
- LANDSCAPED AREA (NOT INCLUDING ROWS) WILL BE A MINIMUM OF 10% OF TOTAL LOT AREA LESS THE BUILDING AREA.
- EXTERIOR BUILDING MATERIALS SHALL BE DECORATIVE OR PAINTED CMU, FACE BRICK, PRECAST CONCRETE, TILT-WALL, STUCCO, MANUFACTURED STONE, GLAZING OR SIMILAR CONSTRUCTION.
- ROOF MATERIALS MAY INCLUDE COMPOSITE, MEMBRANE, BUILT-UP OR STANDING SEAM METAL ROOF.
- ALL NEW SIGNS SHALL BE IN CONFORMANCE WITH SECTION 11-70 OF THE MIDLAND CITY CODE.
- ALL EXTERIOR LIGHTING SHALL ADHERE TO THE STANDARDS OUTLINED IN SECTION 11-10 OF THE MIDLAND CITY CODE.

SITE DATA	
SITE AREA	612,543 SF
BUILDING AREA (Foot Print)	90,708 SF
LANDSCAPE AREA REQUIRED	61,254 SF
LANDSCAPED AREA SHOWN (NOT INCLUDING ROW)	184,798 SF
TREES REQUIRED (1" Cal. Min.)	89
PARKING SPACES REQUIRED	180
PARKING SPACES SHOWN	571
H.C. PARKING SPACES REQUIRED	12
H.C. PARKING SPACES SHOWN	13



SITE PLAN

STATE HIGHWAY 191 SERVICE ROAD (40' ROW)

RECEIVED

NOV 30 2011

CITY OF MIDLAND
PLANNING DIVISION OFFICE

EXHIBIT A

CASE NO. E-11-003

WESTLAKE ADDITION



ORDINANCE NO.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 1, BLOCK 1, WESTLAKE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF STATE HIGHWAY 191 AND NORTH COUNTY ROAD 1275), BY PERMITTING A BUILDING TO EXCEED THE MAXIMUM HEIGHT LIMIT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

WHEREAS, by Ordinance No. 8416, the City Council modified the authority of the Board of Adjustment; and

WHEREAS, Title XI, Chapter 1, Section 12 ("11-1-12"), of the Midland City Code provides for the consideration of requests for special exceptions to the Midland Zoning Code; and

WHEREAS, the Council finds that satisfactory evidence has been presented that the use to be authorized by the granting of the special exception will not be detrimental to the health, safety, comfort and welfare of the occupants of the land area near the tract on which the use to be allowed by special exception will be located; and

WHEREAS, the Council finds that it is clearly and specifically authorized by the terms of 11-1-12 to grant such a special exception and said exception will be in harmony with the general purposes and intent of the zoning provisions of the Midland City Code; and

WHEREAS, after a full and fair public hearing at which all parties in interest were offered an opportunity to be heard, all pursuant to law, the Council finds it to be in the public interest to grant a special exception to the Zoning Code, pursuant to 11-1-12, for the purposes herein stated, subject to special conditions;

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

SECTION ONE. That a special exception is hereby granted for the property described as Lot 1, Block 1, Westlake Addition, City and County of Midland, Texas. Said special exception shall allow a building to exceed the maximum height limit.

SECTION TWO. Said special exception is subject to the following special conditions:

1. That the proposed construction of the building indicated as “New Children’s Addition” shall adhere to Exhibit “A”, which is attached hereto and incorporated herein for all purposes.
2. That the building indicated as “New Children’s Addition” on Exhibit “A” shall be permitted to be a maximum of 39 feet tall.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to file this ordinance with the Office of the County Clerk for purposes of recordation.

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish

the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: P-11-051, Preliminary Plat Approval

Purpose:

Hold a public hearing at approximately 11:00 a.m. and consider a resolution on a request by Erasto Martinez dba Triple M Construction, ON APPEAL, for approval of the proposed preliminary plat of Country Sky Addition, Section 12, being a replat of Lot 27, Block 4, Country Sky Addition Section 10, City and County of Midland, Texas.

Recommended City Council Action:

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

On October 17, 2011 the Planning and Zoning Commission conducted a public hearing to consider this preliminary plat. The Commission voted unanimously (six members present) on a motion to deny the application. The applicant is appealing this decision to the City Council.

At the start of the Commission Meeting, it was noted that six of the eight public notices mailed out were returned in opposition to this replat (far exceeding the 20% land area threshold that requires a Commission super majority of 75%). A final letter was received at the meeting which brought the opposition to 90% of the land area. The concern of those opposing the division of this single lot centered on a perceived notion that the creation of two smaller lots would decrease their property values and lead to overcrowding. Opposition aside, staff finds that this preliminary plat meets all Subdivision Code regulations. Several lots with lesser street frontage and/or lot area exist to the north on the same street as the two proposed lots. Staff continues to recommend approval of this preliminary plat, subject to the satisfaction of Conditions A & B in the October 17, 2011 Planning and Zoning Commission Staff Report.

Attachments:

October 17, 2011 P&Z Staff Report, Maps, Proposed Preliminary Plat, Appeal Request Letter, Opposition calculation provided to P&Z Commissioners



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

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SUBJECT: P-11-051, Preliminary Plat Approval

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Recommended City Council Action:

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Attachments:

October 17, 2011 P&Z Staff Report, Maps, Proposed Preliminary Plat, Appeal Request Letter, Opposition calculation provided to P&Z Commissioners

October 19, 2011

City Council

City of Midland

P. O. Box 1152

Midland, Texas 79702

Dear City Council:

We want to appeal the decision to deny our Preliminary Plat of Country Sky Addition Section 12 by the Planning and Zoning Commission in their October 17th meeting. There are several lots on Tumbleweed that are our size or smaller. Also, we maintain the frontage distance as required and the lot size. Thank you for giving us your time.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Erasto Martinez", with a stylized flourish at the end.

Erasto Martinez

**Planning and Zoning Commission
Minutes
October 17, 2011**

P-11-051 - Consider a proposed *preliminary plat* of **Country Sky Addition, Section 12**, being a replat of Lot 27, Block 4, Country Sky Addition, Section 10, City and County of Midland, Texas. (Generally located on the west side of Tumbleweed Trail, approximately 780 feet north of Cactus Trail.)

No applicant was present. Senior Planner Ken Van Dyne gave an overview of the item noting that no additional right-of-way was needed, that a drainage plan was not required and that this is a public improvement district and payment would be required to be satisfied on the final plat. Several letters of opposition had been received within the 200-foot buffer exceeding the 20% threshold, which requires 75% approval, by commissioners present to approve the preliminary plat. The primary objection was due to the splitting of the lots to just over one acre in size. He noted the minimum zoning requirement was 40,000 square feet and that there were a number of lots that were smaller in size north of the property. He stated staff recommended approval since the proposed lots exceed minimum requirements for lot area and frontage on this preliminary plat and that Engineering did support the deferral of sewer, sidewalk, curb and gutter.

Chairman Carney invited anyone present in opposition to be heard. Mr. Glen Miller, 5505 San Saba Court, presented a letter to the Commission. He objected to the small lot sizes noting that most surrounding lots were 2 ½ acres.

Michael Strange, 3918 North County Road 1247, stated he lives on 2 ½ acres and believes that anything smaller than 2 ½ acres would affect the value of his property, make it more crowded, and offer less privacy.

Cary Fisher, 4000 Tumbleweed Trail, stated he agrees with what Glen and Mike said. He stated he moved there because it was secluded and not so crowded.

James Adams, stated this was the first he heard of the 40,000 square foot minimum size and believed his deed restricted it to 2.5 acres. He stated he thought he was protected in that area by building on smaller than 2.5 acres. He stated he has lived there 2 ½ years and his 1.7 acres were grandfathered in. He did not want the area over congested.

Cary Fisher stated he also wasn't aware of 40,000 square foot minimum lot size and thought it was a minimum of 2 ½ acres until yesterday when Mr. Miller made him aware.

Mr. Miller was asked if he had 2 1/2 acres. He stated he did and that it was probably a little less because he had to concede from the center of the street to the property line. He stated he had approximately ten acres that he platted and made four lots. The minimum square footage for a home in that area is 1200 square feet. Most homes were well over 2500 square feet and larger.

Chairman Carney asked if anyone else wanted to speak. Seeing none he deferred to applicant. No applicant was present and the public hearing closed at 3:57 p.m.

A motion to deny was made by Commissioner Lanning; seconded by Commissioner Gatten. The motion carried by the following vote AYE: Lanning, Gatten, Carney, Ferguson, Watkins and York. NAY: None. ABSTAIN: None. ABSENT: Wolf, Wilton and Woodruff

PLANNING AND ZONING COMMISSION

October 17, 2011

CASE: P-11-051, Country Sky Addition, Section 12.

REQUEST: Proposed Preliminary Plat.

APPLICANT/OWNER: Erasto Martinez / Triple M Construction.

LEGAL DESCRIPTION: Proposed plat of Country Sky Addition, Section 12, being a replat of Lot 27, Block 4, Country Sky Addition, Section 10, City and County of Midland, Texas.

LOCATION: Generally located on the west side of Tumbleweed Trail, approximately 780 feet north of Cactus Trail.

DETAILS OF REQUEST:

1. The applicant is replatting a 2.36-acre lot into two lots for future residential development in this CE, County Estate District. The properties have frontage along Tumbleweed Trail and are positioned between Briarwood Avenue and Cactus Trail.

RIGHTS OF WAY (ROW):

2. No additional right of way is needed.

DRAINAGE:

3. No drainage plan will be required.

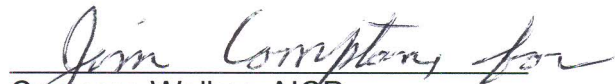
PUBLIC IMPROVEMENTS:

4. This area is in a Planned Improvement District and the fees associated with this must be addressed prior to final plat.
 - a. As of 10/5/11 Assessment Payoff for PIN 79180-017-0066 \$5,471.26
 - b. As of 10/5/11 Assessment Payoff for PIN 79180-017-0040 \$5,471.26
5. Public improvements regarding sewer and the paving of curb and gutter will have to be addressed prior to final plat.

STAFF RECOMMENDATION:

Staff recommends approval of the preliminary plat of Country Sky Addition, Section 12, subject to the following conditions:

- A. That the Planned Improvement District fees are satisfied;
- B. That any required public improvements are addressed prior to final plat.


Cameron Walker, AICP
Planning Division Manager
Department of Development Services


Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Proposed Preliminary Plat

CITY OF MIDLAND

Planning Division

PRELIMINARY PLAT APPLICATION

I. APPLICATION

Legal Description of Plat (or see attached metes and bounds) Replat of Lot 27, Block 4, Country Sky Addition, Section 10, an Addition to the City and County of Midland, Texas

Property Owner:
ERASTO MARTINEZ / TRIPLE M CONSTRUCTION (432) 528-0229
 (Name) (Phone/e-mail)
7801 TRENTON DRIVE MIDLAND, TEXAS 79707
 (Street Address) (City, State, Zip)

Developer Information (if different from Owner)
SAME
 (Name) (Phone/e-mail)
 (Street Address) (City, State, Zip)

Representative Information (if acting as Agent, see Note on page2):
SCHUMANN ENGINEERING CO., INC. (432) 684-5548
 (Name) (Phone/e-mail)
P.O. BOX 504 MIDLAND, TEXAS 79702-0504
 (Street Address) (City, State, Zip)

II. FEES

Standard Plat or Residential Replat

For plats up to 50 acres: **\$250.00**

For plats over 50 acres, \$1.00 for each additional acre, up to \$500.00

TOTAL \$ 250.00

III. SUBMITTAL INFORMATION

Submittal Date: Minimum of 24 days prior to the Planning and Zoning Commission meeting at which consideration is desired.

Check items if submitted with this application form

- | | |
|---|---------------|
| 1. Application Fee: | <u>X</u> |
| 2. Copies: (FOLDED) (16 prints) | <u>X</u> |
| 3. Digital file: (.jpg and .pdf format) | <u> </u> |
| 4. Drainage plan: (submitted to Engineering Div.) | <u> </u> |

For Office Use Only Rec'd By/ Date
<u> </u> / <u> </u>
<u> </u> / <u> </u>
<u> </u> / <u> </u>
<u> </u> / <u> </u>

The Preliminary Plat shall be considered officially received in the Planning office only when it is in compliance with the provisions of the City of Midland Subdivision Code and when items 1 - 4 above are received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

IV. REQUEST FOR A VARIANCE

The following variances are requested: (attach additional sheets if necessary)

1. Sidewalk deferral: If property is located within the City Limits and is currently undeveloped, do you intend to seek a deferral from the Building Code requirement to construct public sidewalks?

YES ___ NO ___

2. Street/Alley alignment, width or length: _____

3. Other: _____

V. REQUEST FOR A DEVELOPMENT AGREEMENT

Do you expect to request a development agreement with the City? YES ___ NO ___ If yes contact the City Engineer @ 432-685-7286.

VI. PROVISIONS

The Planning and Zoning Commission may approve, disapprove, or conditionally approve a preliminary plat. Conditional approval is subject to conformity with prescribed conditions and is considered disapproval of the plat until said conditions are met. Approval of a preliminary plat shall be considered to be approval of the general arrangement of lots, streets and alleys and the width of streets and alleys, but is not considered to be final acceptance of the subdivision plat. In some cases, a preliminary plat must be considered by the City Council, and any approval by the Planning and Zoning Commission shall be considered a recommendation to the City Council.

VII. 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

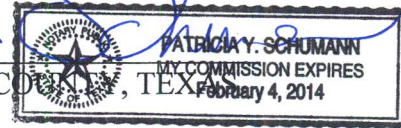
Before me, the undersigned authority, on this day personally appeared KEVIN STARNES who, being by me duly sworn, upon oath says: That (s)he is authorized by ERASTO MARTINEZ/TRIPLE M, OWNER of the above described property, to fully represent him/her in this application and that (s)he had the legal right,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

[Signature]

Authorized Agent (signature)

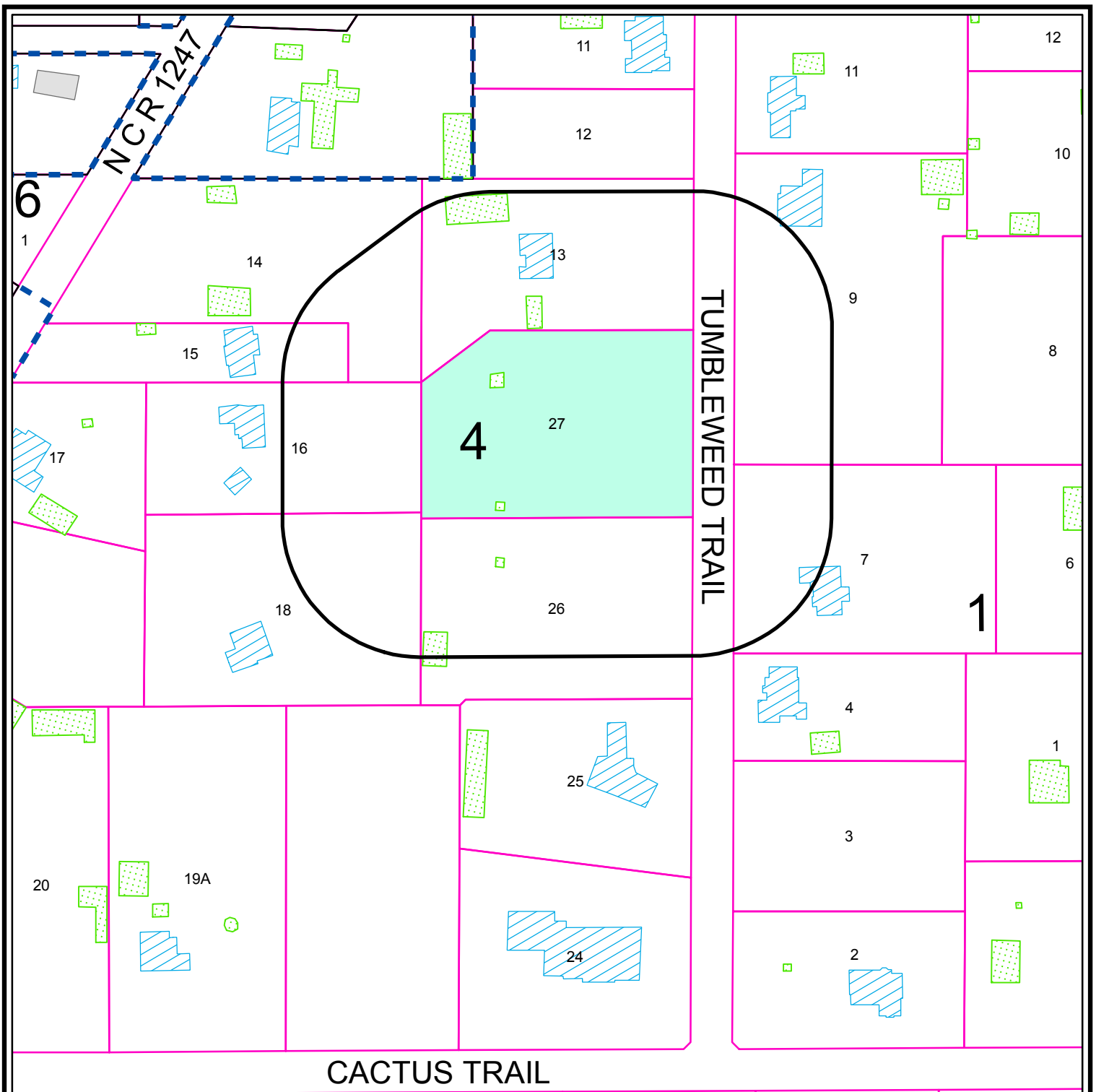
Subscribed and sworn to before me, this 1ST day of September, 2011, to certify which witness my hand and seal of office.

[Signature]
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS



FOR OFFICE USE ONLY	
Rec'd BY: <u>BM</u>	DATE: <u>9/1/11</u>
RES REPLAT: YES ☒ NO ☐	
ASSIGNED: <u>KV</u>	
FOR: <u>P+Z</u>	ON: <u>10/12</u>
Council Action Required: <u>Y</u>	<u>N</u>

****Application will not be scheduled for hearing until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

P - 11 - 051

Scale: 1" = 200'

Proposed plat of Country Sky Addition, Section 12, being a replat of Lot 27, Block 4, Country Sky Addition, Section 10, City and County of Midland, Texas.

LEGEND

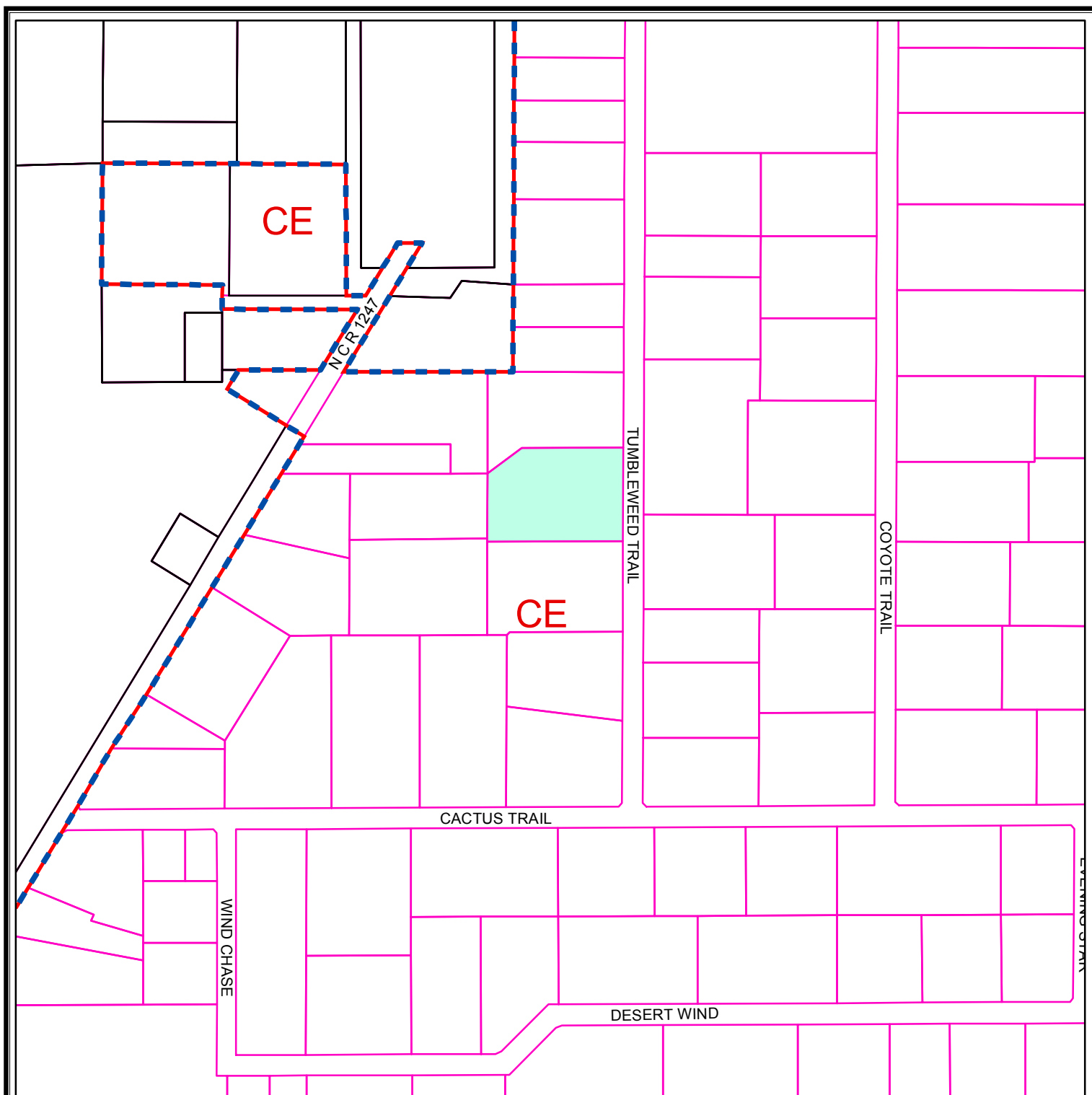
- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS

*City of Midland, Texas
Planning Division*



Map by MH 8/2/11

49.10



ZONING MAP

P - 11 - 051

Scale: 1" = 400'

Proposed plat of Country Sky Addition, Section 12, being a replat of Lot 27, Block 4, Country Sky Addition, Section 10, City and County of Midland, Texas.

LEGEND

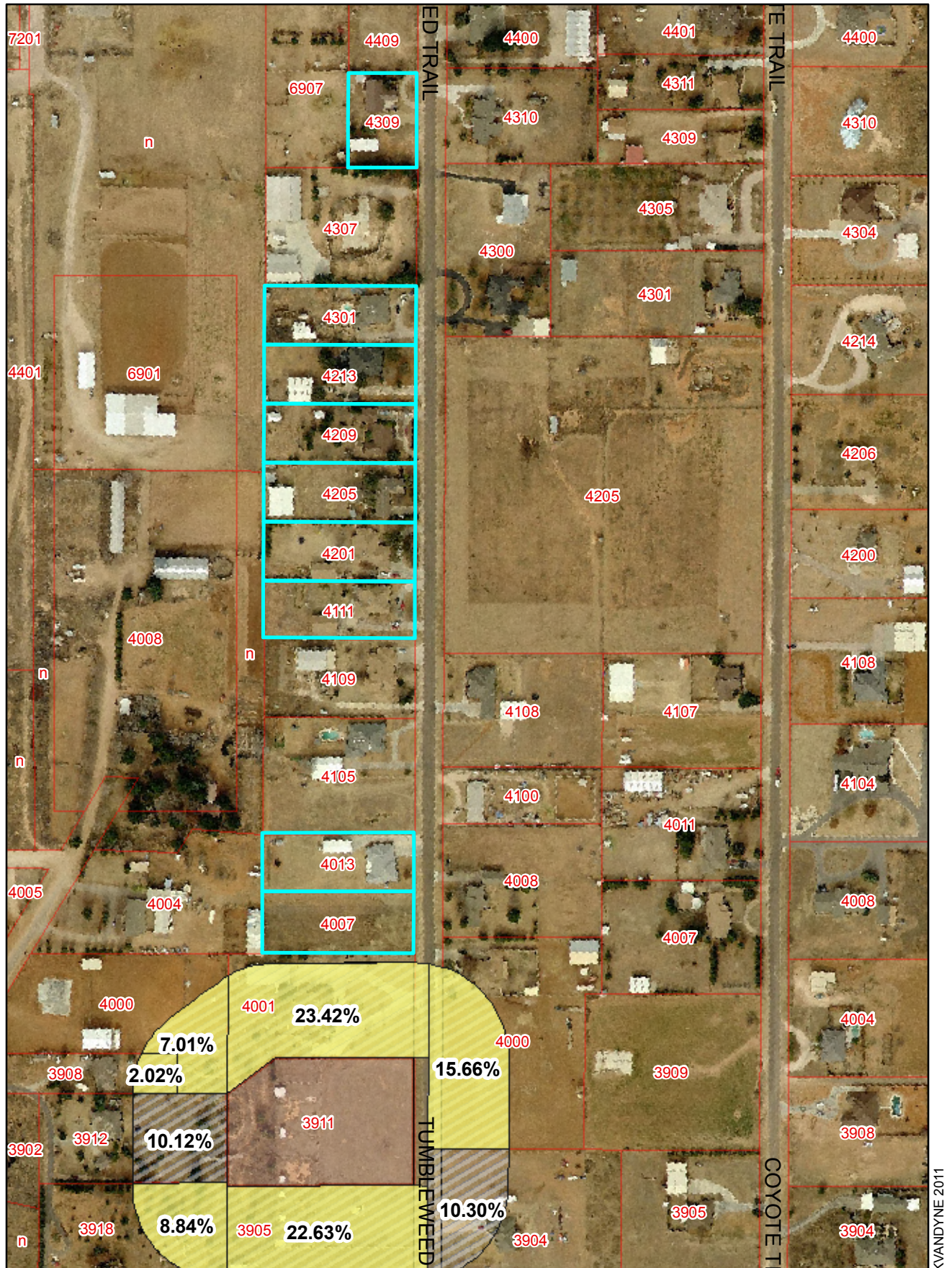
- | | |
|---|--|
| ZONING | CITY PARCELS |
| CITY LIMITS | COUNTY PARCELS |

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
IF1, IF2, IF3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY



Lots smaller than proposed lots



RESOLUTION NO.

RESOLUTION APPROVING A PRELIMINARY PLAT OF COUNTRY SKY ADDITION, SECTION 12, BEING A REPLAT OF LOT 27, BLOCK 4, COUNTRY SKY ADDITION, SECTION 10, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF TUMBLEWEED TRAIL, APPROXIMATELY 780 FEET NORTH OF CACTUS TRAIL); THIS PLAT WAS DENIED BY THE PLANNING AND ZONING COMMISSION; AND THIS RESOLUTION IS AN APPEAL TO THE CITY COUNCIL

WHEREAS, pursuant to Section 11-2-1(M) of the Midland City Code, the owner of Country Sky Addition, Section 12, being a replat of Lot 27, Block 4, Country Sky Addition, Section 10, City and County of Midland, Texas, has filed an appeal regarding the City of Midland Planning and Zoning Commission's disapproval of a preliminary plat of said property; and

WHEREAS, the City Council finds it to be in the public interest to approve a preliminary plat of said property;

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

SECTION ONE. That the preliminary plat of Country Sky Addition, Section 12, being a replat of Lot 27, Block 4, Country Sky Addition, Section 10, City and County of Midland, Texas, which is attached hereto as Exhibit "A" and incorporated herein for all purposes, is hereby approved.

SECTION TWO. That the City Manager is hereby authorized and directed to ensure compliance with the notice requirements and recording actions set forth in Section 11-2-3(D)(12) of the Midland City Code.

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., 2011, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: T-11-001; Arcelia Renteria

Purpose:

Hold a public hearing at approximately 11:03 a.m. and consider a resolution on a request by Arcelia and Bertha Renteria for a Special Temporary Permit for a Manufactured Home based on a medical hardship condition on Lot 9, Block 1, Holloway, City and County of Midland, Texas.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with this application.

Discussion:

The owner of this property is wishing to renew her Special Temporary Permit for a Manufactured Home in order to allow her mother, Bertha Renteria, to remain living close by. This permit which was originally issued in 2005 and was subsequently renewed in 2007 and 2009, is again up for renewal. A doctor's note has been submitted indicating that Ms. Renteria is still in need of medical care. The property is located in a Manufactured Home Dwelling District, however, since there is a house on the lot, the placement of a second residence requires a permit. The lot is 7,000 square feet in area and the mobile home is 720 square feet in area. The home has been placed approximately 40 feet from the home to the south, approximately 100 feet from the homes to the north, and the lot to the east, which is vacant. No letters of public opposition have been received to date.

Attachments:
Application, Map, Exhibit A – Site Plan



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

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Attachments:
Application, Map, Exhibit A – Site Plan

Case Number: T-11-001

CITY OF MIDLAND
Planning Division

SPECIAL TEMPORARY PERMIT FOR A MANUFACTURED HOME
APPLICATION

Based on Genuine Hardship Condition

Name of Land Owner: Arcelia Benteria Phone/e-mail: arceliar@forn.com
Address: 1204 N. Jewell

Legal Description of Property to accommodate manufactured home: (Complete Lot and Block Description below or, if not a lot in a recorded plat, attach a Metes and Bounds Description.):

Lot: 09 Block: 001 Addition: Holbway
Address: 1204 N. Jewell Zoning: 1-F-2

Name of manufactured home owner: Bertha Benteria Phone/e-mail: (432) 556-0585
Address: 1204 N. Jewell
Relationship to Land Owner: daughter

Name and current address of proposed manufactured home occupant: Bertha Benteria
1204 N. Jewell Midland, TX
Phone: 432-556-0585 Relationship to Land Owner: daughter

Reason, in Applicant's opinion, for request and hardship conditions:

see attached note from doctor.

Have you considered any alternatives to a manufactured home? If so, please comment: NO

The maximum term for a permit is two (2) years. Said permit may be renewed for successive two-year periods with an approved application and fee.

Is this a new application or a request for an extension? NO

If an extension, when was the original permit approved? NO

If an extension, has the degree of hardship increased since the most recent application? NO

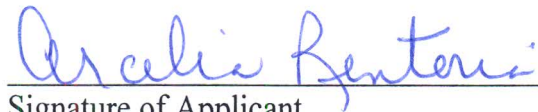
If so, please comment: _____

- ~~Permit is approved.~~
- a) the manufactured home shall be occupied only by said applicant and his/her family;
 - b) manufactured shall be located on a tract owned by said owner;
 - c) manufactured shall never be rented out or used for any commercial purpose; and
 - d) that said manufactured home shall be removed from the premises at the expiration of the approved permit (unless an extension is granted) or when it is no longer needed for the reason stated above, whichever is sooner.

Note: The City Council may impose any special conditions, restrictions, limitations on such permits as it deems to be in the public interest after public hearing on said application. The City Council reserves at all times the right and power to revoke any such permit for violation of any of its terms after a hearing at which the holder has been given at least five (5) days notice.

REQUIRED SUBMITTALS

- 1. Complete Application and Application fee: **\$50.00**
- 2. Proof of hardship (such as letter from a physician)
- 3. A site plan – 16 copies (FOLDED) of the lot indicating the location of the proposed manufactured home with all dimensions.
- 4. On a CD in .pdf and .jpg digital format.



Signature of Applicant

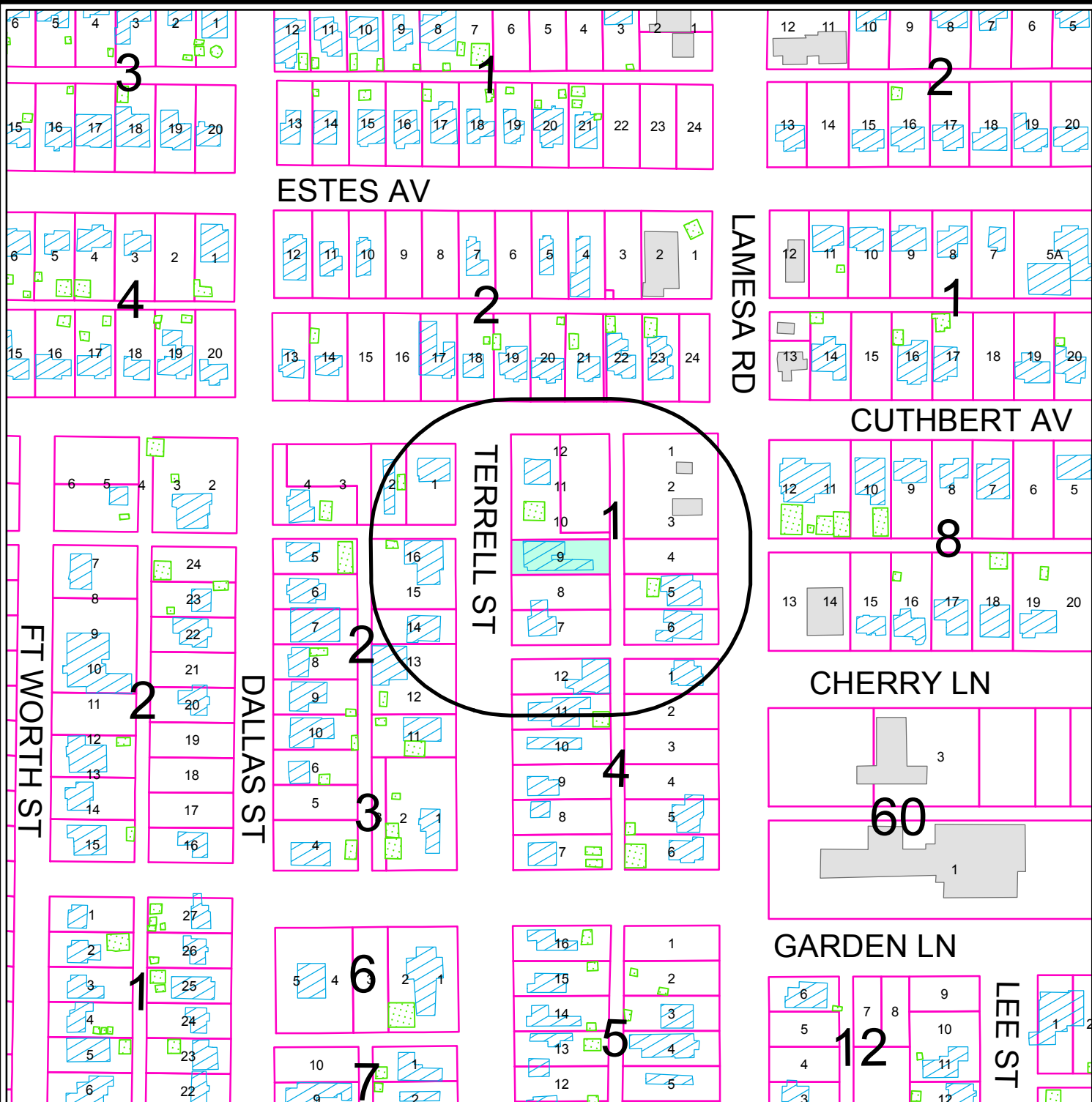
Signature of Landowner if other than Applicant

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

FOR OFFICE USE ONLY

Rec'd By: Ko Date: 10/6/11

Assigned: BM For: City Council On: 11/8/11



PROPERTY OWNER NOTIFICATION MAP

T - 11 - 001

Scale: 1" = 200'

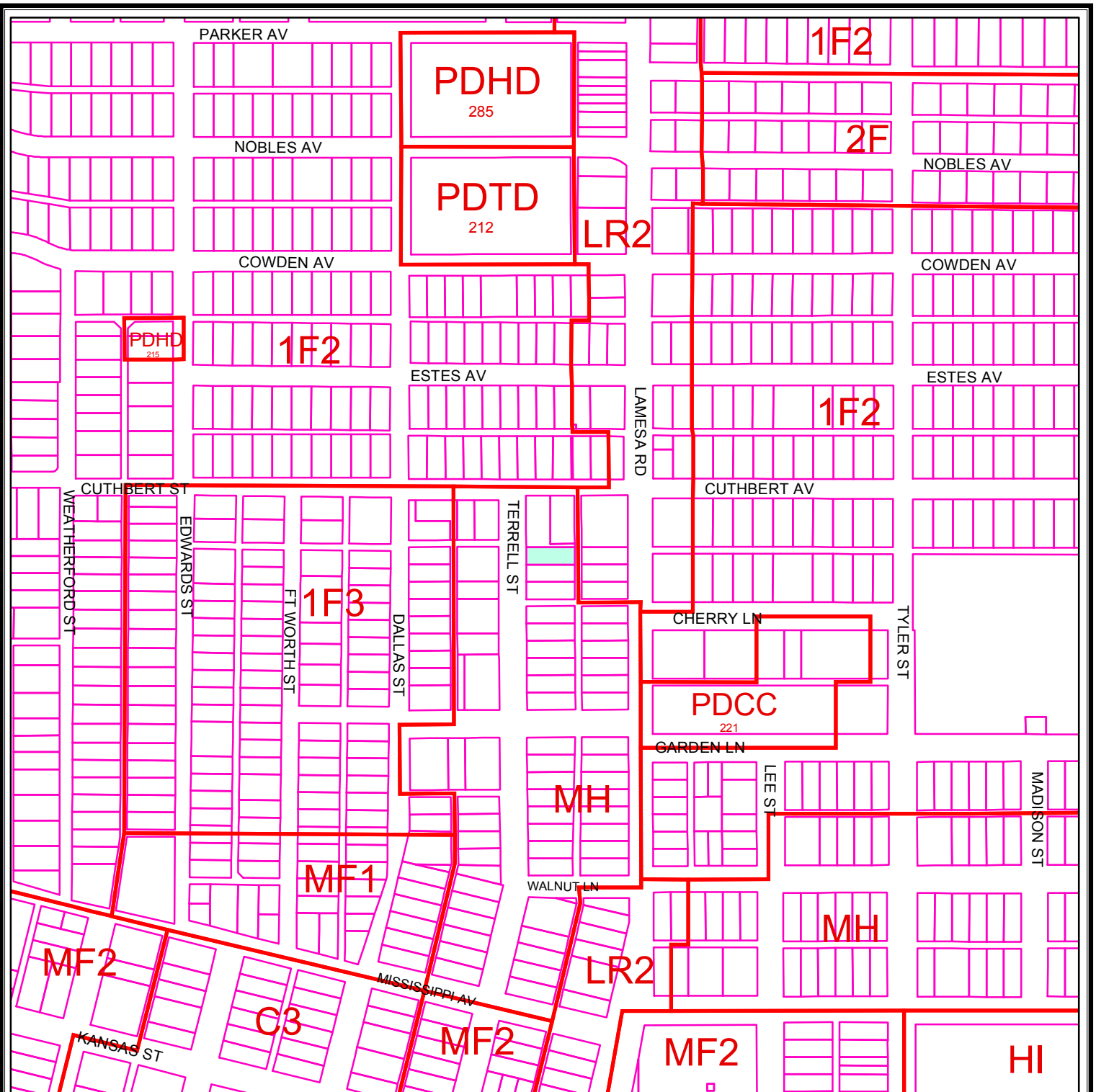
Consider a request for an Extension for a Special Temporary Land Use Permit for a Manufactured Home on Lot 9, Block 1, Holloway, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

T - 11 - 001

Scale: 1" = 400'

Consider a request for an Extension for a Special Temporary Land Use Permit for a Manufactured Home on Lot 9, Block 1, Holloway, City and County of Midland, Texas.

LEGEND

ZONING

PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT
PD	PLANNED DISTRICT
AE	AGRICULTURE ESTATE
CE	COUNTRY ESTATE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING
MH	MOBILE HOME DWELLING
TH	TOWNHOUSE DWELLING
2F	TWO-FAMILY DWELLING
MF1, MF2	MULTIPLE FAMILY DWELLING

BP	BUSINESS PARK
P	PARKING
01, 02	OFFICE
NS	NEIGHBORHOOD SERVICE
LR1, LR2, LR3	LOCAL RETAIL
C1, C2, C3	COMMERCIAL
IP, IP1, IP2, IP3	INDUSTRIAL PARK
LI	LIGHT INDUSTRY
HI	HEAVY INDUSTRY

BP	BUSINESS PARK
P	PARKING
01, 02	OFFICE
NS	NEIGHBORHOOD SERVICE
LR1, LR2, LR3	LOCAL RETAIL
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IP, IP1, IP2, IP3	INDUSTRIAL PARK
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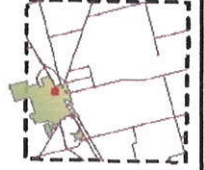


Arcelia Renteria / Bertha Renteria

EXHIBIT A



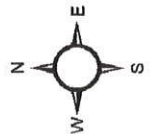
- Legend**
- Identified Features
 - City Limit
 - Zoning
 - Parcel
 - ETJ
 - Midland ETJ
 - Odessa ETJ
 - County Boundary



Scale



City of Midland
300 N. Loraine
Midland, Texas 79701
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RESOLUTION NO.

**RESOLUTION AUTHORIZING A TEMPORARY
SPECIAL PERMIT FOR A MANUFACTURED HOME
ON LOT 9, BLOCK 1, HOLLOWAY, CITY AND
COUNTY OF MIDLAND, TEXAS (GENERALLY
LOCATED ON THE EAST SIDE OF TERRELL STREET,
APPROXIMATELY 150 FEET SOUTH OF CUTHBERT
AVENUE)**

WHEREAS, pursuant to Section 5-5-14 of the City Code of Midland, Texas, Arcelia Renteria has applied for a Temporary Special Permit to locate on Lot 9, Block 1, Holloway, City and County of Midland, Texas, for occupancy by Bertha Renteria, a manufactured home on said property on an emergency basis; and

WHEREAS, after a full public hearing at which both the applicant and interested citizens within the vicinity involved were given an opportunity to be heard, the Council finds and determines that an emergency exists constituting a genuine hardship for the applicant and that such permit should be issued;

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 issue, on behalf of the City of Midland, Texas, a Temporary Special Permit authorizing Arcelia Renteria to locate on Lot 9, Block 1, Holloway Addition, City and County of Midland, Texas, for occupancy by Bertha Renteria, a manufactured home on said property, all subject to the terms and conditions as set out in Section Two herein.

SECTION TWO. That said Temporary Special Permit shall be subject to the following conditions and restrictions.

- A. That the placement of a manufactured home on this property shall conform in all respects to the site plan which is attached hereto as Exhibit "A" and incorporated herein for all purposes.
- B. That this permit shall be valid for a maximum term of two years from the date of approval, unless otherwise extended by the City Council.
- C. That the manufactured home shall not exceed 800 contiguous square feet in area.

- D. That the manufactured home shall be occupied by Bertha Renteria and shall not be rented as a separate dwelling unit or used for any commercial activity.
- E. That the manufactured home shall conform to all regulations regarding the use of a manufactured or mobile home for a fixed dwelling, except that additional parking spaces shall not be required.
- F. That in the event the manufactured home is no longer needed for the indicated hardship condition, it shall be removed from the property immediately.

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., 2011, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-11-048, Larry Mills

Purpose:

Hold a public hearing at approximately 11:06 a.m. and consider an ordinance on a request by Larry Mills for a zone change from PD, Planned District for a Transition District to Amended Planned District.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

Mr. Mills owns the lot at the southwest corner of W Wall Street and "J" Street. This lot is zoned Planned District for a Transition District, subject to LR-1 District regulations. He wishes to construct a two-story mixed use structure consisting of an 1,840-square foot office building with a residence above. The building designs are shown on the attached Exhibits A-E. Exterior building materials include brick, cement siding and a metal canopy. The purpose of this zone change is to reduce the front yard setback along Wall Street from 20 feet to 15 feet and to reduce the side yard setback along "J" Street from 10 feet to five feet. The applicant claims these reductions are needed to make this project viable. The staff believes that mixed use developments should be supported and the applicant is installing more trees than required. The Planning and Zoning Commission voted unanimously to recommend approval and no public opposition has been forthcoming. Staff concurs with this recommendation and is recommending approval.

Attachments:

November 14, 2011 P&Z Staff Report
Proposed Ordinance and Exhibits A-E



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-11-048, Larry Mills

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Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

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

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Mr. Mills owns the lot at the southwest corner of W Wall Street and "J" Street. This lot is zoned Planned District for a Transition District, subject to LR-1 District regulations. He wishes to construct a two-story mixed use structure consisting of an 1,840-square foot office building with a residence above. The building designs are shown on the attached Exhibits A-E. Exterior building materials include brick, cement siding and a metal canopy. The purpose of this zone change is to reduce the front yard setback along Wall Street from 20 feet to 15 feet and to reduce the side yard setback along "J" Street from 10 feet to five feet. The applicant claims these reductions are needed to make this project viable. The staff believes that mixed use developments should be supported and the applicant is installing more trees than required. The Planning and Zoning Commission voted unanimously to recommend approval and no public opposition has been forthcoming. Staff concurs with this recommendation and is recommending approval.

Attachments:

November 14, 2011 P&Z Staff Report
Proposed Ordinance and Exhibits A-E

**Planning and Zoning Commission
Minutes
November 14, 2011**

Z-11-048 - Hold a public hearing and consider a request by **Larry Mills** for a *zone change* from PD, Planned District for a Transition District, to an Amended Planned District on Lot 1, Block 83, West End, City and County of Midland, Texas. (Generally located near the southwest corner of the intersection of W. Wall Street and S. "J" Street.)

The applicant yielded to the staff, and Mr. Compton explained that this request is for a two-story building (1,840 square feet) that would house an office on the first floor and living quarters on the second. He further stated that the applicant had requested a reduction in the front setback from 20 to 15 feet and a side yard setback from ten to five feet on a 50-foot wide by 140-foot long lot.

Chairman Carney opened the public hearing and there being no one wishing to speak in favor or in opposition to the item, closed the public hearing.

Following a brief discussion, a motion for approval, subject to Conditions A-C, was made by Commissioner Watkins; seconded by Commissioner Gatten. The motion carried by the following vote: AYE: Wolf, Lanning, Gatten, Carney, Ferguson, Wilton and Watkins. NAY: None. ABSTAIN: None. ABSENT: York and Woodruff

PLANNING AND ZONING COMMISSION

November 14, 2011

CASE: Z-11-048.

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

APPLICANT/OWNER: Larry Mills.

REPRESENTATIVE: Richard Greth.

LEGAL DESCRIPTION: Lot 1, Block 83, West End, City and County of Midland, Texas.

LOCATION: Southwest corner of W. Wall Street and S. "J" Street.

DETAILS OF REQUEST:

1. This vacant lot is zoned Planned District for a Transition District. This planned district was created in 2008 as part of a City-initiated rezoning of several blocks along Wall Street when Graham's Pharmacy desired to relocate to this area. The land was rezoned from O-1 District to a planned district that is generally subject to LR-1 District regulations. However, certain uses, such as bowling alleys and self-service gasoline stations are excluded. Further, a solid six-foot fence is required adjacent to the alleys as well as alley paving is required. Finally, this planned district limits all signs to a maximum height of four feet above grade and 32 square feet in area, and electronic reader boards are expressly prohibited.

We have received a request from Larry Mills who wishes to develop this lot with a mix of office and residential land use. He plans to build an office building at the corner of Wall Street and "J" Street. This would be a two story building with a residence above the office. Further, he plans on a second building toward the rear of the lot where a two-car detached garage would be constructed. These are all permitted uses. However, to make this project work, he is requesting a reduction in front yard setback along Wall Street from 20 to 15 feet, and a reduction in side yard setback along "J" Street from ten feet to five feet. For these reasons, he has submitted a request to amend this planned district.

SURROUNDING ZONING AND LAND USE:

2. The area to the west is developed with a flower shop that is currently undergoing renovation that involves the construction of a new building at the rear of the lot, to be followed with the razing of the existing building. Farther to the west is Midland Need to Read, a hair salon and an attorney's office. North, across Wall Street is an engineering and architect office. To the northeast is a church, and the area to the south is developed with single-family residences.

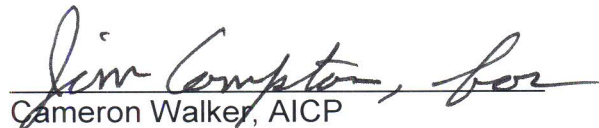
ANALYSIS:

3. The subject lot measures 50 feet in width and 140 feet in depth. The only need for this zone change is to allow a five-foot reduction in the front and side yard setbacks. We support this request for two reasons. First, the applicant proposes to plant eight trees along "J" Street, whereas the landscape code only requires four. Second, this is the first application we have reviewed that proposes a mixed use development. That is, he plans both an office and a residence in the same building. This provides for a compact development and efficient use of land, a goal for land close to the downtown area. We do not anticipate any adverse impacts to abutting land if this request is approved.
4. The applicant has provided Exhibits A-E to illustrate the planned development. Exhibit A is a plan view which shows the principle office building adjacent to Wall Street, with a 15-foot front yard setback. The foot print is 46 feet by 40 feet (1,840 square feet), and the building height is shown as 29 feet. Under the LR-1 District requirements, this building must be lowered three inches. No driveway or parking is planned from Wall Street. An office building with 1,840 square feet requires a minimum of five parking spaces, and two spaces are needed for the residence. Exhibit A shows a total of nine spaces. Access into the attached garage will be through the abutting alley.
5. Exhibits B through E represent elevation views of the office building. Exterior building materials include brick veneer, glazing and cement siding. Exhibit A indicates that the detached garage will have a brick veneer exterior. These are acceptable materials in the underlying LR-1 District. Exhibit A also shows ten new trees along "J" Street as well as the two existing trees along Wall Street that will be retained. This meets or exceeds the requirements of the Landscape Code. The staff views this proposal as a compact, mixed use development with building design and landscaping that will fit well with the surrounding development.

STAFF RECOMMENDATION:

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

- A. The development of this property shall conform to the conditions shown on Exhibits A through E in all respects, except as otherwise stated below.
- B. The maximum building height shall not exceed 28.75 feet, and the maximum building footprint for the office/residence shall not exceed 1,840 square feet.
- C. The door to the detached garage must be accessible from the alley and the door must be setback five feet from the alley.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A through E

Case Number: Z-11-048

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

LARRY MILLS 432/967.2089 / LMILLS@QDS-CARD.NET
Applicant Name (Phone/e-mail)
1704 W. Mississippi
Address Zip Code

LARRY MILLS 432/967.2089 / LMILLS@QDS-CARD.NET
Property Owner Name (Phone/e-mail)
1704 W. Mississippi Midland
Address Zip Code

RICHARD GRETH 359-5198 / R.Greth@SBCGLOBAL.NET
Representative Name (Phone/e-mail)
P.O. BOX 8565 MIDLAND, TX 79708
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. Mixed use - office & single family

PRESENT ZONE: PDT D REQUESTED ZONE: Amended PD
(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: MIXED USE BLDG.

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): Lynda Date: 9-29-2011

If an Agent is authorized by the property owner to file and execute the application on behalf of the property owner, the Agent must complete the affidavit below.

STATE of TEXAS
COUNTY OF MIDLAND

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

_____ who, being by me duly sworn, upon oath says: That (s)he is authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Authorized Agent (signature)

Subscribed and sworn to before me, this _____ day of _____, 20 ____, to certify which
witness my hand and seal of office.

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

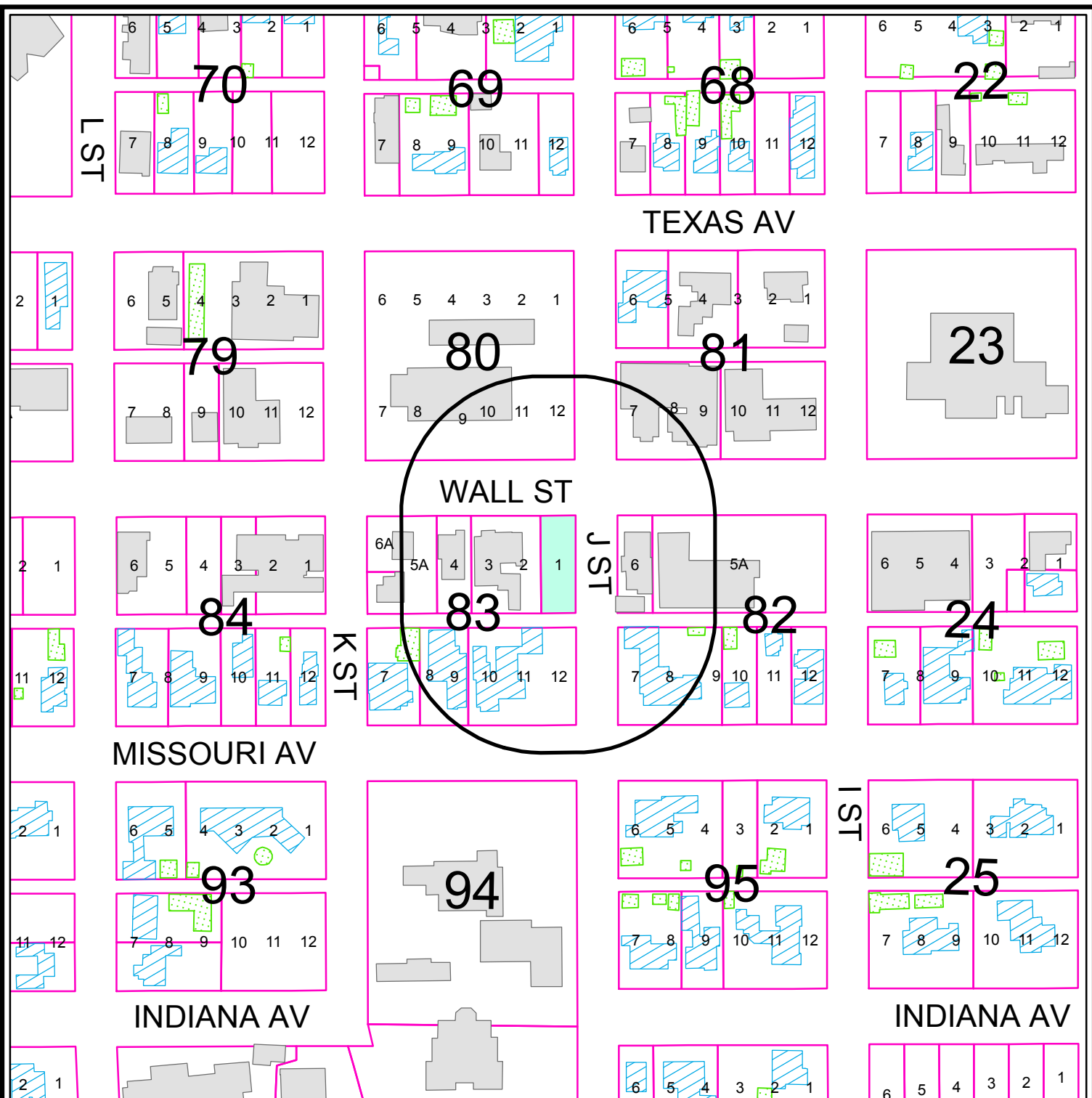
FOR OFFICE USE ONLY

Rec'd By: JC Date: 10-12-11

Assigned: JC

For: P+2 On: 11/14/11

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



PROPERTY OWNER NOTIFICATION MAP

Z - 11 - 048

Scale: 1" = 200'

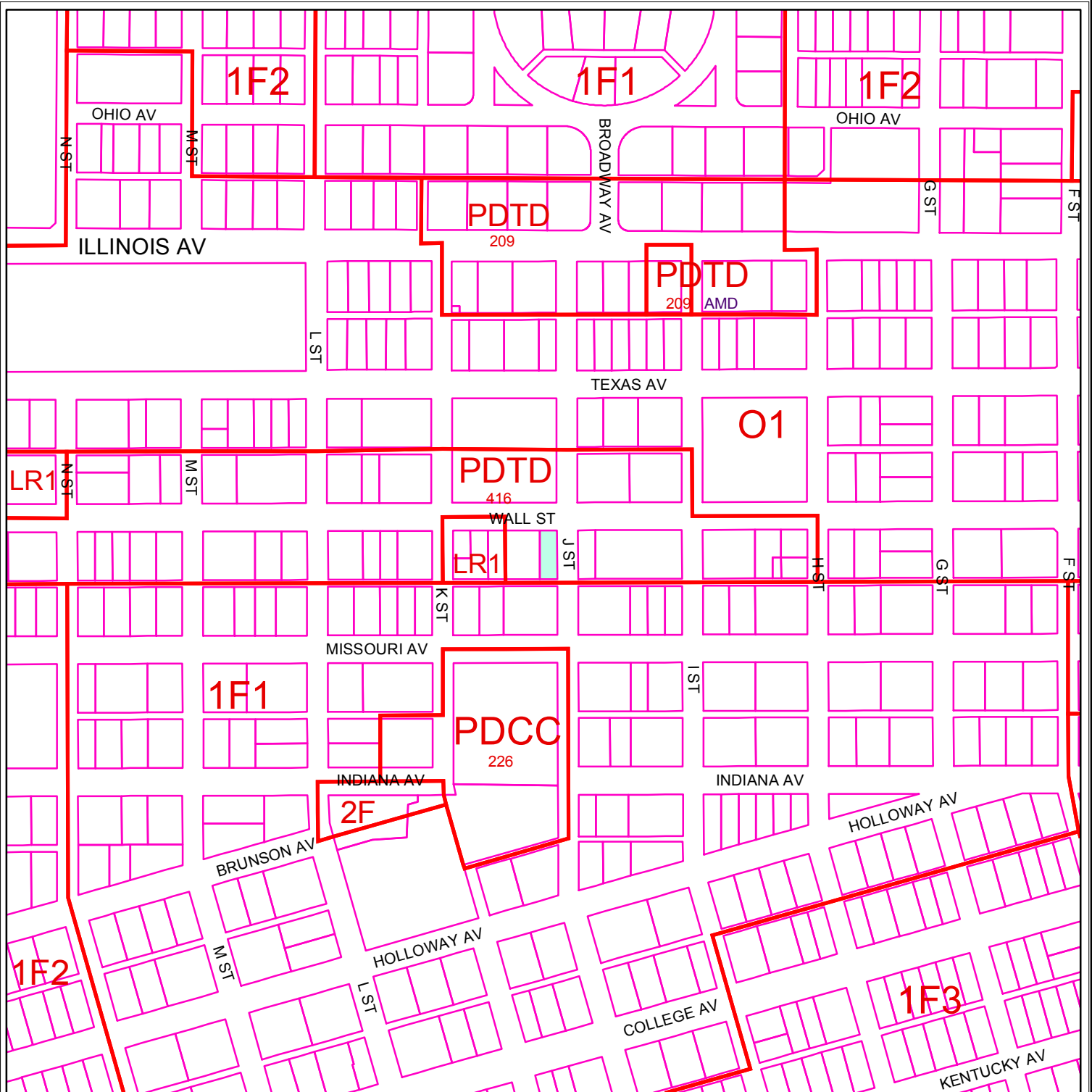
Consider a request for a zone change from PD, Planned District for a Transition District, to an Amended Planned District on Lot 1, Block 83, West End, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

Z - 11 - 048

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Transition District, to an Amended Planned District on Lot 1, Block 83, West End, City and County of Midland, Texas.

LEGEND

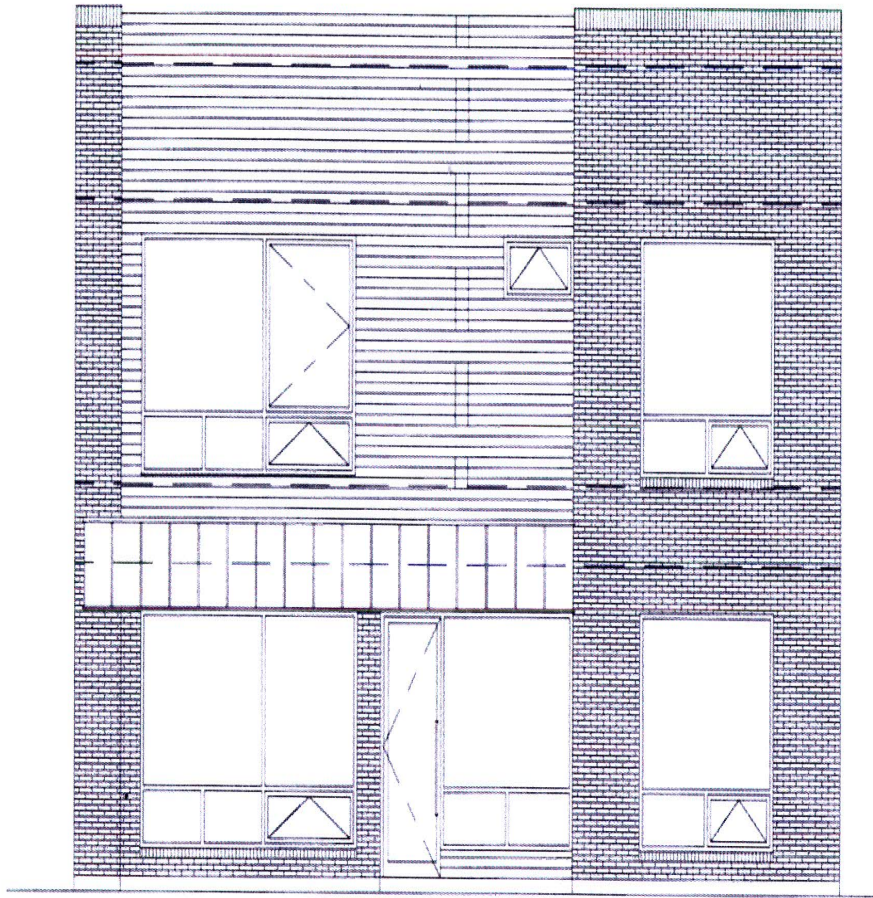
ZONING PARCELS

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
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2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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1 North Elevation

SCALE: 1/8" = 1'-0"



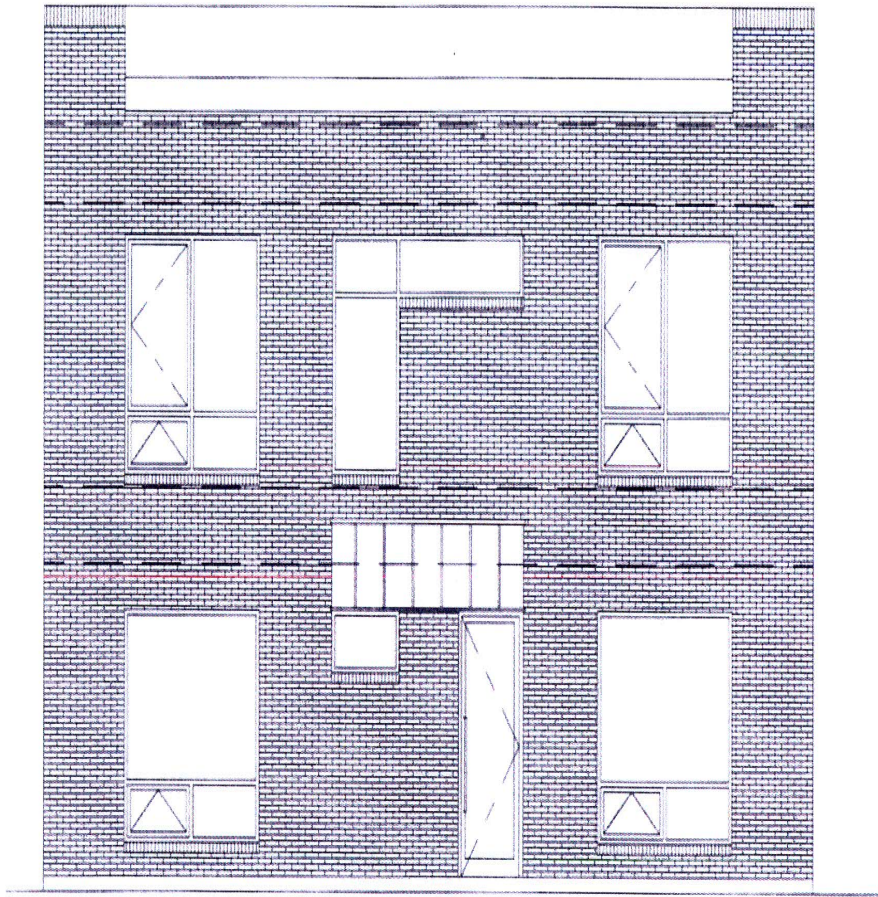
EXHIBIT B

29 September 2011

Blue Yucca Studios
Fort Worth Texas
817.924.9911

CASE NO. 2-11-018

51.12



1

South Elevation

SCALE: 1/8" = 1'-0"



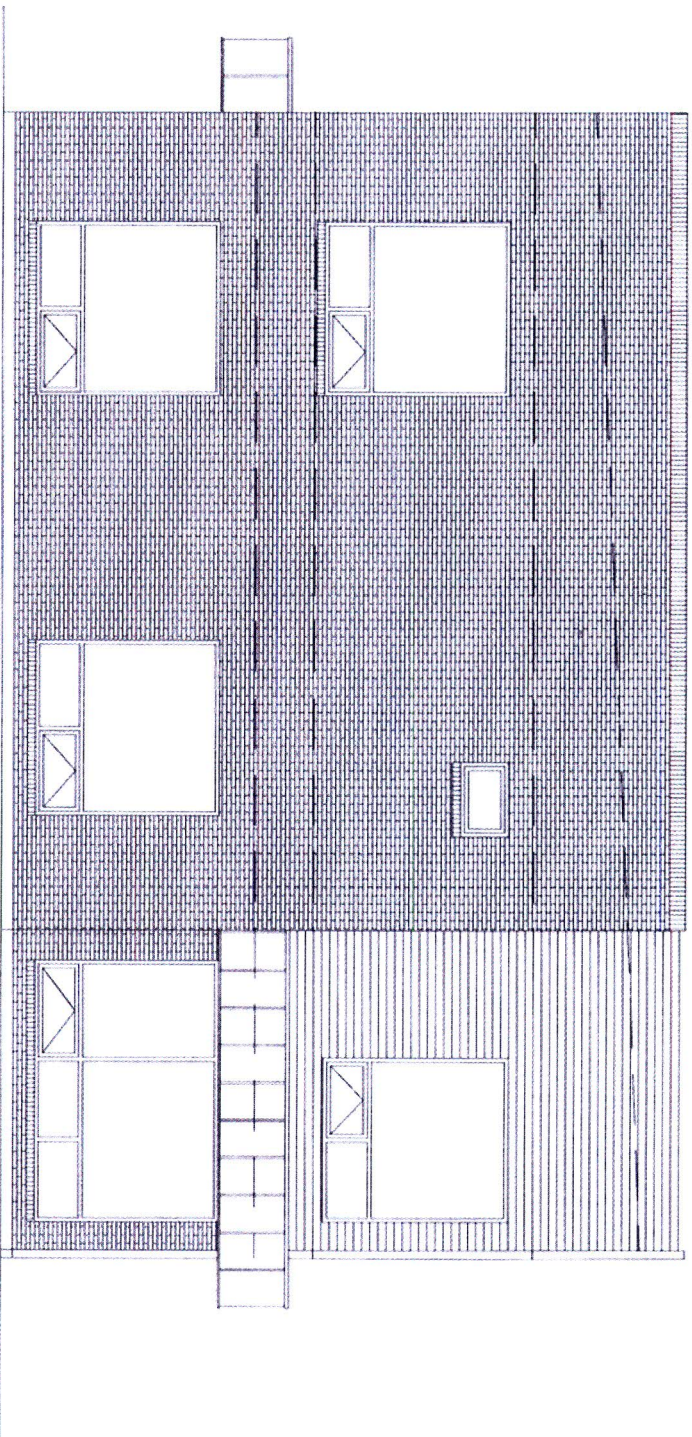
SAVE-\\GRETH-MJ\\VWF 09/01/11

EXHIBIT C

29 September 2011

Blue Yucca Studios
Fort Worth Texas
817.924.9911

CASE NO. 2-11-048



East Elevation

2

SCALE: 1/8" = 1'-0"

RECEIVED

OCT 11 2011

CITY OF MIDLAND
PLANNING DIVISION OFFICE

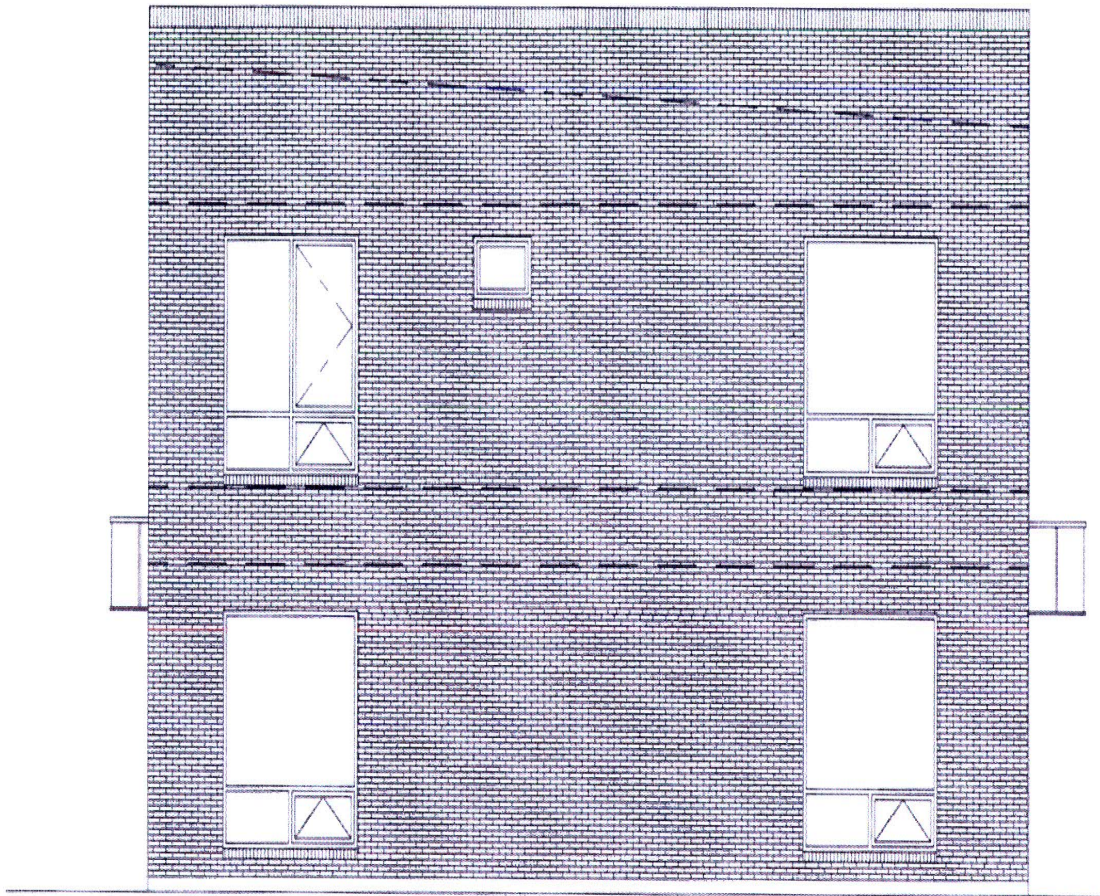
EXHIBIT D

29 September 2011

Blue Yucca Studios
Fort Worth Texas
817.924.9911

SAVE-\\GRET-\\PLANNING

CASE NO. 2-11-048



2 West Elevation

SCALE: 1/8" = 1'-0"

RECEIVED

OCT 11 2011

CAD70\AASAVE-INGRETH\WVF 9/10/11

CITY OF MIDLAND
PLANNING DIVISION OFFICE

EXHIBIT E

29 September 2011

Blue Yucca Studios
Fort Worth Texas
817.924.9911

CASE NO. Z-11-048 51.15

ORDINANCE NO.

AN ORDINANCE ADOPTING A SITE PLAN FOR LOT 1, BLOCK 83, WEST END, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF WEST WALL STREET AND “J” STREET); SUBJECT TO THE FOLLOWING CONDITIONS AND RESTRICTIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, by Ordinance No. 8615, adopted February 26, 2008, the City Council granted a “Planned District” for a Transition District, subject to future site plan review; and

WHEREAS, after a full and fair public hearing at which all parties in interest were offered an opportunity to be heard, all pursuant to law, the Council finds it to be in the public interest to adopt a site plan pursuant to Ordinance No. 8615, subject to special conditions and restrictions;

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

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

Lot 1, Block 83, West End, City and County of Midland, Texas.

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

1. That the development of this lot shall conform in all respects to the conditions shown on Exhibits “A”, “B”, “C”, “D” and “E”, except as otherwise stated below.
2. That the maximum “footprint” of the principle building shall not exceed 1,840 square feet in area.
3. That the maximum height of the principle building shall not exceed 28.75 feet. A minimum building setback of 15 feet shall be observed from Wall Street, and a minimum building setback of 5 feet shall be observed from “J” Street.
4. That the detached garage shall be entered from the alley only, and the garage

door must observe a minimum 5-foot setback from the alley.

5. That a minimum 6-foot tall solid fence shall be constructed along the rear lot line, except along the detached garage.
6. That City of Midland Ordinance No. 8615 shall remain in full force and effect, except as amended by this ordinance.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-11-050, SBC, L.P.

Purpose:

Hold a public hearing at approximately 11:09 a.m. and consider an ordinance on a request by SBC, L.P. for a zone change from PD, Planned District for a Shopping Center to an Amended Planned District.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

SBC, L.P. is planning to construct an 86,064-square foot, 3-story office building and a 2-story parking garage at the southeast corner of the intersection of Champions Drive and Tradewinds Boulevard. The underlying zoning for this Planned District is the LR-2, Local Retail District, which permits a maximum height of 2 ½ stories. The proposed office building is 53' high including rooftop equipment. Therefore, the Planned District needs to be amended for the greater height and to adopt the proposed site plan. With the height of some nearby structures exceeding the height of the proposed office building (Crestview Church and the stadiums), staff recommends approval of the height and associated site plan based on the contextual fit. The agreeable aesthetics of this primarily glass façade building also present a softened look at this highly visible intersection. No letters of public opposition were received and the Planning and Zoning Commission approved this request. Staff recommends approval.

Attachments:
Maps

December 5, 2011 Planning & Zoning Commission Staff Report
Exhibit A – D
Proposed Ordinance



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-11-050, SBC, L.P.

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Attachments:
Maps

December 5, 2011 Planning & Zoning Commission Staff Report
Exhibit A – D
Proposed Ordinance

PLANNING AND ZONING COMMISSION

December 5, 2011

CASE: Z-11-050.

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

APPLICANT/OWNER: SBC, L.P.

LEGAL DESCRIPTION: A 4.68 Acre Portion out of the Remainder of Lot 1, Block 6, Westridge Park Addition, Section 6, City and County of Midland, Texas.

LOCATION: Generally located on the southeast corner of the intersection of Champions Drive and Tradewinds Boulevard.

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

ASSOCIATED CASES: Z-04-005

DETAILS OF REQUEST:

1. The applicant plans to develop this vacant land with a 3-story office building and a 2-story parking garage. The property is currently zoned PD, Planned District for a Shopping Center, subject to regulations of the LR-2, Local Retail District. The current request accompanies a proposed preliminary plat, also scheduled on the December 5th agenda (REF. CASE P-11-081, Proposed Lot 3). While an office building and onsite parking facility are permitted in the LR-2 District, the maximum permitted height is two and one-half stories. Therefore, the site plan and the height regulation must be amended.

SURROUNDING ZONING AND LAND USE:

2. This property is bounded on the north by Champions Drive and the west by Tradewinds Blvd., both of which are collector streets. The area to the north is undeveloped sports complex land. To the east and south of this site are parts of this same Planned District currently being subdivided, but as yet, undeveloped. To the west is the Betenbough Development, a PD, Planned District for a Housing Development, and the city limits boundary below that.

ANALYSIS:

3. The building is shown to have a ground floor footprint of 28,688 square feet in total. The area provided for landscaping and the number of parking spaces provided is more than adequate for the lot size and an 86,064 square foot office building. The height of the building is 53 feet including the screened HVAC equipment, which is greater than what is currently allowed under the existing Planned District. However, the height is within the contextual fit of nearby structures including the neighboring church (Crestview Baptist Church is 57 feet in height) and the large Scharbauer Sports Complex just to the north. The building façade will be made of decorative materials as noted on the Site Plan (Exhibit – A). Additionally, the building's exterior rendering (Exhibit – D) depicts a neat, clean appearance in an office building for this intersection with plenty of glass to soften the perceived height of the structure. Staff concurs that this 53' maximum height allowance is acceptable given the area context, building setbacks, the building's design and that the roof utility equipment adding to the height is also placed back from the rooftop edge. The site provides adequate driveways for ingress and egress, however, the final placement of the drive at the northeast must be completely contained within the property lines for this site. The sidewalk should match the design and accessible walkway layout pattern of that across Champions Drive on this high visibility intersection.

STAFF RECOMMENDATION:

Staff concurs with the approval of this request for a zone change from PD, Planned District for a Shopping Center to an Amended Planned District, subject to the following conditions:

- A. That the new construction is consistent with the Site Plan (Exhibit A), Structure Elevations (Exhibits B & C), and Office Building Rendering (Exhibit D) with the exception that the rendering depicts 4-stories rather than the permitted 3-stories;
- B. That the maximum height of the office building shall not exceed 53 feet;
- C. That the landscaping shall conform to City regulations in place at the time of development;
- D. That the placement of driveways accessing public streets shall be contained within the property lines bounding the site and approved by the City;
- E. That the air conditioners and dumpsters shall be appropriately screened;

- F. That a drainage plan must be submitted and approved;
- G. That all required public improvements shall be addressed, including requirements for a looped waterline, additional fire hydrants, sewer extension and sidewalks;
- H. That a blanket refuse easement is granted to the city;
- I. That Ordinance 8227 is amended by this action.

Cameron Walker, AICP
Planning Division Manager
Department of Development Services

Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Site Plan – Exhibit A
Elevations – Exhibits B & C
Rendering – Exhibit D
Maps

Case Number: 2-11-050

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

SBC, L.P.	432-522-2040
Applicant Name	(Phone/e-mail)
1811 Heritage Blvd., #100	Midland, Texas 79707
Address	Zip Code

SBC, L.P.	432-522-2040
Property Owner Name	(Phone/e-mail)
1811 Heritage Blvd., #100	Midland, Texas 79707
Address	Zip Code

Parkhill, Smith, and Cooper, Inc.	432-697-1447	EOliver@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 24.16 Ac. Replat of the remaining portion of Lot 1, Block 6, Westridge Park Addition Section 6

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

Reason for Zone Change Request: To allow for further development of the site into an office facility

Present Use of Property: None

Proposed Use of Property: Office building

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

- 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 SBC, L.P., 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.

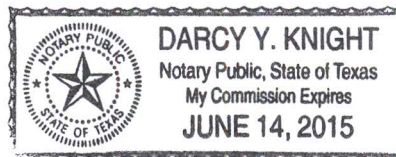
Eric L. West

Authorized Agent (signature)

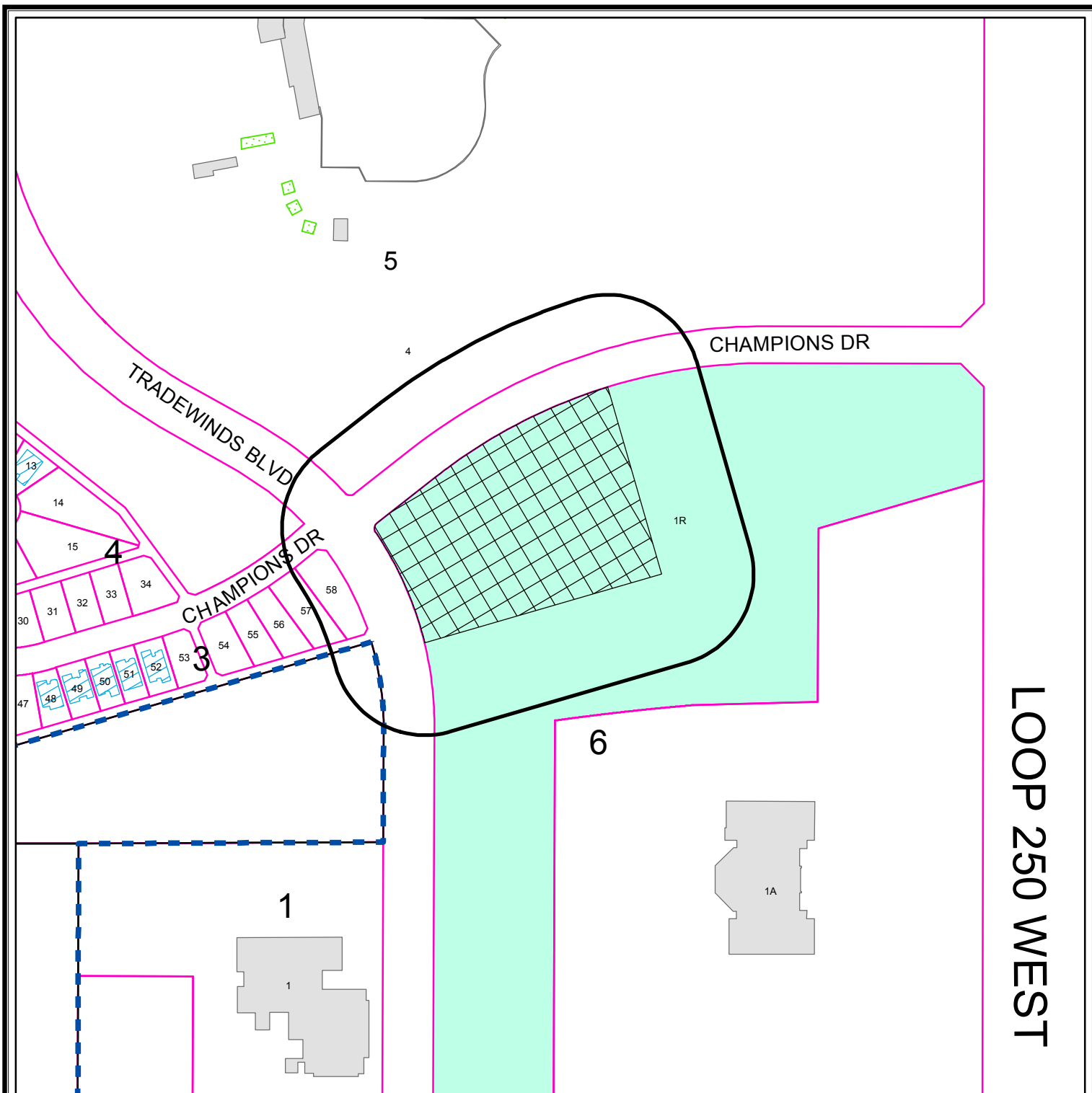
Subscribed and sworn to before me, this 14th day of October, 20 11, to certify which witness my hand and seal of office.

Darcy Y. Knight
 NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>JD</u>	Date: <u>10/17/11</u>
Assigned: <u>KV</u>	
For: <u>P+2</u>	On: <u>12/5/11</u>



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



PROPERTY OWNER NOTIFICATION MAP

Z - 11 - 050

Scale: 1" = 300'

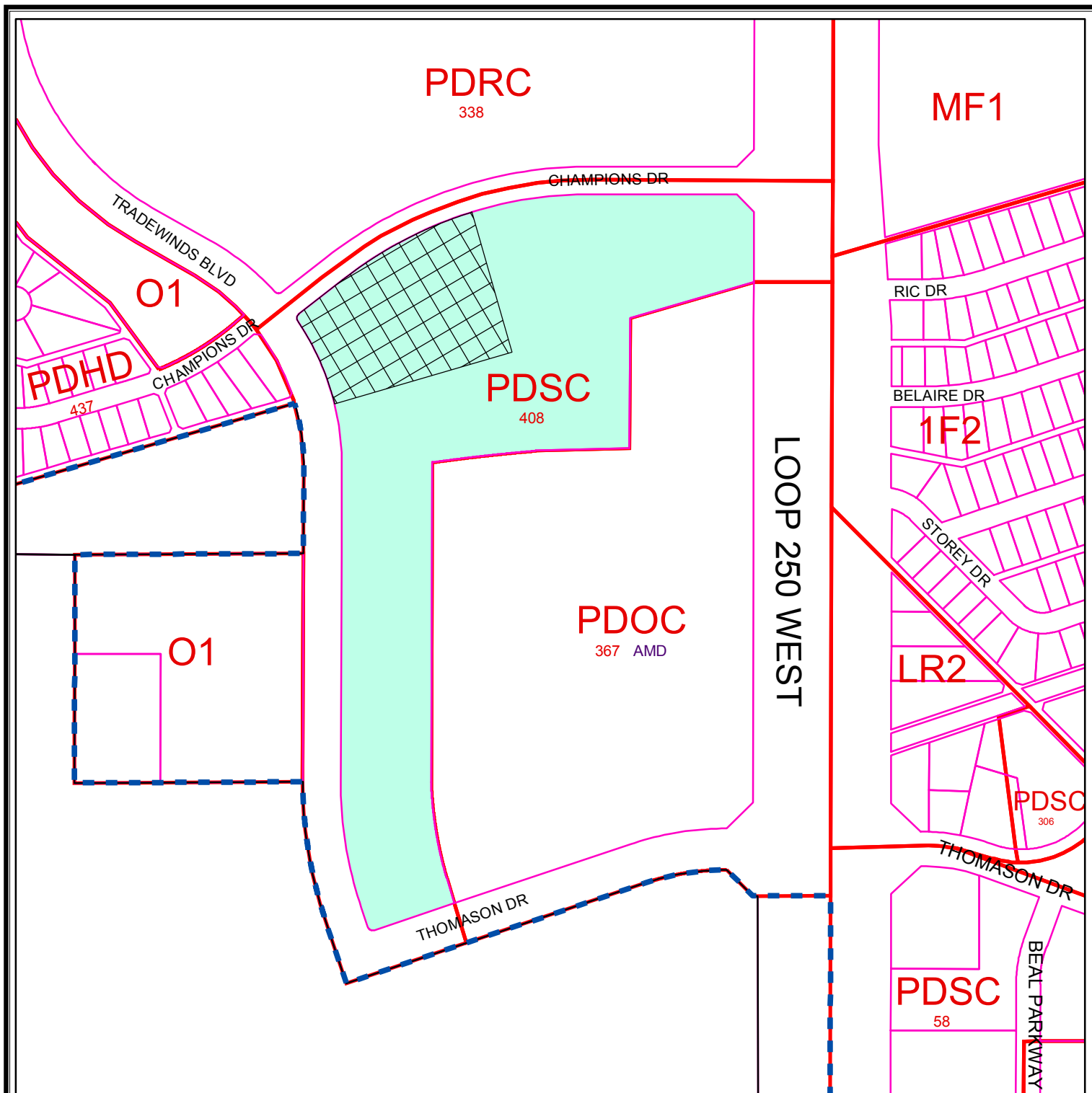
Consider a request for a zone change from PD Planned District for a Shopping Center, to an Amended Planned District on a 4.68-acre portion out of the remainder of Lot 1, Block 6, Westridge Park Addition, Section 6, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

Z - 11 - 050

Scale: 1" = 400'

Consider a request for a zone change from PD Planned District for a Shopping Center, to an Amended Planned District on a 4.68-acre portion out of the remainder of Lot 1, Block 6, Westridge Park Addition, Section 6, 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, JP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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WESTRIDGE PARK ADDITION

SECTION 19

PROPOSED LOT 3, BLOCK 6

PD Site Plan:
Submitted to City of Madison PAZ
on October 14, 2011.
PD Site Plan:
Re-Submitted to City of Madison PAZ
on November 21, 2011.

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

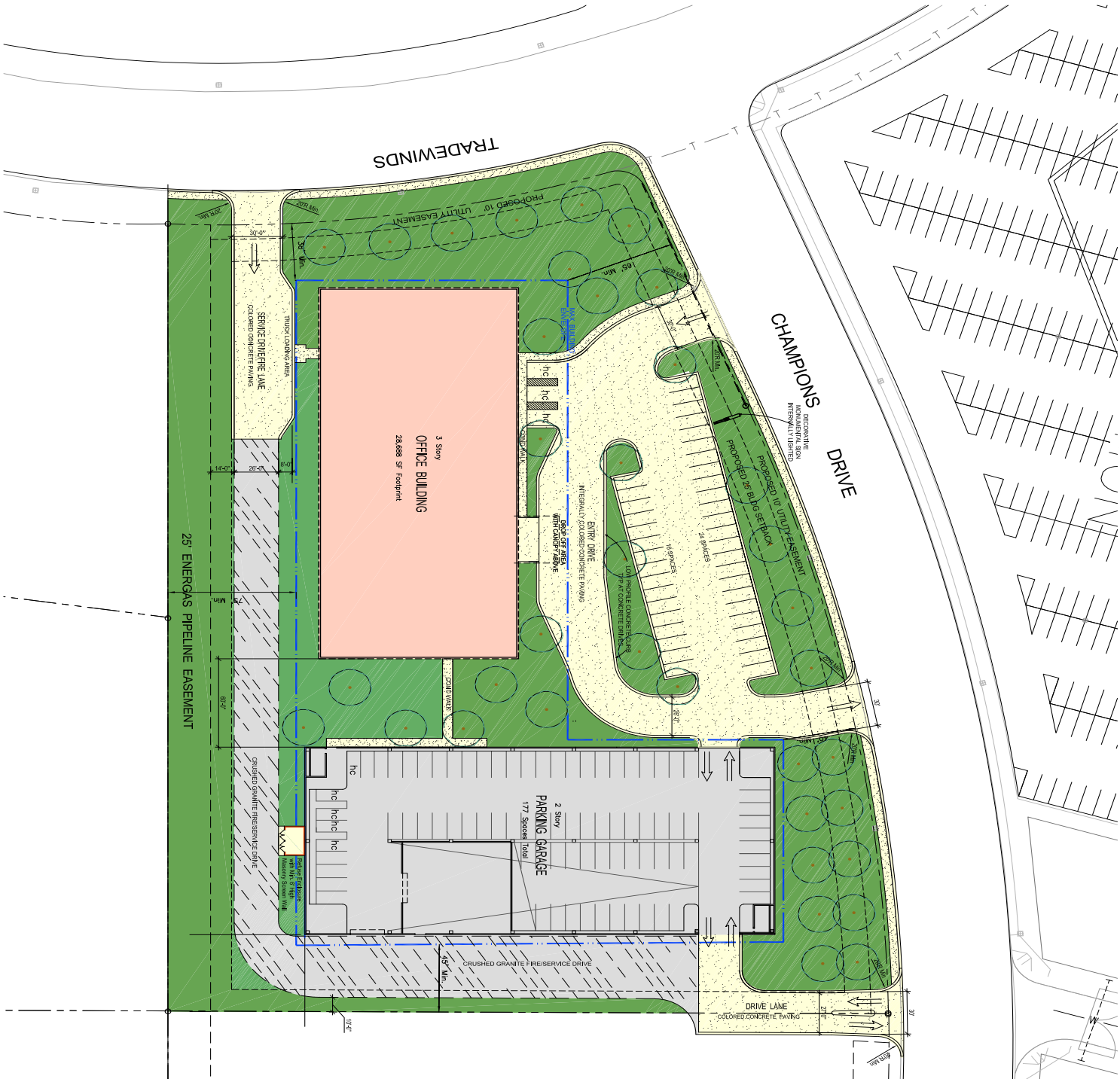
NOTES:

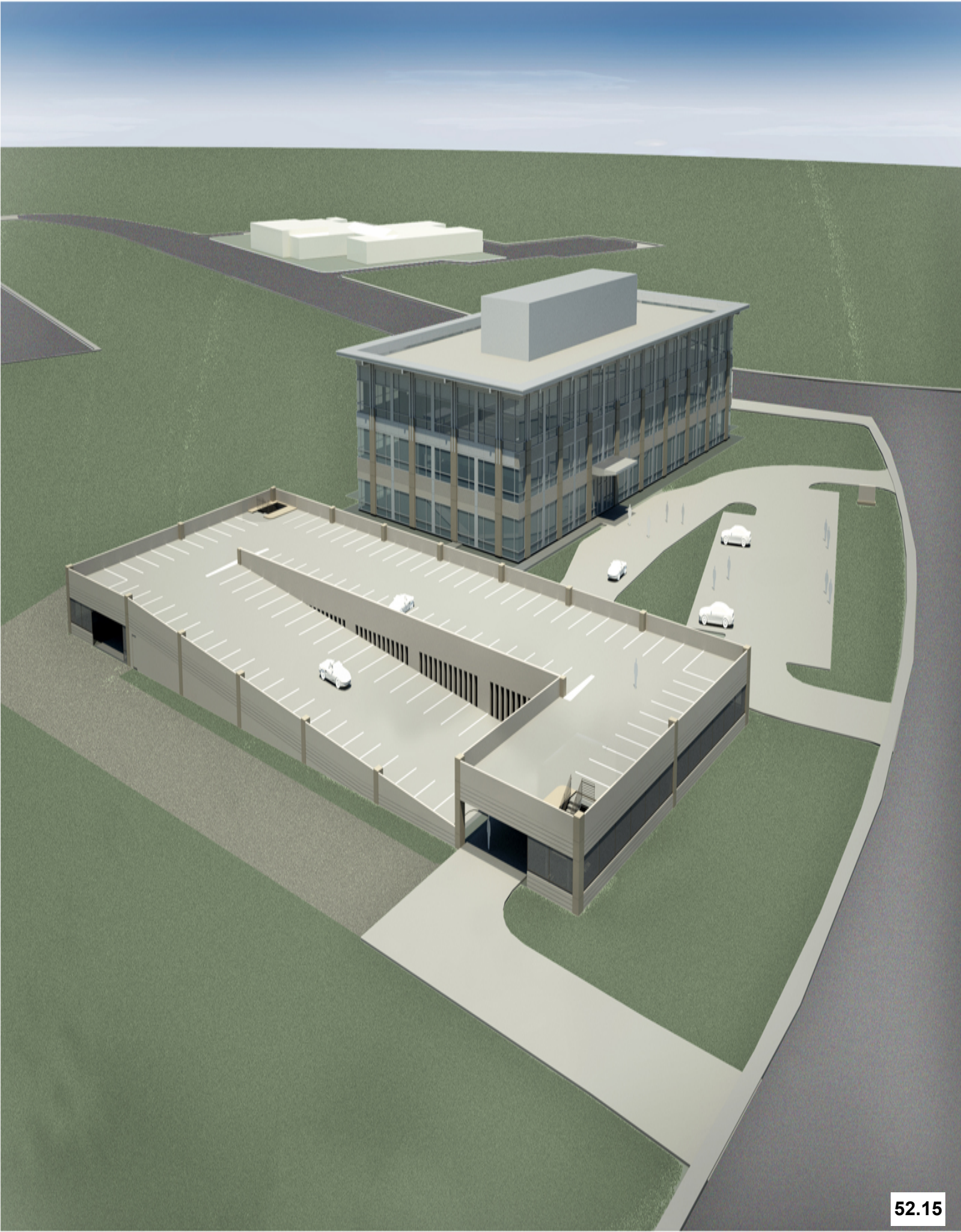
- BUILDING FOOTPRINT, PARKING AND LANDSCAPING SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY. CITY OF MADISON SHALL BE RESPONSIBLE FOR ISSUING BUILDING PERMITS.
- SHADED AREAS DENOTED BY [Symbol] TO BE PAVED OR OTHER FINISHING SURFACE.
- SHADED AREAS DENOTED BY [Symbol] TO BE CONCRETE.
- SHADED AREAS DENOTED BY [Symbol] TO BE LANDSCAPED WITH TREES, GRASS OR SHADES. LANDSCAPING MAY BE DIVIDED BY ARE BUILDINGS.
- SHADED AREAS DENOTED BY [Symbol] ARE SCREEN WALLS.
- LANDSCAPED AREA (NOT INCLUDING ROWS) WILL BE A MINIMUM OF 10% OF TOTAL LOT AREA LESS THE BUILDING AREA.
- EXTERIOR BUILDING MATERIALS SHALL BE GEOMETRIC OR PLANTED ONLY. FACE BRICK, PRECAST CONCRETE, TILT-UP WALL, STUCCO, GLAZING OR SIMILAR CONTRIBUTION.
- ROOF MATERIALS MAY INCLUDE COMPOSITE, BUILT-UP OR STANDING SEAM METAL ROOF.
- ALL SIGNS SHALL BE IN CONFORMANCE WITH SECTION 11-7% OF THE MADISON CITY CODE.
- ALL EXTERIOR LIGHTING SHALL ADHERE TO THE STANDARDS OUTLINED IN SECTION 11-10 OF THE MADISON CITY CODE.
- HVAC UNITS WILL BE ROOF MOUNTED AND SURROUNDED BY A SCREEN WALL.

SITE DATA

SITE AREA	180,952 SF ±
OFFICE BUILDING AREA (Total Footprint)	28,688 SF ±
OFFICE BUILDING AREA (Total Floor Space)	85,044 SF ±
TOTAL BUILDING FOOTPRINT (Off- & Garage)	61,043 SF ±
LANDSCAPE AREA REQUIRED	12,391 SF ±
LANDSCAPED AREA SHOWN	36,442 SF ±
TREES REQUIRED-(3" Cal. Min.)	31
PARKING SPACES REQUIRED	216
H.C. PARKING SPACES REQUIRED	8
H.C. PARKING SPACES SHOWN	10

WESTRIDGE PARK ADDITION
SECTION 18





ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 4.68-ACRE PORTION OF THE REMAINDER OF LOT 1, BLOCK 6, WESTRIDGE PARK ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF CHAMPIONS DRIVE AND TRADEWINDS BOULEVARD); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter and the State law with reference to the creation of “Planned Districts” under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by the creation of an Amended Planned District, set out hereinafter and subject to the conditions and restrictions set out hereinafter;

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

SECTION ONE. That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned PD, Planned District for a Shopping Center, and it shall be used as an Amended Planned District, subject to the special conditions and restrictions hereinafter set out, said property being described as

follows:

A 4.68-acre portion of the remainder of Lot 1, Block 6, Westridge Park Addition, Section 6, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit “E”, which is attached hereto and incorporated herein.

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

1. That the new construction shall be consistent with: the Site Plan (Exhibit “A”); the Structure Elevations (Exhibits “B” and “C”); and the Office Building Rendering (Exhibit “D”). The referenced Exhibits are attached hereto and incorporated herein.
2. That the maximum height of the office building shall not exceed 53 feet.
3. That the landscaping shall conform to City of Midland regulations in place at the time of development.
4. That the placement of driveways accessing public streets shall be contained within the property lines of the site and approved by the City.
5. That the air conditioners and dumpsters shall be appropriately screened.
6. That all required public improvements shall be addressed, including requirements for a looped waterline, additional fire hydrants, sewer extension and sidewalks.
7. That a blanket refuse easement is granted to the City of Midland.
8. That City of Midland Ordinance No. 8227 is hereby amended by this ordinance.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this

ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ____ day of _____, A.D., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the ____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-009; hold a public hearing regarding a proposed oil and gas well permit (Bus Barn #2601) near the south side of Briarwood Avenue, 870' east of Heidelberg Lane.

Purpose:

At approximately 11:12 a.m. hold a public hearing on a request from RSP Permian, LLC, to drill an oil and gas well on property located 733' FNL and 1,905' FWL of the land described as Section 26, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, 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.

Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the landscaping as well as a variance from the 500' distance requirement due to a commercial building located within 465' of the well site. No waiver of the road repair agreement has been requested.

Attachments: Application; Location map; Drill site location.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

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Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the landscaping as well as a variance from the 500' distance requirement due to a commercial building located within 465' of the well site. No waiver of the road repair agreement has been requested.

Attachments: Application; Location map; Drill site location.



Bus Barn № 2601

0-11-009

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date 6/21/2011	Operator Name (must match W-1) RSP Permian, L.L.C.	Operator Address 125 W. Missouri, Ste 450 Midland, TX 79701
Representative Name William R. Huck	Representative Address (within Midland City Limits) same as above	Rep. Tele. 432.818.1300 Rep. Fax 432.818.1350
Fee: \$4,000.00 Rec'd Yes ___ No ___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4
Permit Compliance Contact (Choose 1): Option A: 24/7 Answering Services - No. 1 (Tele.): _____ No. 2 (Tele.): _____ Option B: Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A): See Exhibit "A" Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): See Exhibit "A" RSP Permian, L.L.C. 24/7 Answering Service - 432.818.1300 Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). None - N/A		
II. Mineral Ownership		
Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):		
1.	See 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 Jim Spradlin _____, 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):		
Surface Use: MISD Bus Storage/Shop, Open/Vacant Lots, Residential, Barn/Corral, old caliche pit. Surface Ownership: See Exhibit D		
ATTACHED AS EXHIBIT D is (a Title Opinion by _____, a licensed Texas Attorney/a Take-off from Jim Spradlin _____, 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: Bus Barn #2601

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

See attachment under Exhibit G

Legal Description of Proposed Well Site:

733' FNL, 1905' FWL, Sec 26, Blk 40, T1S, T&P Survey, Midland County, TX

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: | Electrical - Sharyland Utilities L.P. |

Description of water source to be used during Drilling:

Water to be trucked onto well site.

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

See Exhibit "H"

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)].

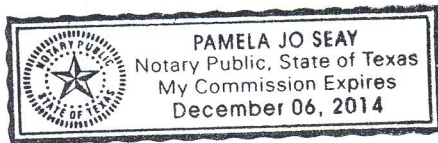
RSP PERMIAN, L.L.C.

By: William R. Huck
William R. Huck, Vice President/Operations

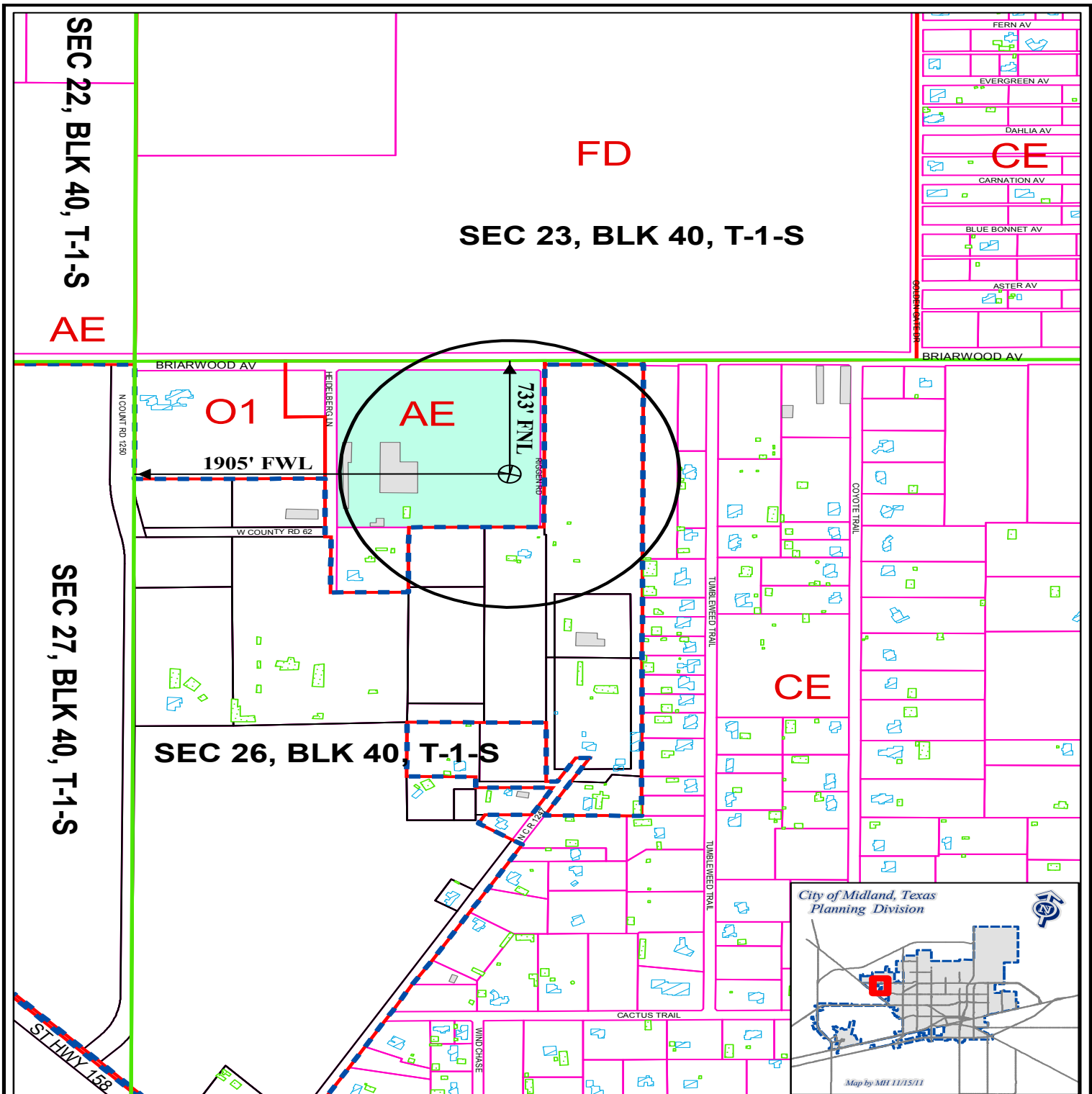
STATE OF TEXAS §

COUNTY OF MIDLAND §

This instrument was acknowledged before me on the 21st day of June, 2011 by William R. Huck, Vice President/Operations of RSP Permian, L.L.C., a Delaware Limited Liability Company, who personally appeared before me, and being first duly sworn declared he signed the application in the capacity designated, if any, and further states that he has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.



Pamela Jo Seay
Notary Public, State of Texas



LOCATION AND ZONING MAP

O - 11 - 009

Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 733' FNL and 1905' FWL, Section 26, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

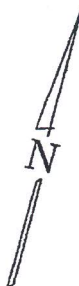
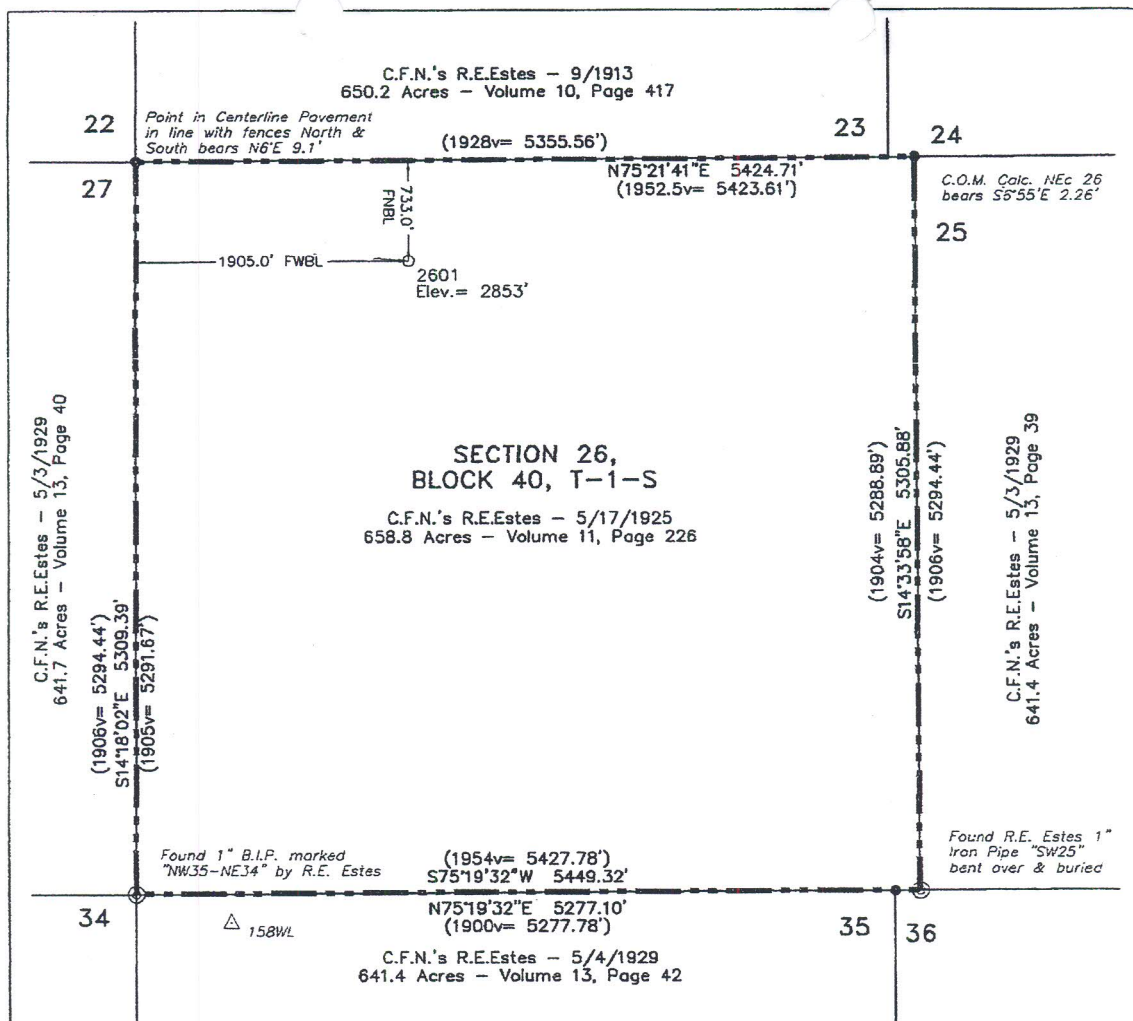
Bus Barn #2601

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

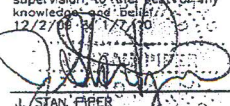


1927 NAD

N/Y= 859806.92
E/X= 1424855.25



Revised: 1/12/10 by GMR

OPERATOR: RSP PERMIAN, LLC 125 W. MISSOURI SUITE 450 MIDLAND, TX 79701	BUS BARN #2601 DESCRIPTION: All of Section 26, Block 40, T-1-S, T.&P. RR. Co: Survey, Midland County, Texas	FIELD: ACREAGE: 662.48 in Sec. 662.48 in Lease ELEVATION: 2853' DATE: 12/7/09 SCALE: 1"=1000'
The well location shown on this plot represents an actual survey made by me, or under my supervision, to the best of my knowledge as of the date of 12/27/09.  J. STAN PIPER PROFESSIONAL LAND SURVEYOR REGISTERED SEAL NO. 1974	LOCATION IN SURVEY: 733.0' FNL & 1905.0' FWL of Sec. 26 LOCATION IN LEASE: 733.0' FNBL & 1905.0' FWBL of Lease NEAREST POST OFFICE: 7 Miles Southeast to Midland, Texas GEODETIC POSITION: LATITUDE: 32°01'03.399" LONGITUDE: 102°11'21.433" STATE PLANE COORDINATES: NORTH (Y) 10702382.79 EAST (X) 1721321.95	DRAWN BY: Gene M. Rodriguez DWG FILE: Patriot-BusBarn.Dwg FIELD BOOK: See 11x17" Calc. Sheet NORTH AMERICA DATUM OF: 1983/86 ZONE: Central STATE: TX

0-11-009



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-010; hold a public hearing regarding a proposed oil and gas well permit (Bus Barn #2602) near the south side of Briarwood Avenue, 450' west of Heidelberg Lane.

Purpose:

At approximately 11:15 a.m. hold a public hearing on a request from RSP Permian, LLC, to drill an oil and gas well on property located 600' FNL and 525' FWL of the land described as Section 26, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, 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.

Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the landscaping as well as a variance from the 500' distance requirement due to an office building located within 448' of the well site. No waiver of the road repair agreement has been requested.

Attachments: Application; Location map; Drill site location.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

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Purpose:

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Recommended City Council Action

☐ Approve ☐ Deny ☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the landscaping as well as a variance from the 500' distance requirement due to an office building located within 448' of the well site. No waiver of the road repair agreement has been requested.

Attachments: Application; Location map; Drill site location.



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date 6/27/2011	Operator Name (must match W-1) RSP Permian, L.L.C.	Operator Address 125 W. Missouri, Ste 450 Midland, TX 79701
Representative Name William R. Huck	Representative Address (within Midland City Limits) same as above	Rep. Tele. 432.818.1300 Rep. Fax 432.818.1350
Fee: \$4,000.00 Rec'd Yes ___ No ___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4
Permit Compliance Contact (Choose 1): Option A: 24/7 Answering Services - No. 1 (Tele.): _____ No. 2 (Tele.): _____		
Option B: Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A): See Exhibit "A"		
Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): See Exhibit "A" RSP Permian, L.L.C. 24/7 Answering Service - 432.818.1300		
Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). None - N/A		
II. Mineral Ownership		
Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):		
1. See 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 Jim Spradlin _____, 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):		
Surface Use: Church Office, Bus Barn Shop / Bus Storage / Corral		
Surface Ownership: See Exhibit D		
ATTACHED AS EXHIBIT D is (a Title Opinion by _____, a licensed Texas Attorney/a Take-off from Jim Spradlin _____, 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: Bus Barn #2602

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

See attachment under Exhibit G

Legal Description of Proposed Well Site:

600' FNL, 525' FWL, Sec 26, Blk 40, T1S, T&P Survey, Midland County, TX

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

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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: Electrical - Sharyland Utilities L.P.

Description of water source to be used during Drilling:

Water to be trucked onto well site.

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

See Exhibit "H"

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)].

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

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

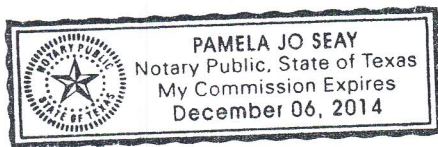
RSP PERMIAN, L.L.C.

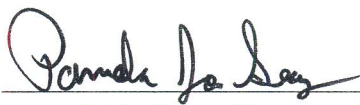
By: 
William R. Huck, Vice President/Operations

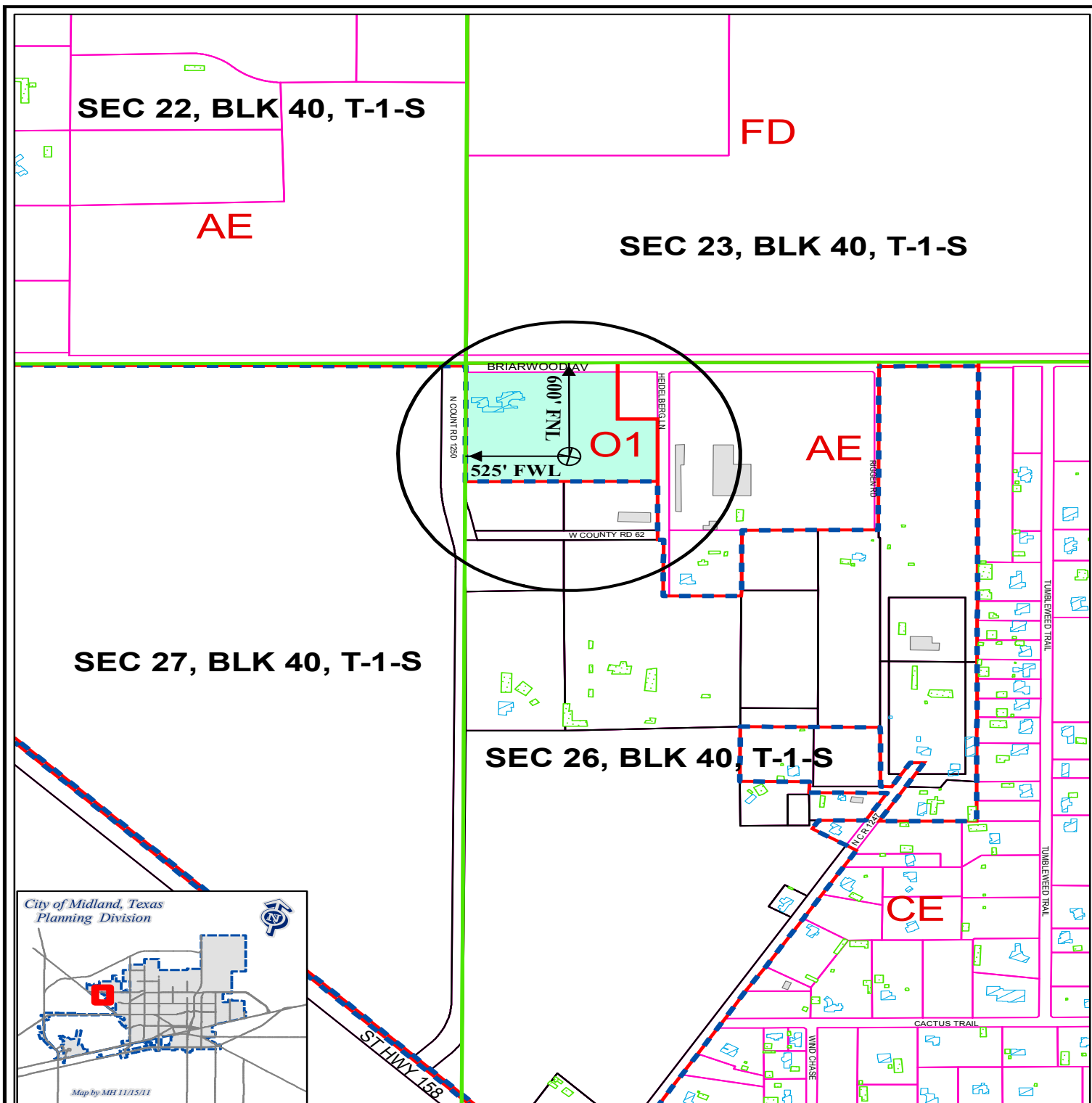
STATE OF TEXAS §

COUNTY OF MIDLAND §

This instrument was acknowledged before me on the 27th day of June, 2011 by William R. Huck, Vice President/Operations of RSP Permian, L.L.C., a Delaware Limited Liability Company, who personally appeared before me, and being first duly sworn declared he signed the application in the capacity designated, if any, and further states that he has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.




Notary Public, State of Texas



LOCATION AND ZONING MAP

O - 11 - 010

Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 600' FNL and 525' FWL, Section 26, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Bus Barn #2602

LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.

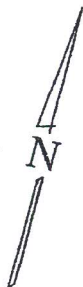
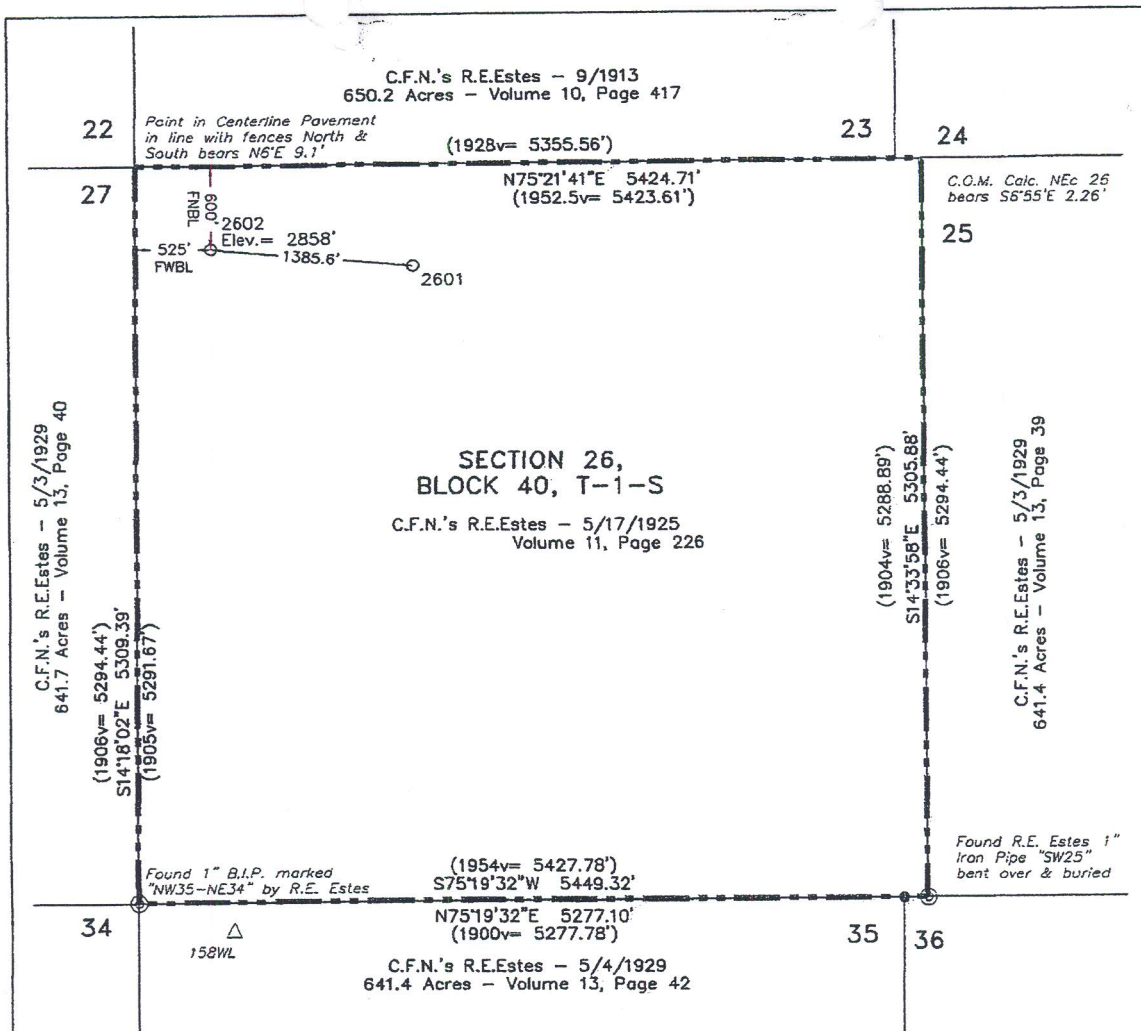
ZONING DISTRICTS:

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
O1, O2
NS
LR1, LR2, LR3
C1, C2, C3
IP, JP1, IP2, IP3
LI
HI

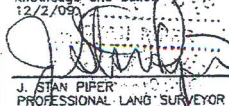
BUSINESS PARK
PARKING
OFFICE
NEIGHBORHOOD SERVICE
LOCAL RETAIL
COMMERCIAL
INDUSTRIAL PARK
LIGHT INDUSTRY
HEAVY INDUSTRY



1927 NAD
N/Y= 859587.09
E/X= 1423487.23

PIPER SURVEYING, INC.
P.O. BOX 60432, MIDLAND, TEXAS 79711
(432)550-7818, FAX (432)550-0312

Revised: 4/8/10 by GMR

OPERATOR: RSP PERMIAN, LLC 125 W. MISSOURI SUITE 450 MIDLAND, TX 79701	DESCRIPTION: BUS BARN #2602 All of Section 26, Block 40, T-1-S, T.&P. RR. Co. Survey, Midland County, Texas	FIELD: ACREAGE: 662.48 in Sec. 662.48 in Lease ELEVATION: 2858' DATE: 12/7/09 SCALE: 1"=1000'
The well location shown on this plot represents an actual survey made by me or under my supervision to the best of my knowledge and belief. 12/2/09  J. STAN PIPER PROFESSIONAL LAND SURVEYOR REGISTERED SEAL NO. 1994	LOCATION IN SURVEY: 600' FNL & 525' FWL of Sec. 26 LOCATION IN LEASE: 600' FNBL & 525' FWBL of Lease NEAREST POST OFFICE: 7 Miles Southeast to Midland, Texas GEODETIC POSITION: LATITUDE: 32°01'00.998" LONGITUDE: 102°11'37.276" STATE PLANE COORDINATES: NORTH (Y) 10702162.94 EAST (X) 1719953.93	DRAWN BY: Gene M. Rodriguez DWG FILE: Patriot-BusBarn.Dwg FIELD BOOK: See 11x17" Calc. Sheet NORTH AMERICA DATUM OF: 1983/86 ZONE: Central STATE: TX

0-11-010



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-011; hold a public hearing regarding a proposed oil and gas well permit (Bus Barn #2603) located on the south side of Briarwood Avenue, approximately 600' west of Roadrunner Trail.

Purpose:

At approximately 11:18 a.m. hold a public hearing on a request from RSP Permian, LLC, to drill an oil and gas well on property located 690' FNL and 1,080' FEL of the land described as Section 26, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, 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.

Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval except that the landscaping should be installed. The applicant did request a variance from the landscaping requirement. No waiver of the road repair agreement has been submitted. Three petitions signed by area residents have been received by the staff; these will be available at the Council meeting.

Attachments: Application; Location map; Drill site location.



City Council Agenda

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JNichols
City Manager's Office

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Recommended City Council Action

☐ Approve ☐ Deny ☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

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Attachments: Application; Location map; Drill site location.



APPLICATION FOR OIL AND GAS PERMIT

Bus Barn #2603

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date 6/28/2011	Operator Name (must match W-1) RSP Permian, L.L.C.	Operator Address 125 W. Missouri, Ste 450 Midland, TX 79701
Representative Name William R. Huck	Representative Address (within Midland City Limits) same as above	Rep. Tele. 432.818.1300 Rep. Fax 432.818.1350
Fee: \$4,000.00 Rec'd Yes ___ No ___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4
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II. Mineral Ownership		
Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):		
1. See 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 Jim Spradlin _____, 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): Surface Use: Residential, Vacant Lots, Barn / Corral Surface Ownership: See Exhibit D		
ATTACHED AS EXHIBIT D is (a Title Opinion by _____, a licensed Texas Attorney/a Take-off from Jim Spradlin _____, 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: Bus Barn #2603

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

See attachment under Exhibit G

Legal Description of Proposed Well Site:

690' FNL, 1080' FEL, Sec 26, Blk 40, T1S, T&P Survey, Midland County, TX

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: Electrical - Sharyland Utilities L.P.

Description of water source to be used during Drilling:

Water to be trucked onto well site.

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

See Exhibit "H"

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)].

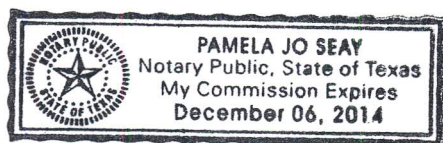
RSP PERMIAN, L.L.C.

By: William R. Huck
William R. Huck, Vice President/Operations

STATE OF TEXAS §

COUNTY OF MIDLAND §

This instrument was acknowledged before me on the 28 day of June, 2011 by William R. Huck, Vice President/Operations of RSP Permian, L.L.C., a Delaware Limited Liability Company, who personally appeared before me, and being first duly sworn declared he signed the application in the capacity designated, if any, and further states that he has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.



Pamela Jo Seay
Notary Public, State of Texas



FD

SEC 24
BLK 40
T-1-S

FD

SEC 23, BLK 40, T-1-S

AE

FD

SEC 26, BLK 40, T-1-S

CE

SEC 25
BLK 40
T-1-S

PDHD
447

LOCATION AND ZONING MAP

O - 11 - 011

Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 690' FNL and 1080' FEL, Section 26, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

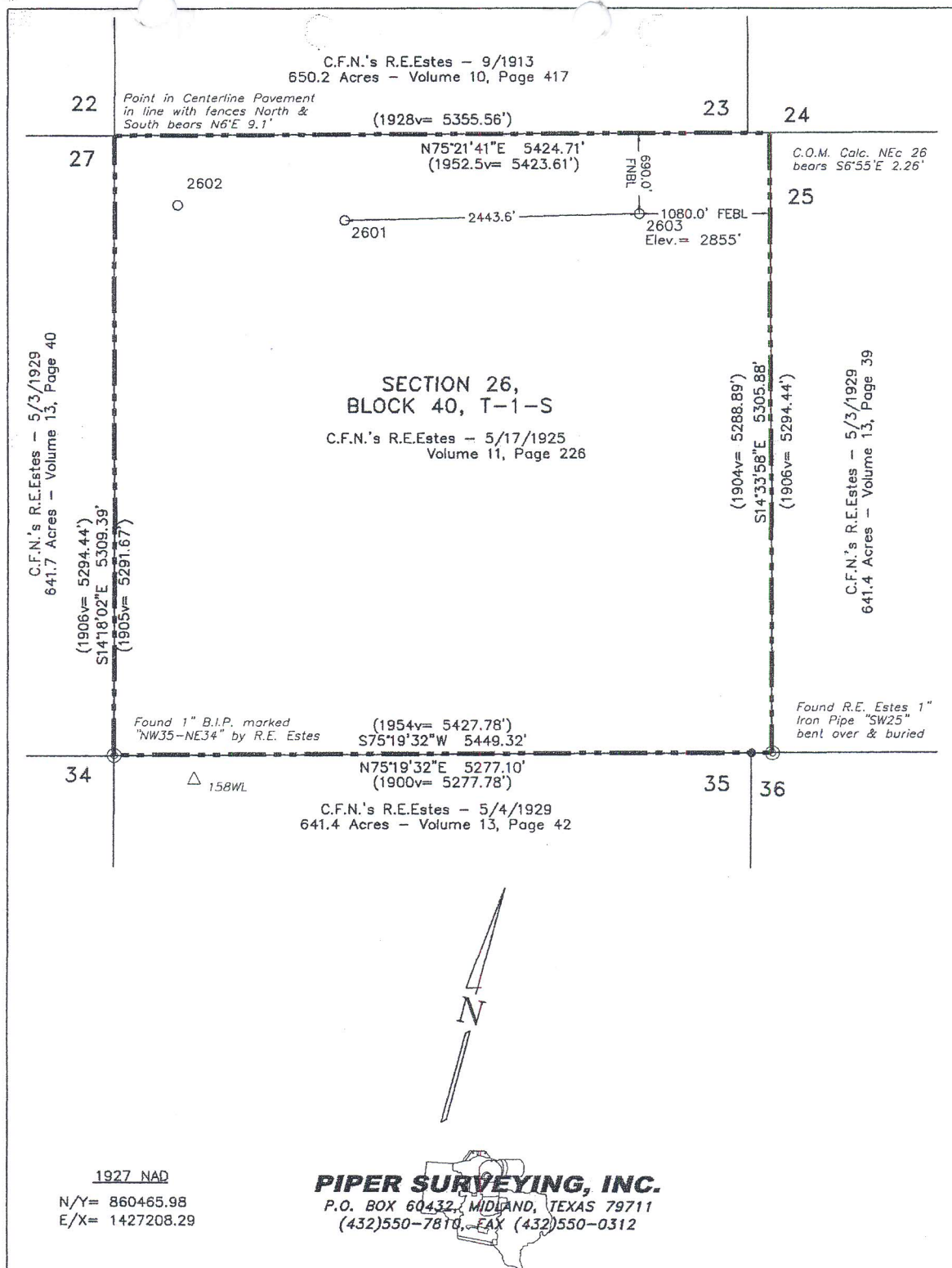
Bus Barn #2603

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



OPERATOR: RSP PERMIAN, LLC 125 W. MISSOURI SUITE 450 MIDLAND, TX 79701	DESCRIPTION: BUS BARN #2603 All of Section 26, Block 40, T-1-S, T.&P. RR. Co. Survey, Midland County, Texas	FIELD: ACREAGE: 662.48 in Sec. 662.48 in Lease ELEVATION: 2855' DATE: 3/22/10 SCALE: 1"=1000'
The well location shown on this plot represents an actual survey made by me or under my supervision to the best of my knowledge and belief. 3/25/10 STAN PIPER PROFESSIONAL LAND SURVEYOR REGISTERED SEAL NO. 1974	LOCATION IN SURVEY: 690.0' FNL & 1080.0' FEL of Sec. 26 LOCATION IN LEASE: 690.0' FNBL & 1080.0' FEBL of Lease NEAREST POST OFFICE: 7 Miles Southeast to Midland, Texas GEODETIC POSITION: LATITUDE: 32°01'10.307" LONGITUDE: 102°10'54.235" STATE PLANE COORDINATES: NORTH (Y) 10703041.86 EAST (X) 1723674.99	DRAWN BY: Gene M. Rodriguez DWG FILE: Patriot-BusBarn.Dwg FIELD BOOK: See 8x14" Calc. Sheet NORTH AMERICA DATUM OF: 1983/86 ZONE: Central STATE: TX



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-012; hold a public hearing regarding a proposed oil and gas well permit (Mabee #3) located on the east side of State Highway 349, north of Arapahoe Lane.

Purpose:

At approximately 11:21 a.m. hold a public hearing on a request from Pioneer Natural Resources, to drill an oil and gas well on property located 660' FNL and 1,980' FEL of the land described as Section 12, Block 39, T-1-S, T&P RR. Co. Survey, Midland County, 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.

Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the fencing and landscaping requirements. A waiver of the road repair agreement has been submitted since access to the property is from State Highway 349.

Attachments: Application; Location map; Drill site location.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

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Purpose:

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Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the fencing and landscaping requirements. A waiver of the road repair agreement has been submitted since access to the property is from State Highway 349.

Attachments: Application; Location map; Drill site location.



APPLICATION FOR OIL AND GAS PERMIT
(Pursuant to Midland City Ordinance No. 8769)

0-11-012

I. General Information

Date 08/17/2011	Operator Name (must match W-1) Pioneer Natural Resources USA, Inc.	Operator Address 5205 N. O'Connor Blvd Irving, Texas 75039
Representative Name James Cunningham	Representative Address (within Midland City Limits) 303 W. Wall Street Suite 101, Midland, Texas 79702-3178	Rep. Tele. (432) 571-3222

Permit Compliance Contact (Choose 1):

Option A:

Option B: 24/7 Answering Services - No. 1 (Tele.): (432) 563-8432

No. 2 (Tele.): (432) 571-2800

Company Compliance Representative (Name, Address, Local Telephone) If Option A is Selected ATTACH STATEMENT AS EXHIBIT A:

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): Larry Hambeck
4815 E. Hwy 80
24/7 Answering Service Call (432) 563-8432 or (432) 571-2800 Midland, Texas 79706

Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). ATTACHED

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): Various See Exhibit C
1. _____

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 David Smith with Stubbeman, McRae, Sealy, Laughlin & Browder, Inc., 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): Land is owned by Shenandoah Bar M. Ranch, LLC and the land within 500' and 860' of the drillsite is vacant.

ATTACHED AS EXHIBIT D is (a Title Opinion by _____, a licensed Texas Attorney/a Take-off from Bill Brown, 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/plat/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/plat/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: Mabee #3

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

Well will be drilled with a 17-1/2" hole and 12-3/4" Casing will be set to an approximate depth of 350' and cemented with 425 sks of Class C Cement. 8 5/8" Intermediate Casing will be set to an approximate depth of 5700' and cemented with 485 sks of Class C Cement. 4 1/2" Production Casing will be set at approximately 11,000 and cemented with approximately +/-1200 sacks of Cement.

Legal Description of Proposed Well Site:
660' FNL and 1980' FEL of Section 12 Blk 39 T-1-S being a part of the T&P RR Co/ Clark, W T Survey A-871

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 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 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): 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 VARIANCE REQUEST

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: Electric Lines will be extended as shown on Exhibit N attached.

Description of water source to be used during Drilling:

Water from a Water Well on the Mabee Foundation Lease will be pumped West in a 3" poly line for water to be used during drilling.

Description of all electric lines to production facilities (reference exhibits as necessary)[See § L(10)]: See EXHIBIT G & N for details and a legal description of the Pipelines, Electric Lines and Roads on the property.

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 to 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)]. SEE ATTACHED TOPO MAP

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

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

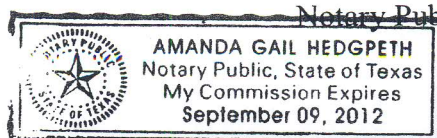
PIONEER NATURAL RESOURCES USA, INC.

By Tammy Smith Tammy Smith
Its ENGINEERING Technician

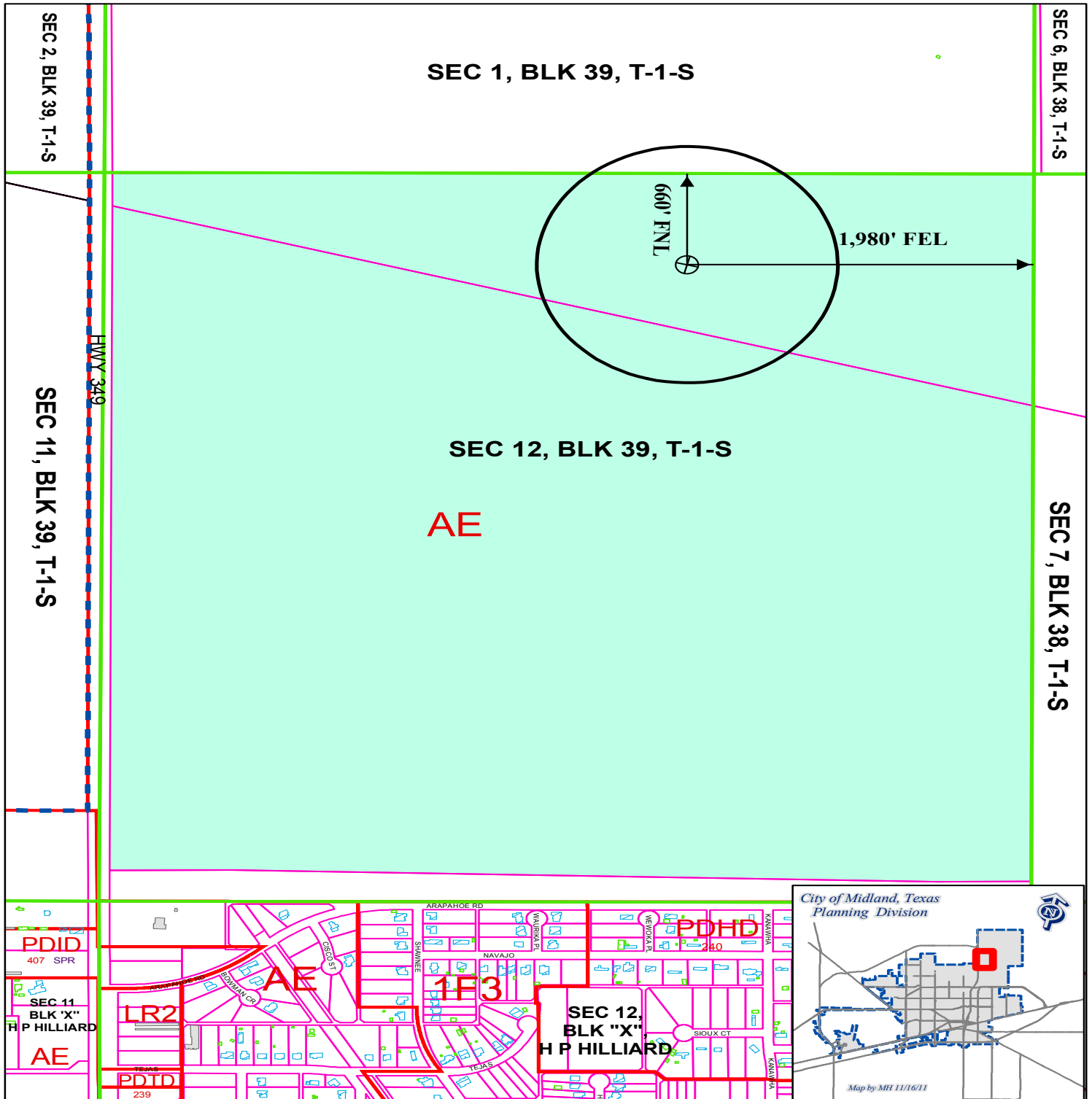
State of Texas)
County of Dallas)

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

[S E A L]



Amanda Gail Hedgpeth



LOCATION AND ZONING MAP

O - 11 - 012

Scale: 1" = 800'

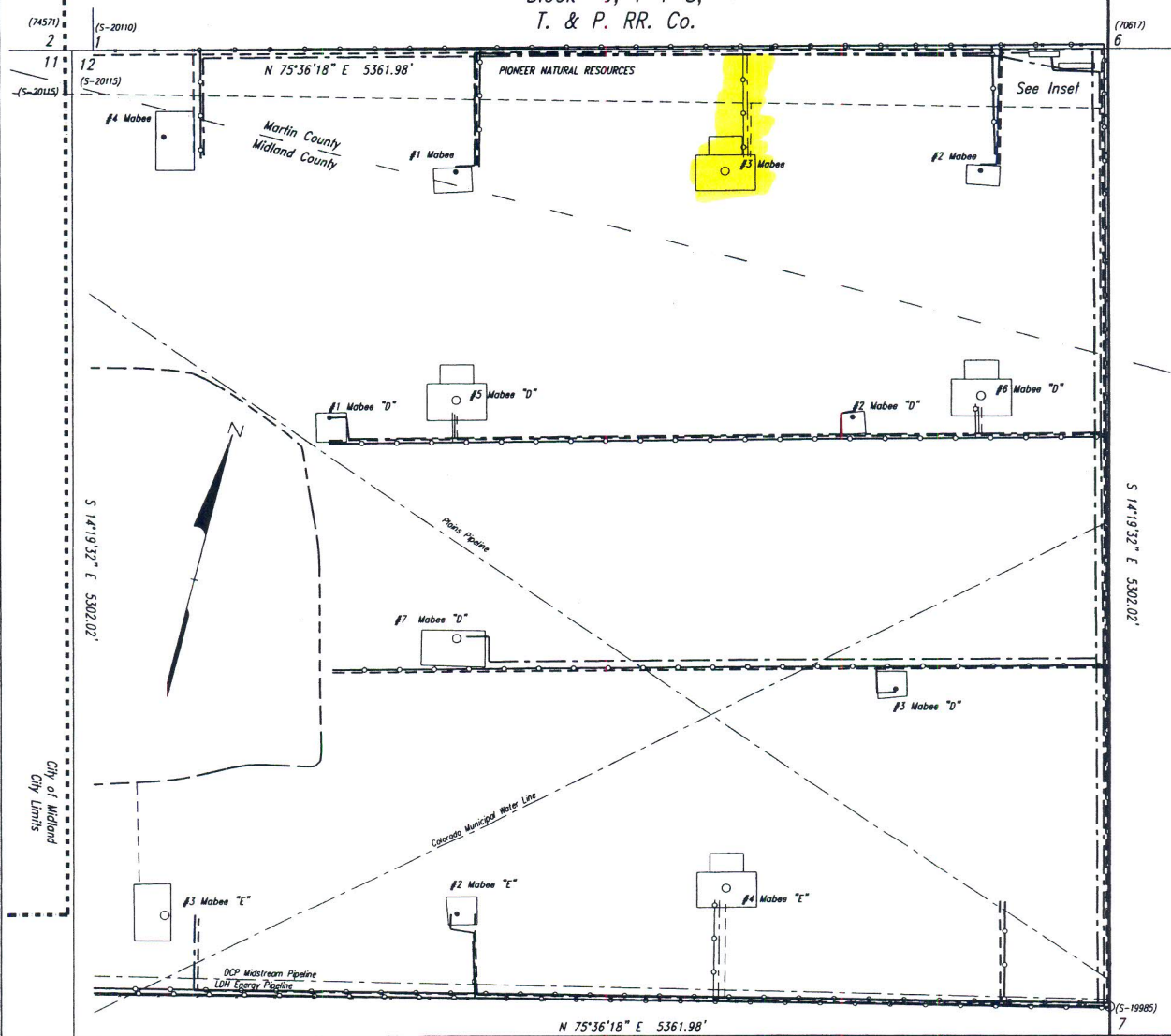
Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 660' FNL and 1980' FEL, Section 12, Block 39, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Mabee #3

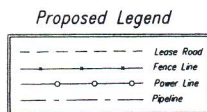
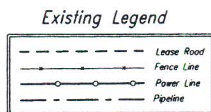
LEGEND

	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	01, O2	OFFICE		
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	NS	NEIGHBORHOOD SERVICE		
MH	MOBILE HOME DWELLING	LR1, LR2, LR3	LOCAL RETAIL		
TH	TOWNHOUSE DWELLING	C1, C2, C3	COMMERCIAL		
2F	TWO-FAMILY DWELLING	IP, IP1, IP2, IP3	INDUSTRIAL PARK		
MF1, MF2	MULTIPLE FAMILY DWELLING	LI	LIGHT INDUSTRY		
		HI	HEAVY INDUSTRY		

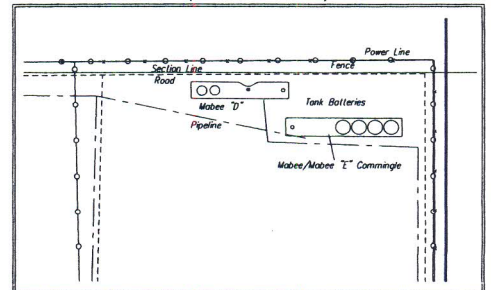
Block 3, T-1-S,
T. & P. RR. Co.



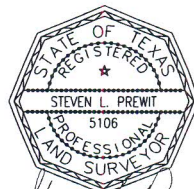
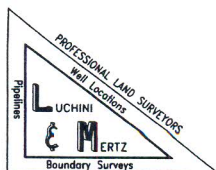
Block X HP Hilliard



Inset (Scale: 1" = 200')



Note: Survey Reconstruction filed in the Office of Luchini and Mertz Land Surveying Company.
 Note: All bearings and coordinates shown are based on the Texas Coordinate System of 1927, Central Zone.
 A combined grid factor of 0.999922826 must be divided into Section Line distances to obtain a true horizontal distance.
 Note: Example: (S-99999) indicates General Land Office file number.
 Note: NAD '27 decimal degree Latitude/Longitude.



Steven L. Prewit
 July 22, 2011
 Mabees Section 12

Plot

PIONEER NATURAL RESOURCES USA, Inc.
 Existing and Proposed Pad sites &
 Proposed Lease Roads in
 Section 12, Block 39, T-1-S,
 T. & P. RR. Co.
 Midland & Martin Counties, Texas

Scale: 1" = 600'



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-013; hold a public hearing regarding a proposed oil and gas well permit (Mabee E #4) located on the east side of State Highway 349, north of Arapahoe Lane.

Purpose:

At approximately 11:24 a.m. hold a public hearing on a request from Pioneer Natural Resources, to drill an oil and gas well on property located 800' FSL and 1,980' FEL of the land described as Section 12, Block 39, T-1-S, T&P RR. Co. Survey, Midland County, 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.

Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the fencing and landscaping requirements. A waiver of the road repair agreement has been submitted since access to the property is from State Highway 349.

Attachments: Application; Location map; Drill site location.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

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Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the fencing and landscaping requirements. A waiver of the road repair agreement has been submitted since access to the property is from State Highway 349.

Attachments: Application; Location map; Drill site location.

0-11-013



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date 08/17/2011	Operator Name (must match W-1) Pioneer Natural Resources USA, Inc.	Operator Address 5205 N. O'Connor Blvd Irving, Texas 75039
Representative Name James Cunningham	Representative Address (within Midland City Limits) 303 W. Wall Street Suite 101, Midland, Texas 79702-3178	Rep. Tele. (432) 571-3222

Permit Compliance Contact (Choose 1):

Option A:
Option B: 24/7 Answering Services - No. 1 (Tele.): (432) 563-8432 No. 2 (Tele.): (432) 571-2800

Company Compliance Representative (Name, Address, Local Telephone) If Option A is Selected *ATTACH STATEMENT AS EXHIBIT A:*

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): Larry Hambeck
4815 E. Hwy 80
24/7 Answering Service Call (432) 563-8432 or (432) 571-2800 Midland, Texas 79706

Other Permitted Wells in City (*ATTACH EXHIBIT B* [see § J(26)]). ATTACHED

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): Various See Exhibit C

1. _____

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 David Smith with Stubbeman, McRae, Sealy, Laughlin & Browder, Inc., 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): Land is owned by Shenandoah Bar M. Ranch, LLC, TXU Electric Delivery Co., Susan Cronin, and TXU Delivery Service and the land within 500' and 860' of the drillsite is vacant.

ATTACHED AS EXHIBIT D is (a Title Opinion by _____, a licensed Texas Attorney/a Take-off from Bill Brown, 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/plat/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/plat/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: Mabee "E" #4

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

Well will be drilled with a 17-1/2" hole and 12-3/4" Casing will be set to an approximate depth of 350' and cemented with 425 sks of Class C Cement. 8 5/8" Intermediate Casing will be set to an approximate depth of 5700' and cemented with 485 sks of Class C Cement. 4 1/2" Production Casing will be set at approximately 11,000 and cemented with approximately +/-1200 sacks of Cement.

Legal Description of Proposed Well Site:

800' FSL and 1980' FEL of Section 12 Blk 39 T-1-S being a part of the T&P RR Co/ Clark, W T Survey A-1020

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 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 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): 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 VARIANCE REQUEST

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: Electric Lines will be extended as shown on Exhibit N attached.

Description of water source to be used during Drilling:

Water from a Water Well on the Mabee Foundation Lease will be pumped West in a 3" poly line for water to be used during drilling.

Description of all electric lines to production facilities (reference exhibits as necessary)[See § L(10)]: See EXHIBIT G & N for details and a legal description of the Pipelines, Electric Lines and Roads on the property.

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 to 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)]. SEE ATTACHED TOPO MAP

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

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

PIONEER NATURAL RESOURCES USA, INC.

By
Its

Tammy S Smith
ENGINEERING TECHNICIAN

State of Texas)

County of Dallas)

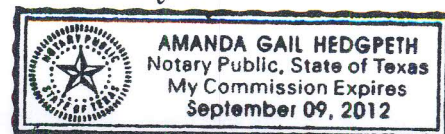
Tammy Smith

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

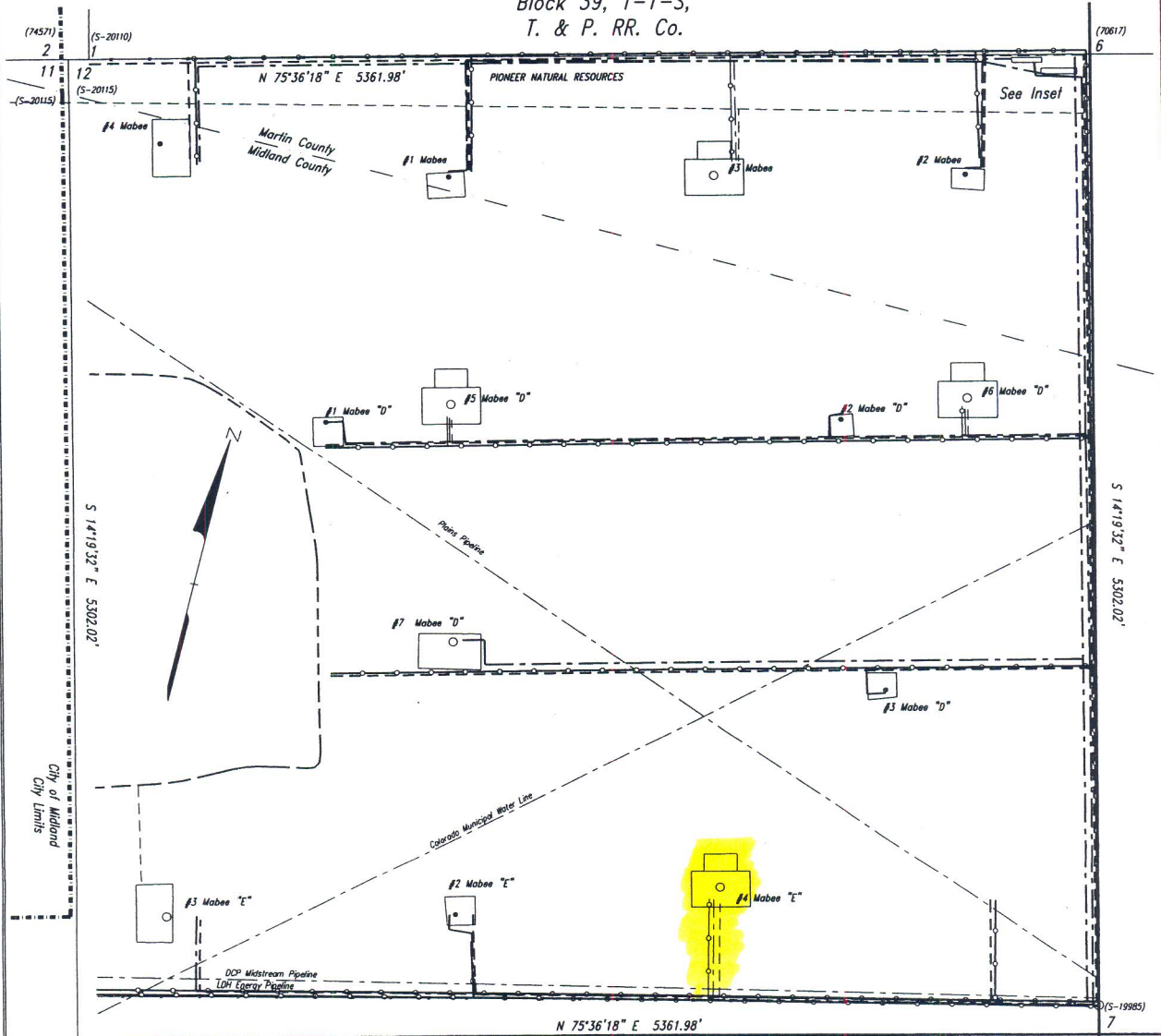
Notary Public, State of Texas

[SEAL]

Amanda Gail Hedgpeth



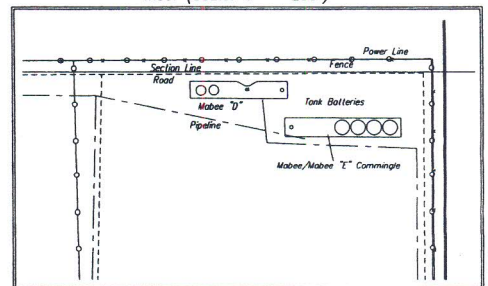
Block 39, T-1-S,
T. & P. RR. Co.



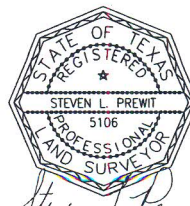
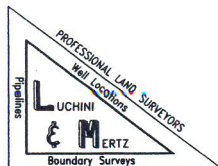
Block X HP Hilliard

Existing Legend	Proposed Legend
Lease Road	Lease Road
Fence Line	Fence Line
Power Line	Power Line
Pipeline	Pipeline

Inset (Scale: 1" = 200')



Note: Survey Reconstruction filed in the Office of Luchini and Mertz Land Surveying Company.
Note: All bearings and coordinates shown are based on the Texas Coordinate System of 1927, Central Zone.
A combined grid factor of 0.999922826 must be divided into Section Line distances to obtain a true horizontal distance.
Note: Example: (S-99999) indicates General Land Office file number.
Note: NAD '27 decimal degree Latitude/Longitude.



July 22, 2011
Mabees Section 12

Plot
PIONEER NATURAL RESOURCES USA, Inc.
Existing and Proposed Pad sites &
Proposed Lease Roads in
Section 12, Block 39, T-1-S,
T. & P. RR. Co.
Midland & Martin Counties, Texas

Scale: 1" = 600'



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-014; hold a public hearing regarding a proposed oil and gas well permit (Mabee D #5) located on the east side of State Highway 349, north of Arapahoe Lane.

Purpose:

At approximately 11:27 a.m. hold a public hearing on a request from Pioneer Natural Resources, to drill an oil and gas well on property located 1,880' FNL and 1,980' FWL of the land described as Section 12, Block 39, T-1-S, T&P RR. Co. Survey, Midland County, 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.

Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the fencing and landscaping requirements. A waiver of the road repair agreement has been submitted since access to the property is from State Highway 349.

Attachments: Application; Location map; Drill site location.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

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Purpose:

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Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the fencing and landscaping requirements. A waiver of the road repair agreement has been submitted since access to the property is from State Highway 349.

Attachments: Application; Location map; Drill site location.



APPLICATION FOR OIL AND GAS PERMIT
(Pursuant to Midland City Ordinance No. 8769)

0-11-014

I. General Information

Date
08/17/2011

Operator Name (must match W-1)
Pioneer Natural Resources USA, Inc.

Operator Address
5205 N. O'Connor Blvd
Irving, Texas 75039

Representative Name
James Cunningham

Representative Address (within Midland City Limits)
303 W. Wall Street Suite 101, Midland, Texas 79702-3178

Rep. Tele. (432) 571-3222

Permit Compliance Contact (Choose 1):

Option A:

Option B: 24/7 Answering Services - No. 1 (Tele.): (432) 563-8432 No. 2 (Tele.): (432) 571-2800

Company Compliance Representative (Name, Address, Local Telephone) If Option A is Selected ATTACH STATEMENT AS EXHIBIT A:

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): Larry Hambeck
4815 E. Hwy 80
24/7 Answering Service Call (432) 563-8432 or (432) 571-2800 Midland, Texas 79706

Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). ATTACHED

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): Various See Exhibit C
1. _____

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 David Smith with Stubbeman, McRae, Sealy, Laughlin & Browder, Inc., 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): Land is owned by Shenandoah Bar M. Ranch, LLC and the land within 500' and 860' of the drillsite is vacant.

ATTACHED AS EXHIBIT D is (a Title Opinion by _____, a licensed Texas Attorney/a Take-off from Bill Brown, 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/plot/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/plot/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: Mabec "D" #5

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

Well will be drilled with a 17-1/2" hole and 12-3/4" Casing will be set to an approximate depth of 350' and cemented with 425 sks of Class C Cement. 8 5/8" Intermediate Casing will be set to an approximate depth of 5700' and cemented with 485 sks of Class C Cement. 4 1/2" Production Casing will be set at approximately 11,000 and cemented with approximately +/-1200 sacks of Cement.

Legal Description of Proposed Well Site:

1880' FNL and 1980' FWL of Section 12 Blk 39 T-1-S being a part of the T&P RR Co/ Clark, W T Survey A-1020

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

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(2) Operations: Electric Lines will be extended as shown on Exhibit N attached.

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Description of all electric lines to production facilities (reference exhibits as necessary)[See § L(10)]: See EXHIBIT G & N for details and a legal description of the Pipelines, Electric Lines and Roads on the property.

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 to City of Midland Requirements.

V. Additional Required Exhibits

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PIONEER NATURAL RESOURCES USA, INC.

By
Its

Tammy Smith
ENGINEERING TECHNICIAN

State of Texas)

County of Dallas)

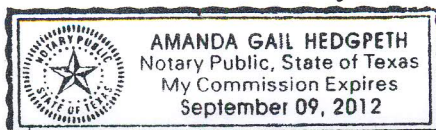
Tammy Smith

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

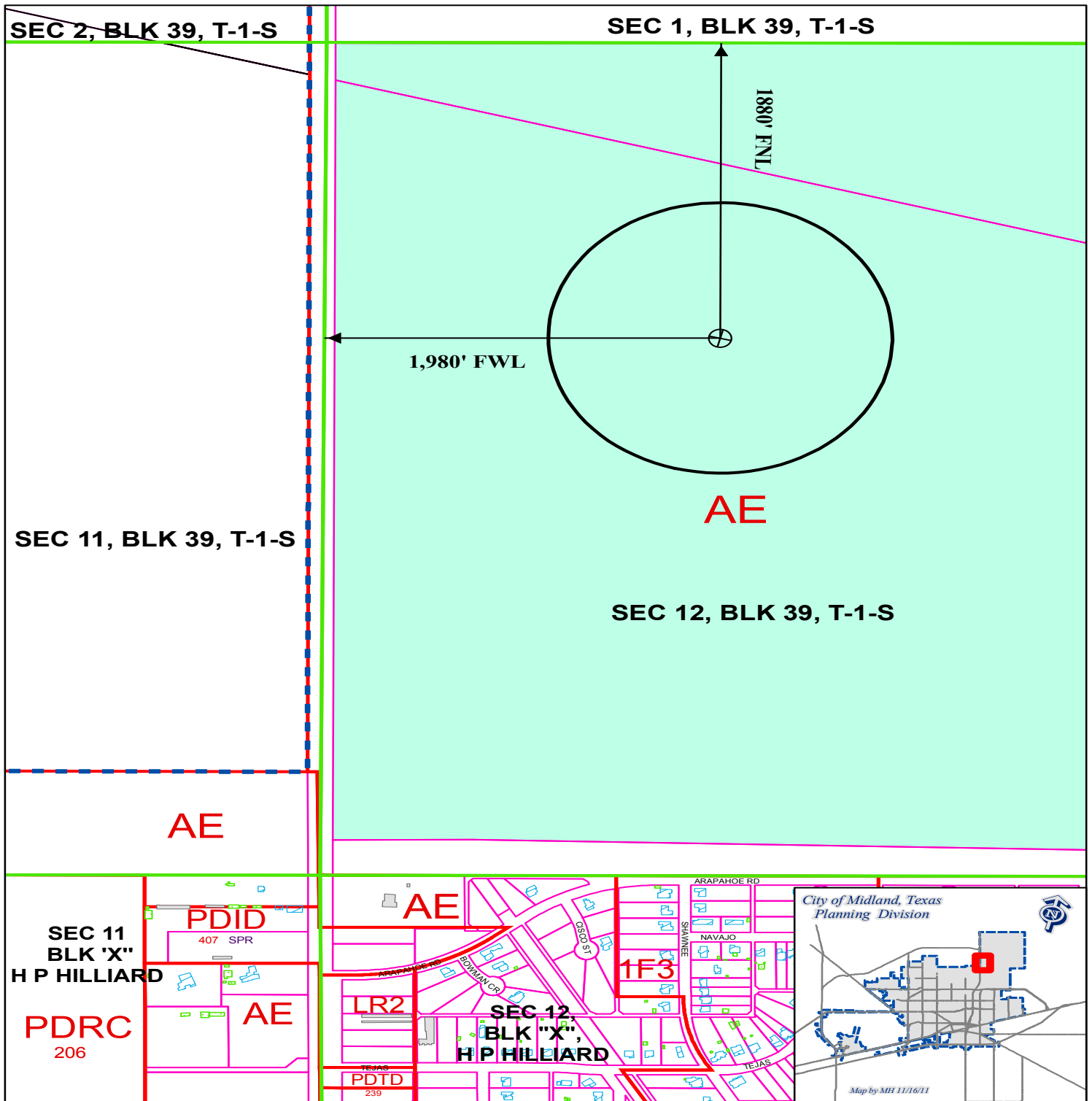
Notary Public, State of

Texas

[SEAL]



Amanda Gail Hedgpeth



LOCATION AND ZONING MAP

O - 11 - 014

Scale: 1" = 700'

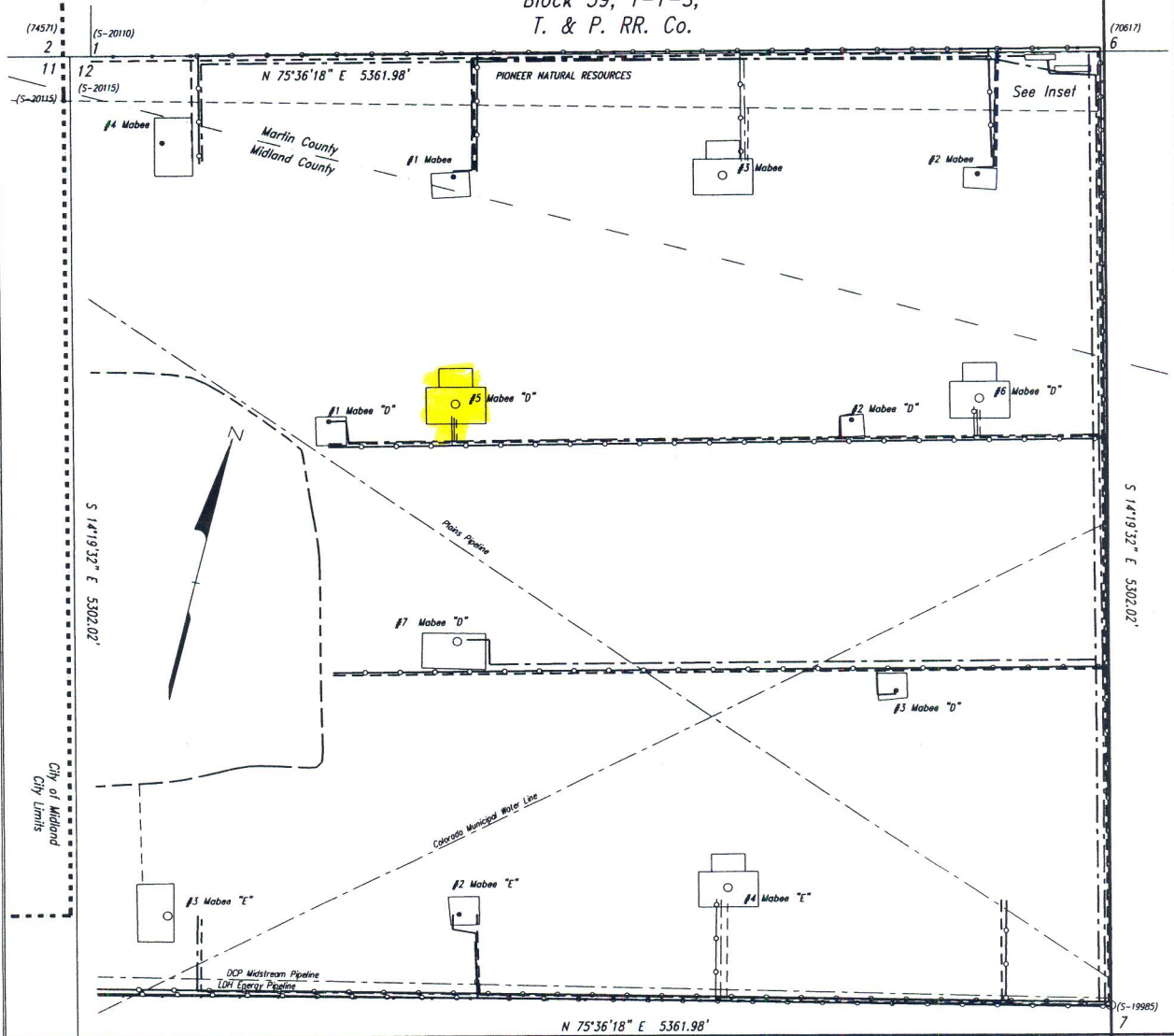
Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1880' FNL and 1980' FWL, Section 12, Block 39, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Mabee D #5

LEGEND

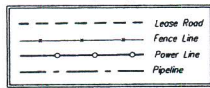
	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.
ZONING DISTRICTS:					
FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK		
PD	PLANNED DISTRICT	P	PARKING		
AE	AGRICULTURE ESTATE	01, 02	OFFICE		
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	NS	NEIGHBORHOOD 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		

Block 39, T-1-S,
T. & P. RR. Co.

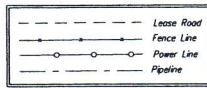


Block X HP Hilliard

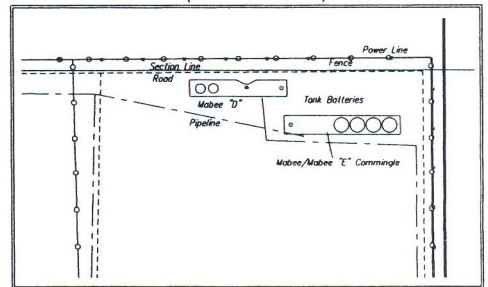
Existing Legend



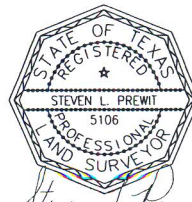
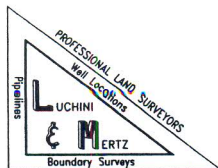
Proposed Legend



Inset (Scale: 1" = 200')



Note: Survey Reconstruction filed in the Office of Luchini and Meritz Land Surveying Company.
Note: All bearings and coordinates shown are based on the Texas Coordinate System of 1927, Central Zone.
A combined grid factor of 0.999922826 must be divided into Section Line distances to obtain a true horizontal distance.
Note: Example: (S-99999) indicates General Land Office file number.
Note: NAD '27 decimal degree Latitude/Longitude.



July 22, 2011

Mabee Section 12

Plot

PIONEER NATURAL RESOURCES USA, Inc.
Existing and Proposed Pad sites &
Proposed Lease Roads in
Section 12, Block 39, T-1-S,
T. & P. RR. Co.
Midland & Martin Counties, Texas



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-015; hold a public hearing regarding a proposed oil and gas well permit (Mabee D #6) located on the east side of State Highway 349, north of Arapahoe Lane.

Purpose:

At approximately 11:30 a.m. hold a public hearing on a request from Pioneer Natural Resources, to drill an oil and gas well on property located 1,865' FNL and 660' FEL of the land described as Section 12, Block 39, T-1-S, T&P RR. Co. Survey, Midland County, 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.

Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the fencing and landscaping requirements. A waiver of the road repair agreement has been submitted since access to the property is from State Highway 349.

Attachments: Application; Location map; Drill site location.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

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☐ Deny

☒ Direction/Informational

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Attachments: Application; Location map; Drill site location.



APPLICATION FOR OIL AND GAS PERMIT
(Pursuant to Midland City Ordinance No. 8769)

0-11-015

I. General Information

Date 08/17/2011	Operator Name (must match W-1) Pioneer Natural Resources USA, Inc.	Operator Address 5205 N. O'Connor Blvd Irving, Texas 75039
Representative Name James Cunningham	Representative Address (within Midland City Limits) 303 W. Wall Street Suite 101, Midland, Texas 79702-3178	Rep. Tele. (432) 571-3222

Permit Compliance Contact (Choose 1):

Option A:
Option B: 24/7 Answering Services - No. 1 (Tele.): (432) 563-8432 No. 2 (Tele.): (432) 571-2800

Company Compliance Representative (Name, Address, Local Telephone) If Option A is Selected ATTACH STATEMENT AS EXHIBIT A:

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): Larry Hambeck
4815 E. Hwy 80
24/7 Answering Service Call (432) 563-8432 or (432) 571-2800 Midland, Texas 79706

Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). ATTACHED

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): Various See Exhibit C
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III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location): Land is owned by Shenandoah Bar M. Ranch, LLC and D B Fite Properties and the land within 500' and 860' of the drillsite is vacant.

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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: Mabec "D" #6

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

Well will be drilled with a 17-1/2" hole and 12-3/4" Casing will be set to an approximate depth of 350' and cemented with 425 sks of Class C Cement. 8 5/8" Intermediate Casing will be set to an approximate depth of 5700' and cemented with 485 sks of Class C Cement. 4 1/2" Production Casing will be set at approximately 11,000 and cemented with approximately +/-1200 sacks of Cement.

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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): 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 VARIANCE REQUEST

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: Electric Lines will be extended as shown on Exhibit N attached.

Description of water source to be used during Drilling:

Water from a Water Well on the Mabee Foundation Lease will be pumped West in a 3" poly line for water to be used during drilling.

Description of all electric lines to production facilities (reference exhibits as necessary)[See § L(10)]: See EXHIBIT G & N for details and a legal description of the Pipelines, Electric Lines and Roads on the property.

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 to 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)]. SEE ATTACHED TOPO MAP

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

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

PIONEER NATURAL RESOURCES USA, INC.

By Tammy S Smith Tammy S Smith
Its ENGINEERING TECHNICIAN

State of Texas)

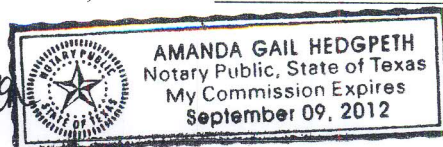
County of Dallas)

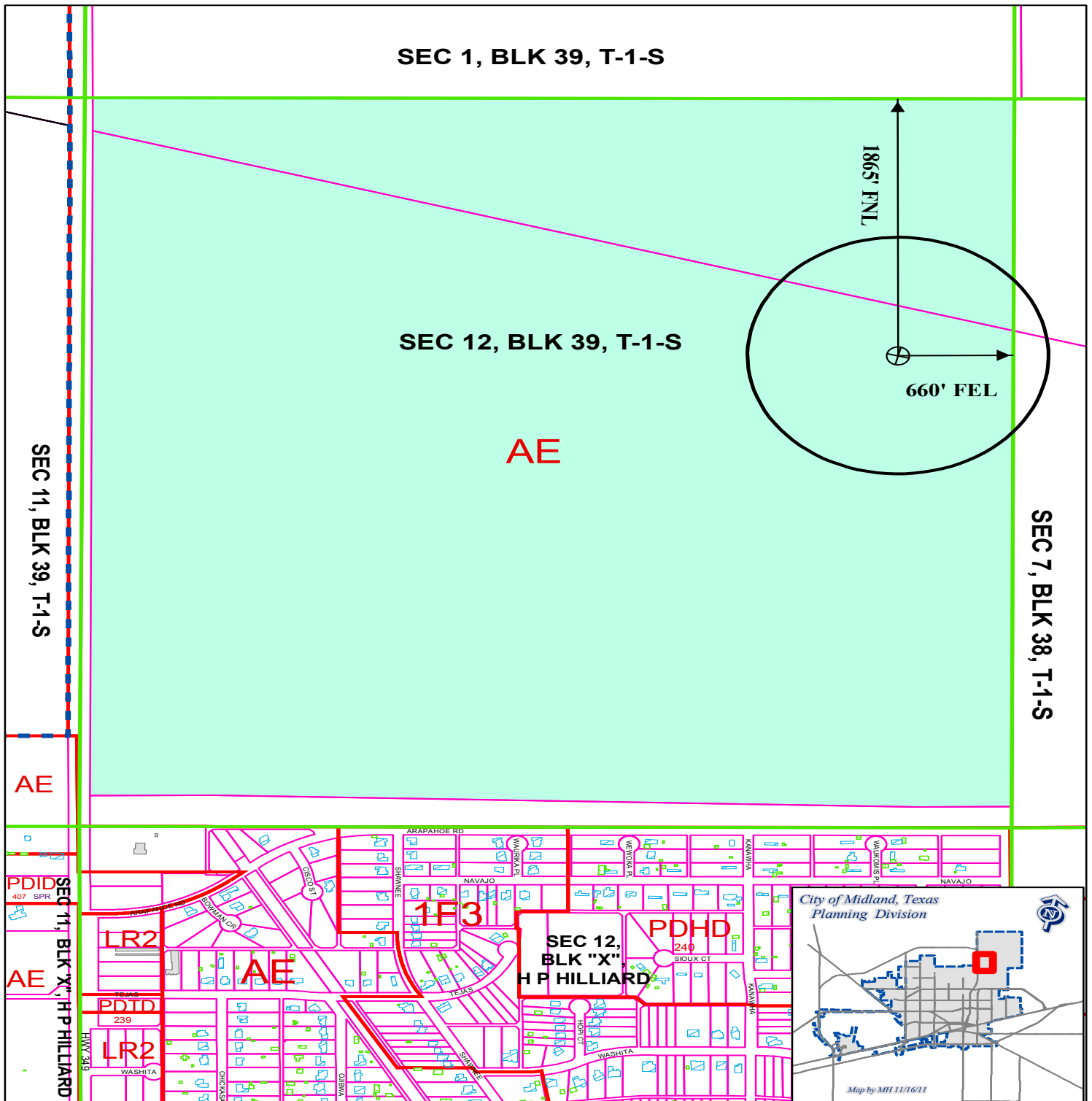
Tammy Smith, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

Notary Public, State of Texas

[S E A L]

Amanda Gail Hedgpeth





LOCATION AND ZONING MAP

O - 11 - 015

Scale: 1" = 800'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1865' FNL and 660' FEL, Section 12, Block 39, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Mabee D #6

LEGEND


CITY PARCELS


PUBLIC BLDGS


CITY LIMITS


COUNTY PARCELS


PRIVATE BLDGS


860 FT. BUFFER


ZONING


ACCESSORY BLDGS

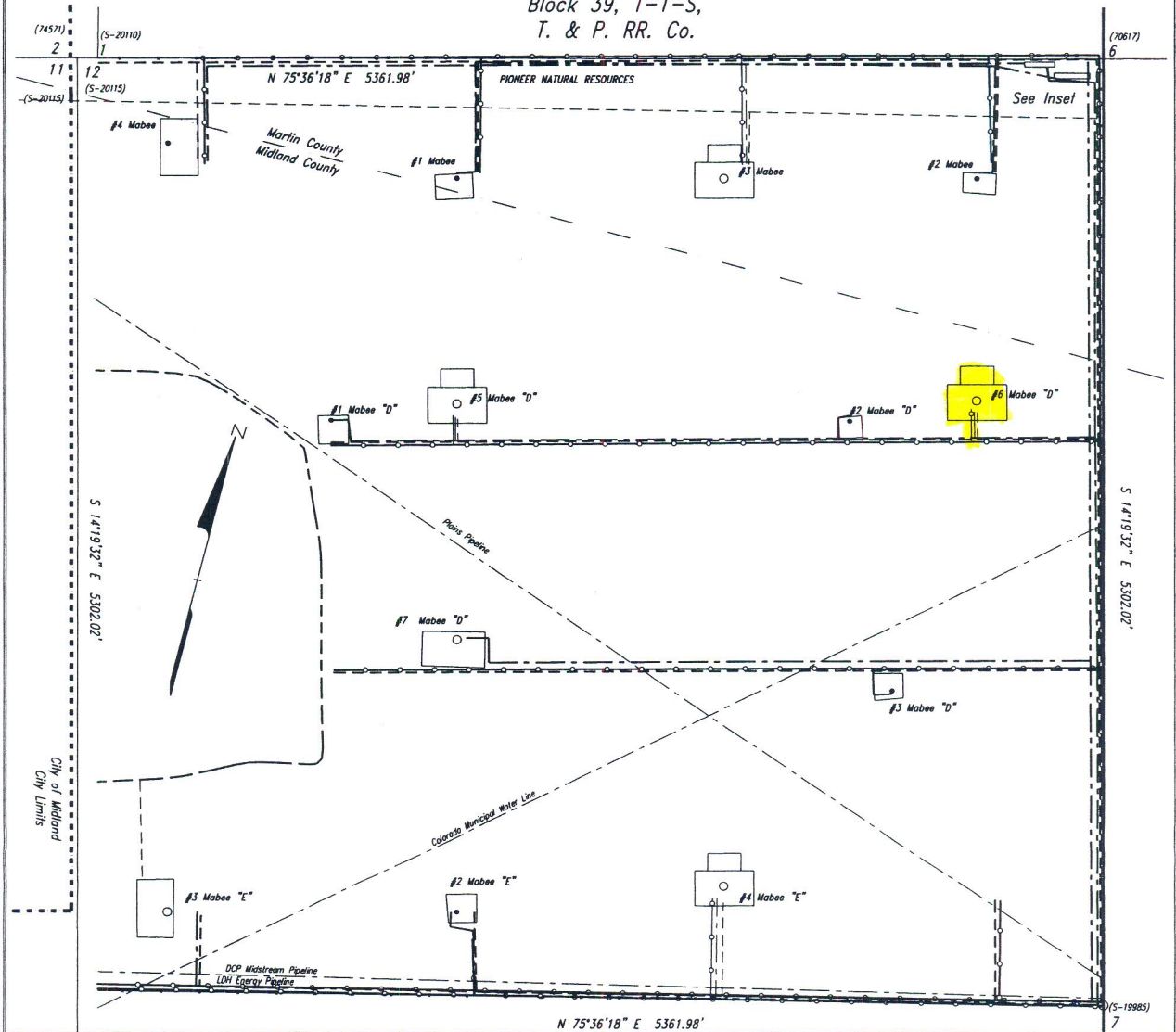

SURVEY SEC.

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, 1P1, 1P2, 1P3	INDUSTRIAL PARK
MF1, MF2	MULTIPLE FAMILY DWELLING	LI	LIGHT INDUSTRY
		HI	HEAVY INDUSTRY

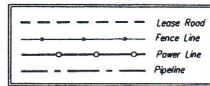
59.5

Block 39, T-1-S,
T. & P. RR. Co.

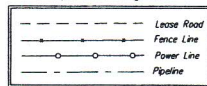


Block X HP Hilliard

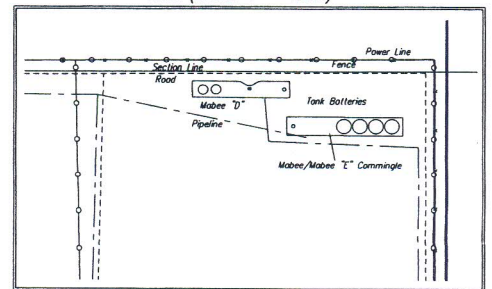
Existing Legend



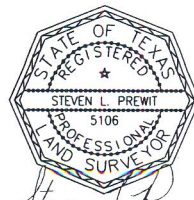
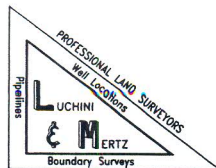
Proposed Legend



Inset (Scale: 1" = 200')



Note: Survey Reconstruction filed in the Office of Luchini and Mertz Land Surveying Company.
Note: All bearings and coordinates shown are based on the Texas Coordinate System of 1927, Central Zone.
A combined grid factor of 0.999922826 must be divided into Section Line distances to obtain a true horizontal distance.
Note: Example: (S-99999) indicates General Land Office file number.
Note: NAD '27 decimal degree Latitude/Longitude.



July 22, 2011
Mabee Section 12

Plat

PIONEER NATURAL RESOURCES USA, Inc.
Existing and Proposed Pad sites &
Proposed Lease Roads in
Section 12, Block 39, T-1-S,
T. & P. RR. Co.
Midland & Martin Counties, Texas

Scale: 1" = 600'



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: M-11-025; Robert Anderson

Purpose:

Hold a public hearing at approximately 11:33 a.m. and consider a resolution on a request by Robert Anderson for approval of a Temporary Land Use Permit for a Caliche Pit excavation on an approximate 10-acre portion of land out of a 128-acre tract located in northeast Midland. This land is located north of Arapahoe Drive and east of Elkins Road, all being approximately two miles north of Loop 250.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with this application.

Discussion:

Mr. Anderson began excavating a caliche pit on his property in order to use the materials to build a road extending east-west through the majority of his property. Mr. Anderson also intends to use the caliche for other construction jobs in other areas of the City. The underlying zoning for this property is AE, Agriculture Estate District. This district allows residential and associated auxiliary uses. The excavation of a quarry and removal of materials from the property is not a permitted use in the AE District but may be allowed under a Specific Use Permit. Since Mr. Anderson only needs the caliche pit operation for a short time staff recommends that Council approve the Temporary Land Use Permit for the maximum period of one year.

Attachments:
Application, Map.



City Council Agenda

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JNichols
City Manager's Office

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☒ Approve

☐ Deny

☐ Direction/Informational

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Attachments:
Application, Map.

CITY OF MIDLAND, TEXAS
Planning Division

TEMPORARY LAND USE PERMIT APPLICATION

Submission Requirements: Application shall be submitted to the Planning Division not less than eighteen (18) days prior to the City Council meeting at which action is desired.

Application is hereby made to the City Council for a Temporary Land Use Permit:

Name of Applicant: Anderson Construction Phone: 432 967-1535
E-mail: rob@andersonhomestx.com
Applicant's Address: 10716 Hwy 191 Midland Tx 79707
Property Owner: Anderson Construction Phone: 432 561-5880
E-mail: rob@andersonhomestx.com
Owner's Address: 10716 Hwy 191 Midland Tx 79705

Other required information:

1. Street address and legal description of property: 1997 CRC 2252
Plan Stanton Tx 79706
2. Zoning District: AE
3. Type of temporary use requested: Caliche Pit
4. Duration of temporary use: 12 months
If more than One (1) day and is located within any residential district or is located within 1000 feet of any residential district, then a public hearing is required.
5. Proposed days and hours: _____
6. Will alcoholic beverages be sold? _____ Yes X No
7. A detailed Site Plan is required (16 copies needed (FOLDED), plus digital - .jpg and .pdf). Show existing buildings, parking, access arrangements, surrounding streets, activity areas, areas of alcoholic beverage sales, proposed street closures, etc.
Site Plan received: _____ Yes _____ No

8. Are you requesting the temporary closure of any streets? _____ Yes X No

If yes, you must:

- A. Obtain and complete the "**Special Event and Street Closure Application**", available in the Transportation Division office (5th Floor, City Hall).
- B. Provide the City with a **general liability insurance certificate**, naming the **City** as an **Additional Insured**, in the amount of one million dollars (\$1,000,000) for the term of the closure.

9. Other information: Number of security guards provided: 0
Number of restrooms provided: 0
Type of music (carnival, live, etc.): 0
Showmobile requested _____ Days and hours 0

10. *N/A* A **\$500.00 Clean-up Deposit** and a **\$500.00 Damage Deposit** are required for all events. Checks need to be dated day of event. Inspection of site after the event for trash and damage is a City responsibility. The deposits, or a portion thereof, may be refunded following inspection.

Clean-up Deposit received: __ (Y) __ (N) **Clean-up Deposit refunded:** __ (Y) __ (%) __ (N)

Damage Deposit received: __ (Y) __ (N) **Damage Deposit refunded:** __ (Y) __ (%) __ (N)

11. A **\$200 Application Review fee** is required. **Fee received:** X Yes _____ No
\$25.00 for each additional event date.

Owner or Operator (if other than Applicant) responsible for ensuring that the conditions of this permit will be observed:

Robert Anderson 10716 Hwy 191 Midland Tx 79705 9325615880
Printed Name of Owner/Operator Address Zip Phone

Robert Anderson 11/29/11
Signature of Owner/Operator Date

Robert Anderson 11/29/11
Signature of Applicant Date

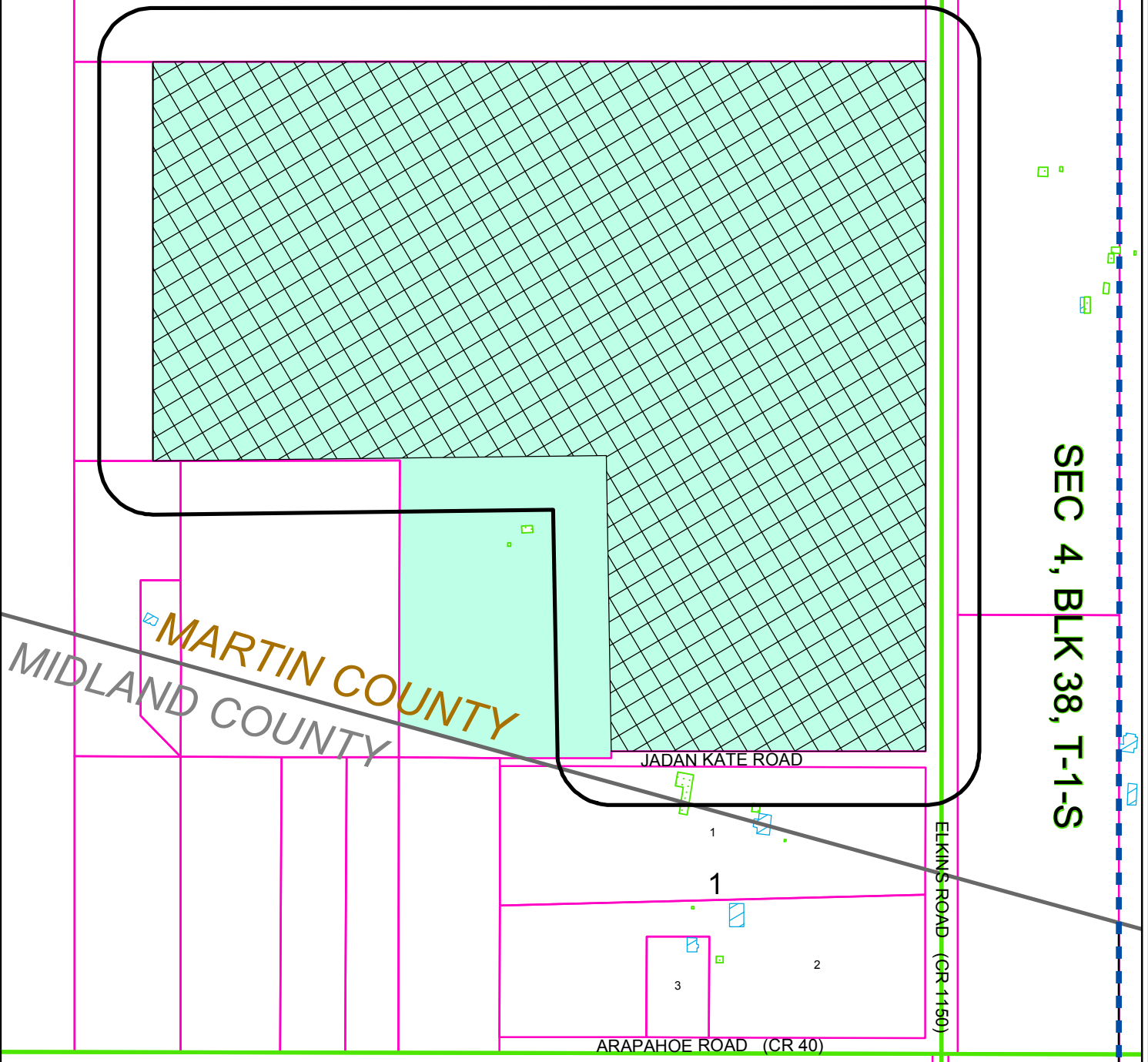
Signature of Property Owner, if other than Applicant Date

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

FOR OFFICE USE ONLY	
Received By: <u>CW</u>	Date: <u>11/29/11</u>
Assigned: _____	
For: <u>CC</u>	On: <u>12/13/11</u>

SEC 8, BLK 38, T-1-S

SEC 4, BLK 38, T-1-S



PROPERTY OWNER NOTIFICATION MAP

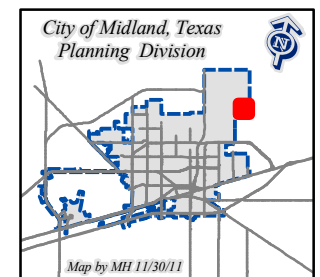
M - 11 - 025

Scale: 1" = 550'

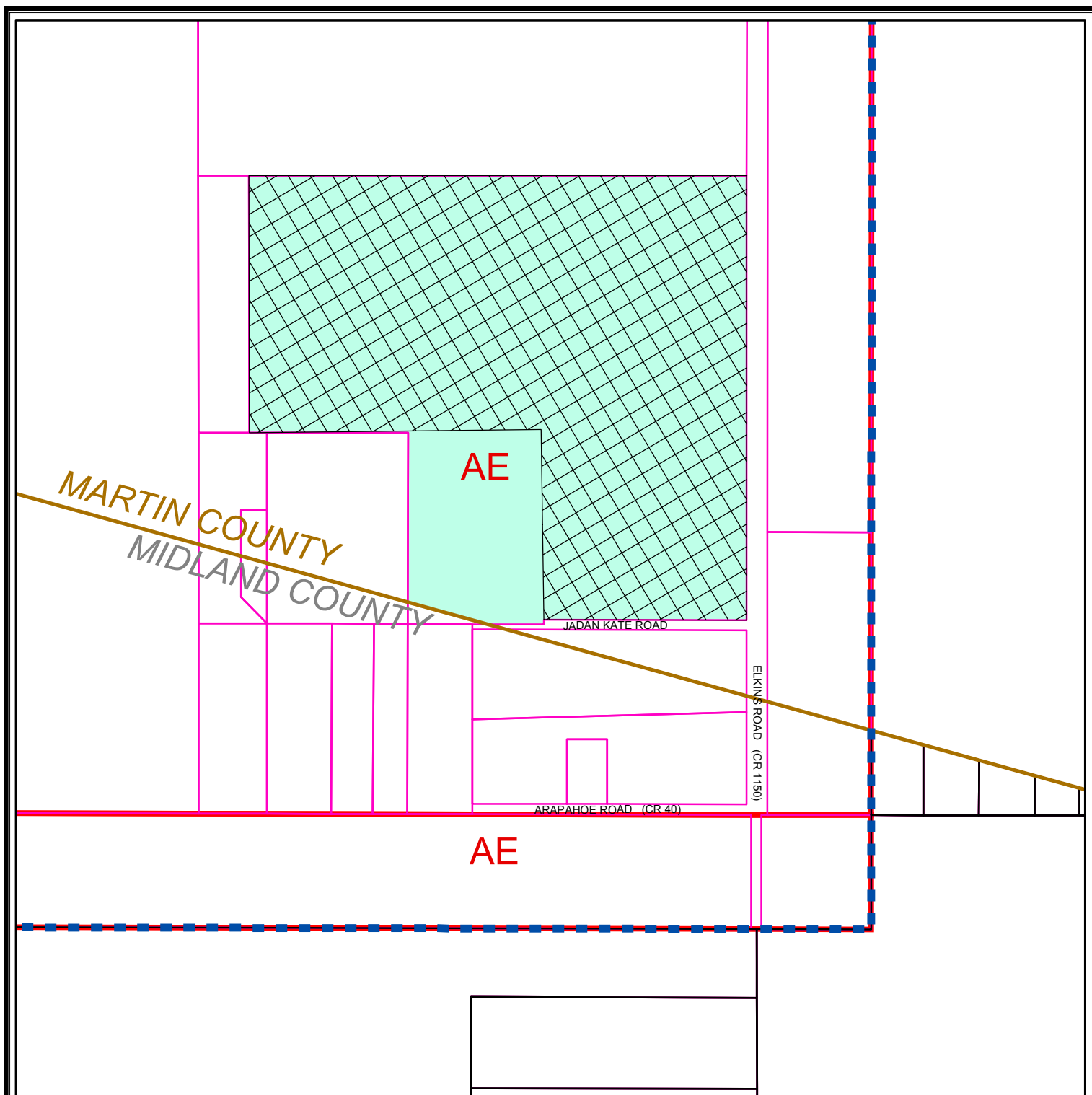
Consider a request for a Temporary Land Use Permit for a Caliche Pit on a 128.08-acre tract of land out of Section 8, Block 38, T-1-S, T & P RR Co. Survey, Martin County, Texas.

LEGEND

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



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ZONING MAP

M - 11 - 025

Scale: 1" = 800'

Consider a request for a Temporary Land Use Permit for a Caliche Pit on a 128.08-acre tract of land out of Section 8, Block 38, T-1-S, T & P RR Co. Survey, Martin County, Texas.

LEGEND

ZONING

CITY LIMITS

CITY PARCELS

COUNTY PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT
PD	PLANNED DISTRICT
AE	AGRICULTURE ESTATE
CE	COUNTRY ESTATE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING
MH	MOBILE HOME DWELLING
TH	TOWNHOUSE DWELLING
2F	TWO-FAMILY DWELLING
MF1, MF2	MULTIPLE FAMILY DWELLING

BP	BUSINESS PARK
P	PARKING
01, 02	OFFICE
NS	NEIGHBORHOOD SERVICE
LR1, LR2, LR3	LOCAL RETAIL
C1, C2, C3	COMMERCIAL
IP, IP1, IP2, IP3	INDUSTRIAL PARK
LI	LIGHT INDUSTRY
HI	HEAVY INDUSTRY

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RESOLUTION NO.

**RESOLUTION AUTHORIZING THE TEMPORARY USE
OF LAND FOR A CALICHE PIT ON A 128.08-ACRE
TRACT OF LAND OUT OF SECTION 8, BLOCK 38, T-1-
S, T&P RR CO. SURVEY, MARTIN COUNTY, TEXAS
(GENERALLY LOCATED ON THE WEST SIDE OF
ELKINS ROAD, APPROXIMATELY ONE-HALF MILE
NORTH OF ARAPAHOE ROAD); 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, Robert Anderson has applied for authorization to temporarily use land for a caliche pit on a 128.08-acre tract of land out of Section 8, Block 38, T-1-S, T&P RR Co. Survey, Martin County, 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 Robert Anderson is hereby authorized by the City Council to have a caliche pit on the following described land:

A 128.08-acre tract of land out of Section 8, Block 38, T-1-S, T&P RR Co. Survey, Martin County, 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 caliche pit shall be located at least 2,585 feet west of Elkins Road and generally situated in the northwest portion of said 128.08-acre tract, which is more specifically described by metes and bounds in Exhibit "A", which is attached hereto and incorporated herein.

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., 2011, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Steve Thorpe, Building Official

SUBJECT: Energy Code

Purpose:

To amend currently adopted Energy Code to meet Texas state law requirements.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no fiscal impact to the City associated with this amendment.

Discussion:

The City of Midland Energy Code is currently less stringent than the new Texas state law. The newly adopted 2009 Texas State Energy Code **does not exempt** additions, alterations or repairs from meeting the requirements of the 2009 International Energy Efficiency Code. The City of Midland Energy Code currently **exempts** such work done to existing residential and commercial structures.

Staff is proposing to amend section 101.2 of the City of Midland Energy Code 4-12-2, Ordinance 8819. The current language states:

"This code establishes minimum prescriptive and performance-related regulations for the design of energy efficient buildings and structures and portions thereof that provide facilities or shelter for public assembly, educational, business, mercantile, institutional, storage, and residential occupancies, as well as those portions of factory and industrial occupancies designed primarily for human occupancy. This code thereby addresses the design of energy efficient building envelopes and the selection and installation of energy efficient mechanical, service water heating, electrical distribution and illumination systems and equipment for the effective use of energy in these buildings and structures. The provisions of this code shall only apply to new residential and new commercial construction. The provisions of this code do not apply to additions, alterations or repairs made to existing residential and commercial structures."

To bring our code into compliance with Texas state law, Section 101.2 would be changed to read, "This code applies to residential and commercial buildings." This wording matches the 2009 International Energy Efficiency Code verbatim.

ORDINANCE NO.

AN ORDINANCE AMENDING TITLE IV, “BUILDING REGULATIONS”, CHAPTER 12, “ENERGY CODE”, SECTION 2, “CHANGES AND ADDITIONS TO ADOPTED ENERGY CODE”, OF THE CITY CODE OF THE CITY OF MIDLAND, TEXAS, SO AS TO REMOVE THE EXEMPTION FOR ADDITIONS, ALTERATIONS OR REPAIRS TO EXISTING RESIDENTIAL AND COMMERCIAL STRUCTURES; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM FINE OR PENALTY OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Council has adopted the 2009 International Energy Conservation Code as the Energy Code of the City of Midland; and

WHEREAS, the Council finds it to be in the public interest to amend the Energy Code so as to remove the exemption for additions, alterations or repairs to existing residential and commercial structures;

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

SECTION ONE. That Title IV, “Building Regulations”, Chapter 12, “Energy Code”, Section 2, “Changes and additions to adopted energy code”, of the City Code of the City of Midland, Texas, is hereby amended to hereafter read as follows:

4-12-2. Changes and additions to adopted energy code.

Notwithstanding any provisions of this Chapter or said adopted Energy Code to the contrary, the latter is adopted with certain changes, additions and deletions thereto so that the following sections and provisions thereof shall hereafter read as follows, to wit:

101.1 Title. This code shall be known as the International Energy Conservation Code of Midland, Texas, and shall be cited as such. It is referred to herein as “this code.”

101.2 Scope. This code applies to residential and commercial buildings.

109 Means of Appeal.

109.1 Application for appeal. A person shall have the right to appeal a decision of the Code Official to the Board of Appeal, per the International Building Code Section 113.

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 (\$2000.00).

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., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council

member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011
TO: CITY COUNCIL/CITY MANAGER
FROM: Cameron Walker, Planning Division Manager
SUBJECT: V-11-002, City of Midland ROW

Purpose:

Consider an ordinance on a City-initiated request to vacate a portion of E. Hamby Avenue and two alleys.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The Planning and Zoning Commission approved the preliminary plat of Glenn Frances Addition on October 3, 2011. This plat represents a partnership between the City, Habitat for Humanity and Midland Community Development Corporation to provide affordable housing along E Jax Avenue, Jackson Street and E Hamby Avenue. Part of this redevelopment plan would reorient four lots that currently front onto the south side of E Hamby Avenue, east of Jackson Street. This unpaved portion of E Hamby Avenue is a dead end at Sparks Park. The three new lots would face Jackson Street. While this eliminates one lot, it results in a substantial cost savings by eliminating the need to pave E Hamby Avenue. The replat will dedicate compensating alleys to serve the new lot orientation. As this is a City-initiated proposal, no compensation is required in exchange for the vacated right-of-way. Since Atmos Energy has a gas line in the alley south of the church, the replat will dedicate a utility easement.

Attachments:
Location Map
Proposed Ordinance



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

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Attachments:

Location Map
Proposed Ordinance

CITY OF MIDLAND
Transportation Division

APPLICATION TO VACATE RIGHT-OF-WAY

- I.** Application is hereby made to the City Council to vacate the following public right-of-way or easement:
Being approximately 0.6 acres of street and alley right of way, construction east Hamby Avenue east of North Jackson Street and west of Billy Sparks Park, along with certain connecting alleys.
- II.** Reason for Request: This vacation, initiated by the City of Midland facilitates the City of Midland's project to replat this area for residential redevelopment.
- 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:
All vacated right-of-way will be replaced by a new configuration with agreement with City Standards.

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: City of Midland

Address: P.O. Box 1152

Phone: (432) 685-7400

Street

Midland

City

Texas

State

79702

Zip Code

2. Metes and bounds description of property to be vacated including total square feet of vacation.
3. Map showing:
- Property to be vacated and its relationship to the applicant's property
 - Lot and block numbers of all adjacent tracts
 - Current zoning of all adjacent tracts
4. Letter(s) of Concurrence signed by adjacent property owner(s). (See attached)
5. Application Fee: **\$300.00**

Required items attached? Date Received: 1. ✓ 2. 3. 4. 5. N/A

The City of Midland will take no action on this request, until items 1-5 are received.

- V.** Clearance is needed from the following utility companies: City of Midland / Atmos Energy

Caprock Energy / Oncor Electric / AT&T / Suddenlink Cable TV Co. / Grande Communications

The City will route the request to these companies, but it is the applicant's responsibility to ensure clearance has been obtained and to work out any issues that may arise.

VI. Policies:

1. If the vacation request involves only a portion of a section right-of-way, such that approval would not affect the public's ability to travel along said right-of-way, then the request will be scheduled for consideration by the City Council. No public hearing will be needed.
2. If the vacation request involves an entire section of right-of-way, such that approval would cause the public to lose all rights to use it, then the following procedures apply:
 - a. Nearby land owners who have a reasonable expectation to use said right-of-way, as determined by the Transportation Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected landowners.
 - b. If all letters are received indicating that the affected landowners agree to the request, then a public hearing before the City Council will be scheduled. The Transportation Division will mail public notice of the hearing to landowners within 1,000 feet of the affected right-of-way.
 - c. If a request is approved, the right-of-way shall be divided into two equal parts, with each half becoming the property of the respective abutting owner. If the applicant desires to own the entire width, he or she must negotiate with the opposite landowner.

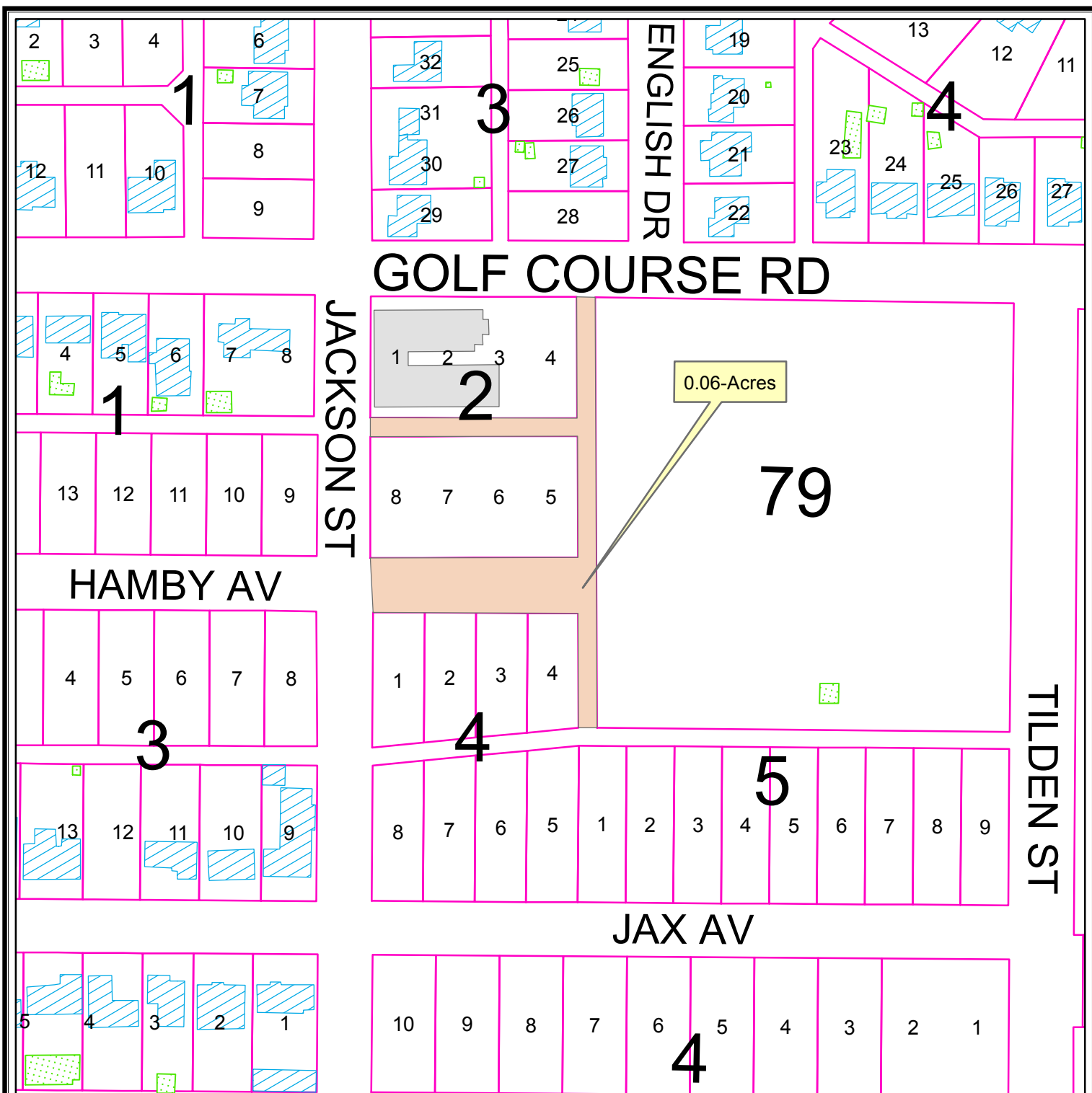
Signature of applicant: _____ Date: _____

****Application will not be considered for scheduling until all required items are reviewed by City Staff.****

To be completed by City of Midland staff:

According to the policy guidelines outlined above, a public hearing will ____ will not ____ be
required

FOR OFFICE USE ONLY	
Rec'd. By: _____	Date: <u>8-24-11</u>
Assigned: _____	
For: <u>CC</u>	On: _____



LOCATION MAP

V - 11 - 002

Scale: 1" = 150'

Consider a request for the vacation of a 0.06-acre tract vacating rights-of-way of streets and alleys in Block 79, East Midland and Blocks 2 and 4, Glenn Francis Addition City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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 THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA. WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, CRYING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.62-ACRE TRACT OF STREET AND ALLEY RIGHT-OF-WAY LOCATED IN BLOCK 79, EAST MIDLAND ADDITION, AND BLOCKS 2 AND 4, GLENN FRANCIS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF EAST GOLF COURSE ROAD AND NORTH JACKSON STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$2,718.80; WAIVING THE FEE FOR THE COST OF THE RIGHT-OF-WAY; RETAINING A GENERAL UTILITY AND DRAINAGE EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.62-acre tract of street and alley right-of-way located in Block 79, East Midland Addition, and Blocks 2 and 4, Glenn Francis Addition, City and County of Midland, Texas, is no longer needed for public use; and

WHEREAS, Section 272.001 of the Texas Local Government Code provides that a political subdivision may not convey, sell, or exchange its interest in land without observing notice and bid requirements, unless the conveyance is to one or more abutting property owners; and

WHEREAS, an application for vacating the right-of-way has been initiated by the City; and

WHEREAS, the City Manager has appraised the value of the City's property interest in the right-of-way at \$2,718.80, 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 waive the fee for the cost of the right-of-way in light of the abutting property owner's status as a nonprofit organization and the abutting property owner's dedication of right-of-way to the City in connection with the replat of this area; and

WHEREAS, the Council finds it to be in the public interest to abandon and vacate the right-of-way described herein, and to retain a general utility and drainage easement;

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

SECTION ONE. That the 0.62-acre tract of street and alley right-of-way located in Block 79, East Midland Addition, and Blocks 2 and 4, Glenn Francis Addition, City and County of Midland, Texas, as described in Exhibit "A" attached hereto and made a part hereof for all legal purposes, is hereby vacated and abandoned for all public purposes. Provided, however, that the City is hereby only abandoning the public interest in said property and this ordinance in no way affects any private easement or access easement which abutting property owners may have in said right-of-way.

SECTION TWO. That the fee for the cost of the right-of-way vacated and abandoned herein to the adjoining property owner is hereby waived.

SECTION THREE. That the City herein retains a general utility and drainage easement along, on, under, above and across said right-of-way.

SECTION FOUR. That the City Secretary is hereby authorized and directed to file a certified copy of this Ordinance with the County Clerk of Midland County, Texas, for purposes of recording in the Official Records of Midland County, Texas.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ____ day of _____, A.D., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the ____ day of _____, A.D., 2012, at a regular

meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



Office of
City Manager

300 N. Loraine
P.O. Box 1152
Midland, TX 79702-1152

432.685.7203
Fax 432.686.1600

December 1, 2011

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.62-acre tract of street and alley right-of-way located in Block 79, East Midland Addition, and Blocks 2 and 4, Glenn Francis Addition, City and County of Midland, Texas

Dear Members of the City Council:

The above-referenced property has been appraised in accordance with Chapter 272 of the Texas Local Government Code. The fair market value of the property is \$2,718.80.

Very truly yours,

Courtney Sharp
City Manager

Exhibit "B"



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: V-11-001; Andrew Mellen/Homestead

Purpose:

Consider an ordinance on a request by Andrew Mellen for the vacation of the 0.10-acre north/south alley and a 0.02-acre portion of the right-of-way of N. Marienfeld Street adjacent to the east half of Block 31A, Homestead Addition, City and County of Midland, Texas.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with this application.

Discussion:

Andrew Mellen of the West Company is representing David Long, the owner of the entire city block located at the northwest corner of Louisiana Avenue and Marienfeld Street. They are requesting the vacation of the above described right-of-way to allow for the future development of this block for an office building. This city block is presently comprised of several lots which Mr. Long is platting into one lot. The property has been used as a parking lot.

The area to be vacated is approximately 5,225 square feet and is valued at \$1.00 per square foot which establishes its value at \$5,225. However, the applicant is planning to dedicate an easement for utility provision; therefore the value of the land should be decreased by 50% and payment to the City in the amount of \$2,612.50 must be received prior to second reading.

Attachments:
Application, Map

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.025-ACRE PORTION OF MARIENFELD STREET RIGHT-OF-WAY ADJACENT TO THE EAST HALF OF BLOCK 31A, AND A 0.099-ACRE NORTH/SOUTH ALLEY ADJACENT TO LOTS 1-8, BLOCK 31A, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF LOUISIANA AVENUE AND MARIENFELD STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$2,612.50; RETAINING A GENERAL UTILITY AND DRAINAGE EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.025-acre portion of Marienfeld Street right-of-way adjacent to the east half of Block 31A, and a 0.099-acre north/south alley adjacent to Lots 1-8, Block 31A, Homestead Addition, 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 \$2,612.50 , as shown in Exhibit "C" 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, and to retain a general utility and drainage easement;

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

SECTION ONE. That the 0.025-acre portion of Marienfeld Street right-of-way

adjacent to the east half of Block 31A, and the 0.099-acre north/south alley adjacent to Lots 1-8, Block 31A, Homestead Addition, City and County of Midland, Texas, as described in Exhibits “A” and “B” 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 \$2,612.50.

SECTION THREE. That the City herein retains a general utility and drainage easement along, on, under, above and across said right-of-way.

SECTION FOUR. That upon the City’s receipt of the sum set forth in Section Two hereof, the City Secretary is hereby authorized and directed to file a certified copy of this Ordinance with the County Clerk of Midland County, Texas, for purposes of recording in the Official Records of Midland County, Texas.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



Office of
City Manager

300 N. Loraine
P.O. Box 1152
Midland, TX 79702-1152

432.685.7203
Fax 432.686.1600

December 5, 2011

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.025-acre portion of Marienfeld Street right-of-way adjacent to the east half of Block 31A, and a 0.099-acre north/south alley adjacent to Lots 1-8, Block 31A, Homestead Addition, City and County of Midland, Texas

Dear Members of the City Council:

The above-referenced property has been appraised in accordance with Chapter 272 of the Texas Local Government Code. The fair market value of the property is \$2,612.50. 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,

Courtney Sharp
City Manager

Exhibit "C"



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: V-11-001; Andrew Mellen/Homestead

Purpose:

Consider an ordinance on a request by Andrew Mellen for the vacation of the 0.10-acre north/south alley and a 0.02-acre portion of the right-of-way of N. Marienfeld Street adjacent to the east half of Block 31A, Homestead Addition, City and County of Midland, Texas.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with this application.

Discussion:

Andrew Mellen of the West Company is representing David Long, the owner of the entire city block located at the northwest corner of Louisiana Avenue and Marienfeld Street. They are requesting the vacation of the above described right-of-way to allow for the future development of this block for an office building. This city block is presently comprised of several lots which Mr. Long is platting into one lot. The property has been used as a parking lot.

The area to be vacated is approximately 5,225 square feet and is valued at \$1.00 per square foot which establishes its value at \$5,225. However, the applicant is planning to dedicate an easement for utility provision; therefore the value of the land should be decreased by 50% and payment to the City in the amount of \$2,612.50 must be received prior to second reading.

Attachments:
Application, Map

9/1/11

Case Number: V-11-001

CITY OF MIDLAND
Transportation Division

APPLICATION TO VACATE RIGHT-OF-WAY

- I. Application is hereby made to the City Council to vacate the following public right-of-way or easement:
Vacate S' of the 80' R.O.W. along Marienfeld St.
Between Kansas Ave. + Louisiana Ave.
Vacate Existing 20' Alley to a 20' Utility Easement.
- II. Reason for Request: To Increase Property Size
- 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:
This will leave the R.O.W. with 75' which is still
5' more than current standards.

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: Andrew L. Mellen

Address: 110. W. Louisiana Ave

Phone: 432-687-0865

Street

Midland

City

TX

State

79701

Zip Code

2. Metes and bounds description of property to be vacated including total square feet of vacation.
3. Map showing:
- Property to be vacated and its relationship to the applicant's property
 - Lot and block numbers of all adjacent tracts
 - Current zoning of all adjacent tracts
4. Letter(s) of Concurrence signed by adjacent property owner(s). (See attached)
5. Application Fee: **\$300.00** ✓

Required items attached? Date Received: 1. _____ 2. _____ 3. _____ 4. _____ 5. _____

The City of Midland will take no action on this request, until items 1-5 are received.

- V. Clearance is needed from the following utility companies: City of Midland / Atmos Energy

Caprock Energy / Oncor Electric / AT&T / Suddenlink Cable TV Co. / Grande Communications

The City will route the request to these companies, but it is the applicant's responsibility to ensure clearance has been obtained and to work out any issues that may arise.

VI. Policies:

1. If the vacation request involves only a portion of a section right-of-way, such that approval would not affect the public's ability to travel along said right-of-way, then the request will be scheduled for consideration by the City Council. No public hearing will be needed.
2. If the vacation request involves an entire section of right-of-way, such that approval would cause the public to lose all rights to use it, then the following procedures apply:
 - a. Nearby land owners who have a reasonable expectation to use said right-of-way, as determined by the Transportation Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected landowners.
 - b. If all letters are received indicating that the affected landowners agree to the request, then a public hearing before the City Council will be scheduled. The Transportation Division will mail public notice of the hearing to landowners within 1,000 feet of the affected right-of-way.
 - c. If a request is approved, the right-of-way shall be divided into two equal parts, with each half becoming the property of the respective abutting owner. If the applicant desires to own the entire width, he or she must negotiate with the opposite landowner.

Signature of applicant: _____

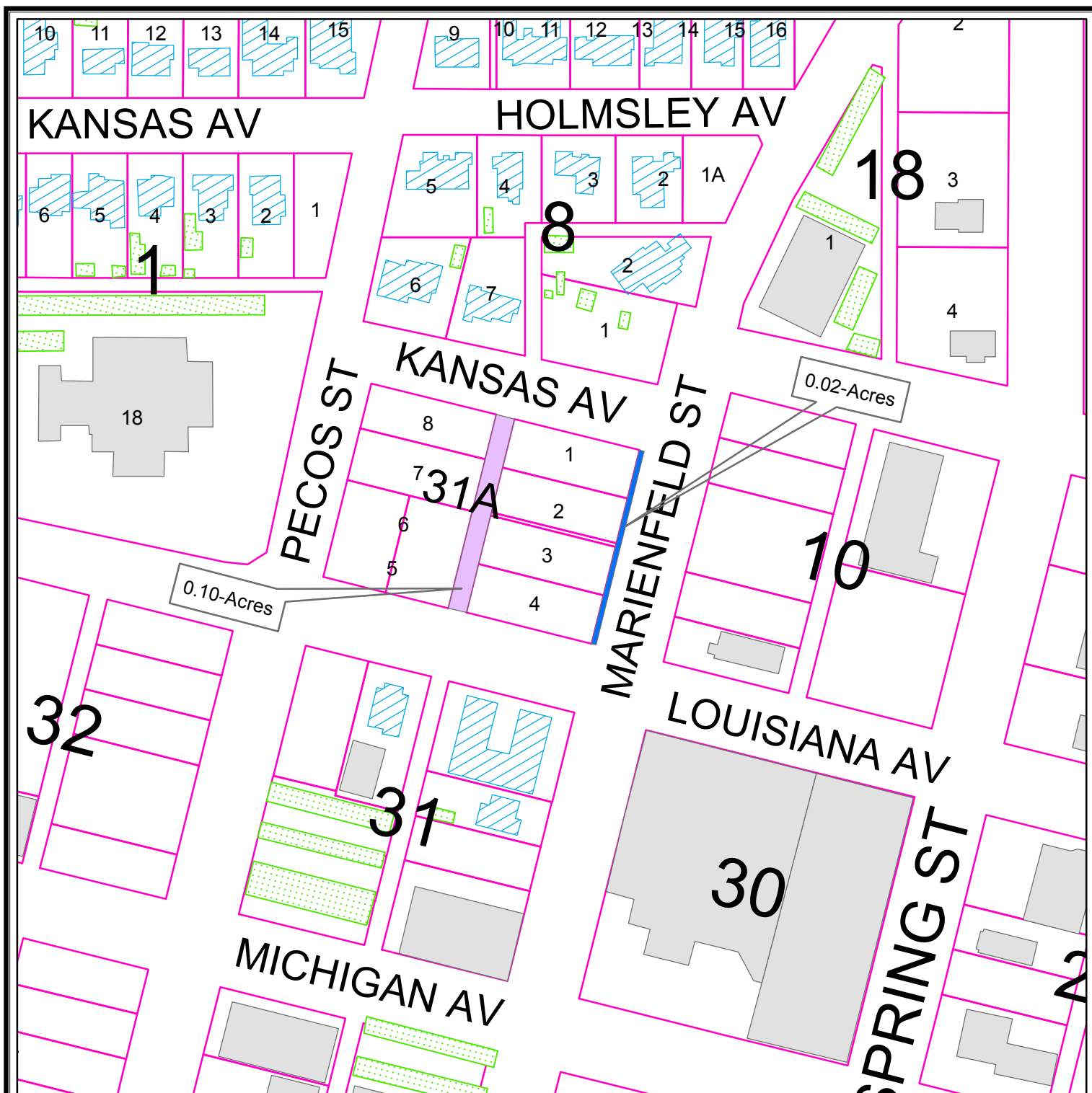
Andrew L. Mellen

Date: _____

9/1/11

****Application will not be considered for scheduling until all required items are reviewed by City Staff.****

FOR OFFICE USE ONLY	
Rec'd. By: <u>Bm</u>	Date: <u>9/1/11</u>
Assigned: <u>Bm</u>	
For: <u>qj</u> <u>CC</u>	On: _____



LOCATION MAP

V - 11 - 001

Scale: 1" = 150'

Consider a request for the vacation of the 0.10-acre north/south alley and of a 0.02-acre portion of the right-of-way of N. Marienfeld Street adjacent to the east half of Block 31A, Homestead Addition, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS

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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: V-11-003; Andrew Mellen/Montgomery

Purpose:

Consider an ordinance on a request by Andrew Mellen for the vacation of a 0.55-acre portion of the right-of-way of Stonewall Street, a 0.17-acre portion of the right-of-way of Garden Lane, and a 0.14-acre portion of north/south alley right-of-way all adjacent to Block A, Montgomery Addition, 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:

Andrew Mellen of the West Company is representing Edward Grube, owner of the entire city block located at the southeast corner of Garden Lane and Fairgrounds Road. They are requesting the vacation of the above described right-of-way to allow for the future development of this entire city block for a contractors shop and storage yard. These rights-of-way to be vacated are not improved. Mr. Mellen has determined that no franchised utility facilities are present.

The property to be vacated totals 37,400 square feet; it is valued at \$0.10 per square foot which establishes its total value at \$3,740. A payment in this amount to the City must be received prior to second reading of this ordinance.

Attachments:
Application, Map

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.55-ACRE PORTION OF STONEWALL STREET RIGHT-OF-WAY, A 0.16-ACRE PORTION OF GARDEN LANE RIGHT-OF-WAY, AND A 0.14-ACRE PORTION OF THE NORTH/SOUTH ALLEY RIGHT-OF-WAY, ALL ADJACENT TO BLOCK "A", MONTGOMERY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF GARDEN LANE AND FAIRGROUNDS ROAD); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$3,740.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.55-acre portion of Stonewall Street right-of-way, a 0.16-acre portion of Garden Lane right-of-way, and a 0.14-acre portion of the north/south alley right-of-way, all adjacent to Block "A", Montgomery Addition, 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 \$3,740.00 , as shown in Exhibit "A" 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 0.55-acre portion of Stonewall Street right-of-way, the

0.16-acre portion of Garden Lane right-of-way, and the 0.14-acre portion of the north/south alley right-of-way, all adjacent to Block "A", Montgomery Addition, City and County of Midland, Texas, as described in Exhibits "B", "C" and "D" 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 \$3,740.00.

SECTION THREE. That upon the City's receipt of the sum set forth in Section Two hereof, the City Secretary is hereby authorized and directed to file a certified copy of this Ordinance with the County Clerk of Midland County, Texas, for purposes of recording in the Official Records of Midland County, Texas.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting “NAY”:

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



Office of
City Manager

300 N. Loraine
P.O. Box 1152
Midland, TX 79702-1152

432.685.7203
Fax 432.686.1600

December 5, 2011

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.55-acre portion of Stonewall Street right-of-way, a 0.16-acre portion of Garden Lane right-of-way, and a 0.14-acre portion of the north/south alley right-of-way, all adjacent to Block "A", Montgomery Addition, City and County of Midland, Texas

Dear Members of the City Council:

The above-referenced property has been appraised in accordance with Chapter 272 of the Texas Local Government Code. The fair market value of the property is \$3,740.00. The property can be vacated and recorded in the Midland County Clerk's office when the City of Midland has received this amount from the adjoining property owner(s).

Very truly yours,

Courtney Sharp
City Manager

Exhibit "A"



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: V-11-003; Andrew Mellen/Montgomery

Purpose:

Consider an ordinance on a request by Andrew Mellen for the vacation of a 0.55-acre portion of the right-of-way of Stonewall Street, a 0.17-acre portion of the right-of-way of Garden Lane, and a 0.14-acre portion of north/south alley right-of-way all adjacent to Block A, Montgomery Addition, 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:

Andrew Mellen of the West Company is representing Edward Grube, owner of the entire city block located at the southeast corner of Garden Lane and Fairgrounds Road. They are requesting the vacation of the above described right-of-way to allow for the future development of this entire city block for a contractors shop and storage yard. These rights-of-way to be vacated are not improved. Mr. Mellen has determined that no franchised utility facilities are present.

The property to be vacated totals 37,400 square feet; it is valued at \$0.10 per square foot which establishes its total value at \$3,740. A payment in this amount to the City must be received prior to second reading of this ordinance.

Attachments:
Application, Map

CITY OF MIDLAND
Transportation Division

APPLICATION TO VACATE RIGHT-OF-WAY

I. Application is hereby made to the City Council to vacate the following public right-of-way or easement:

Vacate 80' x 300' of Stonewall St.

Vacate 20' x 330' of Garden Lane

Vacate 20' x 300' of Alleyway

II. Reason for Request: To acquire More land

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:

Stonewall is not a through St. This will help Traffic Routing & less Maintenance on Crb
Garden will have 60' R.O.W. and will align Better w/ Community Gardens

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: Andrew L. Mellen

Address: 110. W. Louisiana Ave

Phone: 432-687-0865

Street
Midland
 City

TX
 State

79701
 Zip Code

2. Metes and bounds description of property to be vacated including total square feet of vacation.

See Attachments Stonewall St. = 12,000 ft² Alley = 6000 ft²
Garden Lane = 6,600 ft²

3. Map showing:

- ✓• Property to be vacated and its relationship to the applicant's property
- ✓• Lot and block numbers of all adjacent tracts
- ✓• Current zoning of all adjacent tracts

4. Letter(s) of Concurrence signed by adjacent property owner(s). (See attached)

5. Application Fee: **\$300.00**

Required items attached? Date Received: 1. ____ 2. ____ 3. ____ 4. ____ 5. ____

The City of Midland will take no action on this request, until items 1-5 are received.

V. Clearance is needed from the following utility companies: City of Midland / Atmos Energy

Caprock Energy / Oncor Electric / AT&T / Suddenlink Cable TV Co. / Grande Communications

The City will route the request to these companies, but it is the applicant's responsibility to ensure clearance has been obtained and to work out any issues that may arise.

VI. Policies:

1. If the vacation request involves only a portion of a section right-of-way, such that approval would not affect the public's ability to travel along said right-of-way, then the request will be scheduled for consideration by the City Council. No public hearing will be needed.
2. If the vacation request involves an entire section of right-of-way, such that approval would cause the public to lose all rights to use it, then the following procedures apply:
 - a. Nearby land owners who have a reasonable expectation to use said right-of-way, as determined by the Transportation Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected landowners.
 - b. If all letters are received indicating that the affected landowners agree to the request, then a public hearing before the City Council will be scheduled. The Transportation Division will mail public notice of the hearing to landowners within 1,000 feet of the affected right-of-way.
 - c. If a request is approved, the right-of-way shall be divided into two equal parts, with each half becoming the property of the respective abutting owner. If the applicant desires to own the entire width, he or she must negotiate with the opposite landowner.

Signature of applicant:

Andrew D. Melby

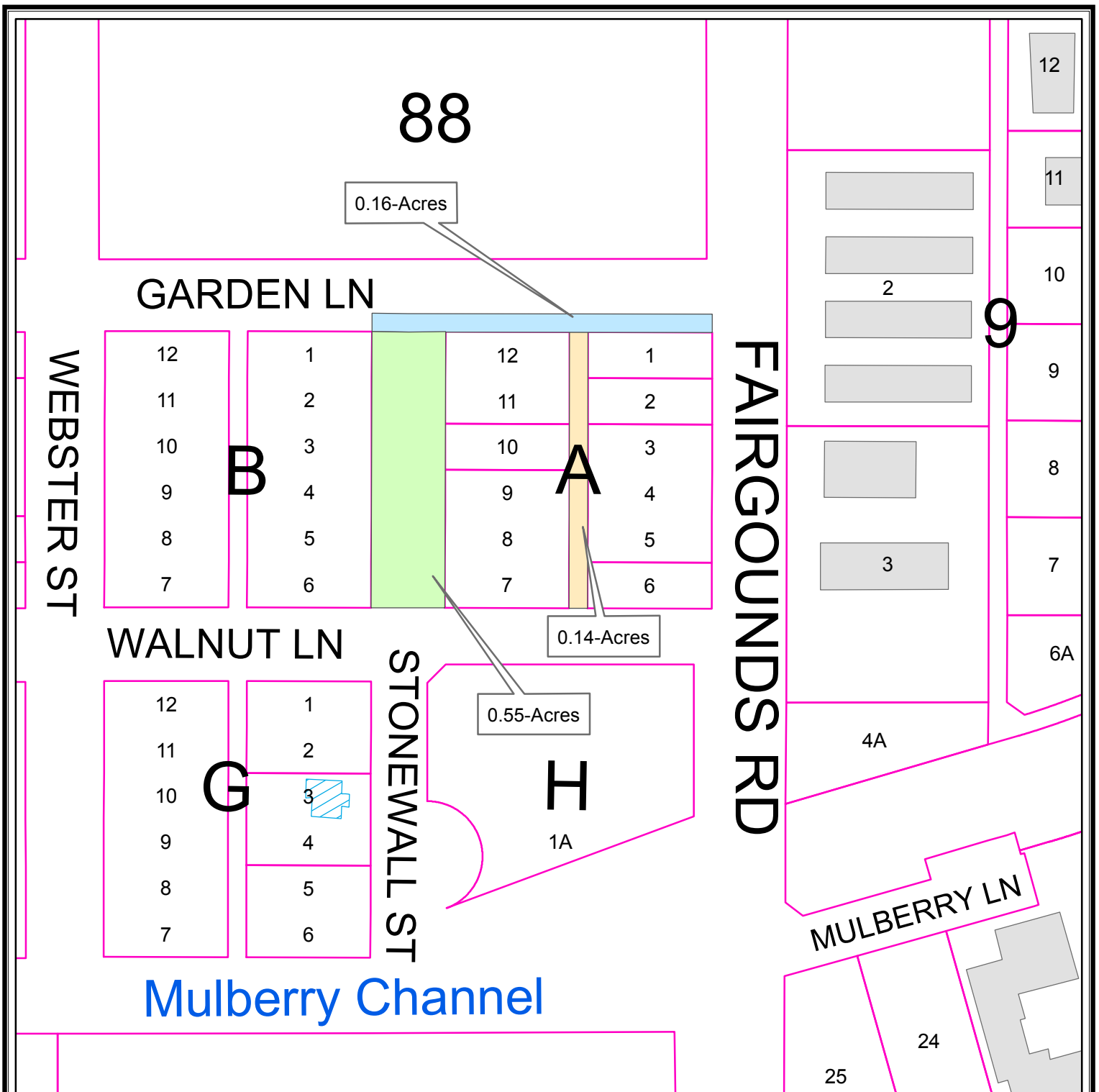
Date:

9/14/11

****Application will not be considered for scheduling until all required items are reviewed by City Staff.****

To be completed by City of Midland staff:

FOR OFFICE USE ONLY	
Rec'd. By: <i>BM</i>	Date: <i>9/16/11</i>
Assigned: <i>BM</i>	
For: <i>CC</i>	On: <i>12/13/11</i>



LOCATION MAP

V - 11 - 003

Scale: 1" = 150'

Consider a request for the vacation of a 0.55-acre portion of the right-of-way of Stonewall Street, of a 0.16-acre portion of the right-of-way of Garden Lane and of the 0.14-acre north/south alley right-of-way all adjacent to Block A, Montgomery Addition, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC. IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, CIZING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Agriculture exemption for land included in annexation area

Purpose:

Consider an amended annexation ordinance to indicate that a portion of the land proposed for annexation on the west side of FM 1788 and on the north side of SH 191 will remain in the city's extraterritorial jurisdiction due to the owners requesting an agricultural use exemption agreement with the City.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with this amendment.

Discussion:

State annexation laws require a municipality to offer an agreement to a land owner who has an agricultural exemption status under the state's tax code. The agreement prevents the City from annexing the land but also ensures that development cannot occur until such time as the land is annexed. The land subject to the agreement is an approximate 315-acre tract. Staff has received this exemption request from the subject property owner and is recommending Council's approval of the ordinance.

Attachments:
Map, ordinance.

ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE NO. 8925 OF THE CITY OF MIDLAND BY ATTACHING AN AGREEMENT EXECUTED BY THE CITY MANAGER OF THE CITY OF MIDLAND AND OWNERS OF APPROXIMATELY 309 ACRES OUT OF SECTION 37, BLOCK 41, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, PURSUANT TO SECTION 43.035 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING THAT THE PROPERTY SUBJECT TO SUCH AGREEMENT SHALL REMAIN IN THE CITY'S EXTRATERRITORIAL JURISDICTION; PROVIDING THAT, EXCEPT AS AMENDED, ORDINANCE NO. 8925 SHALL REMAIN IN FULL FORCE AND EFFECT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ORDERING PUBLICATION; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO FILE A COPY OF THIS ORDINANCE IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND THE CITY MANAGER IS HEREBY AUTHORIZED AND DIRECTED TO EXECUTE THE AGREEMENT

WHEREAS, on August 23, 2011, the City Council of the City of Midland, Texas, adopted Ordinance No. 8925, annexing a 465.07-acre tract of land out of Sections 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas, as more fully described in Exhibit "A" to such ordinance (the "Property"); and

WHEREAS, the owners of approximately 309 acres of the Property have entered into an agreement with the City of Midland pursuant to Section 43.035 of the Texas Local Government Code, in accordance with Resolution No. 2011-190 approved by the City Council (the "Section 43.035 Agreement"); and

WHEREAS, the City Council wishes to amend Ordinance No. 8925 to attach the Section 43.035 Agreement and, to reflect that the approximately 309 acres of the Property described in the Section 43.035 Agreement shall remain in the City's extraterritorial jurisdiction subject to the terms of such agreement;

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

SECTION ONE. That Section Three of Ordinance No. 8925 is amended to read as

follows:

That properties described in the development agreement entered into with the City of Midland pursuant to Chapter 43 of the Texas Local Government Code attached hereto as Exhibit “C” shall continue to have extraterritorial status.

SECTION TWO. That except as amended herein, Ordinance No. 8925 shall remain in full force and effect.

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. That this entire 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.

SECTION SIX. That the City Secretary is hereby authorized and directed to file a copy of this ordinance in the deed 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., 2011; and passed to second reading on motion of Council member , seconded by Council member , by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

STATE OF TEXAS)
)
COUNTY OF MIDLAND)

**DEVELOPMENT AGREEMENT
TEXAS LOCAL GOVERNMENT CODE, SECTION 43.035**

THIS AGREEMENT (the "Agreement") by and among the City of Midland, Texas, a home rule municipal corporation of the State of Texas located in Midland County, Texas (the "City") and Blaine Covington, Cameron Covington, Andrew Pennington, Ed Covington, and 2007 LANDRUM-TX, LTD, a Texas limited partnership (collectively, "Owner"), is effective August 23, 2011 (the "Effective Date").

WHEREAS, Owner is the sole owner of approximately 309 acres of land located within Section 37, Block 41, T-1-S, T & P RR Co. Survey, Midland County, Texas, described by metes and bounds and depicted in Exhibit A ("the Property"); and

WHEREAS, the Property is located within the City's extraterritorial jurisdiction; and

WHEREAS, the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, or as timber land under Subchapter E, Chapter 23, Texas Tax Code; and

WHEREAS, Texas Local Government Code, Section 43.035, provides that a municipality may not annex property appraised for agricultural, wildlife management, or timber unless it first offers to make a development agreement with the landowner pursuant to such section; and

WHEREAS, the City has notified Owner of its intent to annex the Property and has offered to enter into this Agreement guaranteeing the continued extraterritorial status of the Property upon the terms and conditions hereinafter provided; and

WHEREAS, Owner desires to enter into this Agreement to secure the continued extraterritorial status of the Property, subject to the terms of this Agreement; and

WHEREAS, this Agreement is entered into pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code; and

WHEREAS, the City and Owner acknowledge that this Agreement is binding on the City and Owner and their respective successors and assigns.

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

Section 1. Subject to Section 2 of this Agreement, the City guarantees the continuation of the extraterritorial jurisdiction status of the Property, the Property's immunity from annexation by the City, and the Property's immunity from City property taxes, for the term of this Agreement and all extensions thereof. Except as provided in this Agreement, the City agrees (a) not to annex the Property except upon submittal by Owner of a petition requesting annexation; (b) not to institute proceedings to annex the Property except upon submittal by Owner of a petition requesting annexation; and (c) not to include the Property in a statutory annexation plan pursuant to Section 43.052, Texas Local Government Code, for the term of the Agreement and all extensions thereof. Notwithstanding anything herein to the contrary, if the Property is annexed pursuant to the terms of this Agreement, then the City shall provide services to the Property pursuant to Chapter 43, Texas Local Government Code.

Section 2. The provisions of Section 1 restricting or limiting annexation of the Property are void with respect to any portion of the Property for which Owner files any type of subdivision plat or related development document with a governmental entity that has jurisdiction over such property. In such event, the City may annex the portion of the Property for which the subdivision plat or related development document was filed, and such annexation shall be deemed to be with the consent of Owner.

Section 3. Pursuant to Section 43.035(b)(1)(B) of the Texas Local Government Code, the City is authorized to enforce all of the City's regulations and planning authority that do not interfere with the use of the Property for agriculture, wildlife management or timber, in the same manner the regulations are enforced within the City's boundaries. The City specifically reserves its authority to exercise eminent domain over the Property pursuant to Chapter 251 of the Texas Local Government Code.

Section 4. This Agreement shall terminate seven years after the Effective Date or upon annexation of the Property in conformance with this Agreement, whichever comes first.

Section 5. This Agreement shall not be deemed a permit for the purposes of Texas Local Government Code, Chapter 245.

Section 6. This Agreement may not be modified or amended without the written consent of each party hereto.

Section 7. Prior to selling or conveying any portion of the Property, Owner shall give written notice of this Agreement to the prospective purchaser or grantee. Owner shall give written notice to the City of the sale or conveyance within 30 days after such sale or conveyance. Furthermore, Owner shall give the City written notice of any change in the agricultural exemption status of the Property within 14 days after Owner's receipt of written notice of the Property's change in agricultural status from the Midland County Chief Appraiser. All notices required by this section shall be forwarded to the City at the following address:

City of Midland
Attn: City Manager
300 N. Loraine
P.O. Box 1152
Midland, Texas 79702

Section 8. This Agreement shall run with the Property and shall be recorded in the real property records of Midland County, Texas.

Section 9. If a court of competent jurisdiction determines that any covenant of this Agreement is void or unenforceable, including the covenants regarding involuntary annexation, then the remainder of this Agreement shall remain in full force and effect.

Section 10. This Agreement may be enforced by any Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement hereafter.

Section 11. Venue for this Agreement shall be in Midland County, Texas. Midland County, Texas, shall be the exclusive venue for all actions to enforce or construe this Agreement. This Agreement shall be governed by the laws of the State of Texas.

Section 12. This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and the same instrument.

Section 13. This Agreement supersedes any previous agreement executed by any Owner and the City pursuant to Section 43.035, Texas Local Government Code.

CITY OF MIDLAND

Courtney Sharp, City Manager

Approved as to Form

Keith Stretcher, City Attorney

ATTEST

Amy Turner, City Secretary

State of Texas §
County of Midland §

This instrument was acknowledged before me on the ____ day of _____, 2011, by Courtney Sharp, City Manager of the City of Midland, on behalf of such municipality.

Notary Public

OWNER

Blaine Covington

State of Texas §
County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 2011, by
Blaine Covington.

Notary Public

Cameron Covington

State of Texas §
County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 2011, by
Cameron Covington.

Notary Public

Andrew Pennington

State of Texas §
County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 2011, by
Andrew Pennington.

Notary Public

Ed Covington

State of Texas §
County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 2011, by Ed Covington.

Notary Public

2007 LANDRUM-TX, LTD,
a Texas limited partnership

By: Bledsco, Inc.,
its general partner

By: _____

Name: _____

Title: _____

State of Texas §
County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 2011, by
_____, _____ of Bledsco, Inc., general partner of 2007
LANDRUM-TX, LTD., on behalf of such limited partnership.

Notary Public

After Recording Return to:
City Secretary
City of Midland
P.O. Box 1152
300 N. Loraine
Midland, Texas 79702

EXHIBIT A
Legal Description of Property

BEING a 308.72 acre tract of land out of a 90 acre tract of land to 2007 Landrum-TX, Ltd., as shown on County Clerk's File Number 2010-22717, Official Public Records of Midland County, Texas, and a 68.2 acre tract to 2007 Landrum-TX, Ltd., as shown on County Clerk's File Number 2011-3453, Official Public Records, Midland County, Texas, and on County Clerk's File Number 2011-12034, Official Public Records, Midland County, Texas according to the Warranty Deed to Texas Pacific Land Trust filed of record in Volume 234, Page 474, Deed Records of Midland County, Texas, situated in Section 37 and Section 48, Block 41, T-1-S, T. & P. RR Company Survey, Midland County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at (Northing (Y) 10,686,813.9, Easting (X): 1,700,984.0) a 1/2-inch iron rod with red plastic cap marked "West Co. Midland" set for the Northeast corner of this tract in the North Line of Section 37, Block 41, T-1-S, Midland County, Texas and being in the Westerly right-of-way line of F.M. 1788, a variable right-of-way, from which a spike nail found at or near the Northeast corner of said Section 37 bears N 74°59'25" E a distance of 200.40 feet;

THENCE S 14°08'32" E with the Westerly right-of-way line of said F.M. 1788 a distance of 60.00 feet to (Northing (Y) 10,686,755.7, Easting (X): 1,700,998.7) a Concrete right-of-way marker found for the most easterly Southeast corner of this tract and the Northeast corner of a tract to Calvary Chapel of Midland-Odessa as shown on the document filed of record in Vol. 2412, Pg. 518, Official Public Records of Midland County, Texas;

THENCE S 74°59'25" W with the Northerly line of said Calvary Chapel tract a distance of 917.94 feet to (Northing (Y) 10,686,518.0, Easting (X): 1,700,112.1) a 1/2-inch Iron Rod found for an interior corner of this tract and the Northwest corner of said Calvary Chapel tract:

THENCE S 14°01'01" E with the West line of said Calvary Chapel tract and the West line of a tract to Steve Holifield as shown on the document filed of record in Vol. 1666, Pg. 335, Official Public Records of Midland County, Texas a distance of 1576.95 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 and the Northeast corner of Tract 2;

THENCE S 75°48'08" W with the North line of said Tract 2 a distance of 838.22 feet to a 1/2inch iron rod with red plastic cap marked "West Co. Midland";

THENCE S 14°11'56" E with the West line of said Tract 2 a distance of 25.71 feet to a 1/2-inch iron rod with red plastic cap marked "West Co. Midland";

THENCE S 34°41'48" W with the Northwesterly line of said Tract 2 a distance of 1970.54 feet to a 1/2-inch iron rod with red plastic cap marked "West Co. Midland" set for an interior angle;

THENCE S 55°18'12" E with the Westerly line of said Tract 2 a distance of 450.52 feet to a 1/2inch iron rod with red plastic cap marked "West Co. Midland" set for an exterior angle;

THENCE S 34°43'03" W with the Northwesterly line of said Tract 2 a distance of 246.52 feet to a 1/2-inch iron rod with red plastic cap marked "West Co. Midland" set for an exterior angle;

THENCE N 55°18'12" W with the Westerly line of said Tract 2 a distance of 450.43 feet to a 1/2inch iron rod with red plastic cap marked "West Co. Midland" set for an interior angle;

THENCE S 34°41'48" W with the Northwesterly line of said Tract 2 a distance of 739.56 feet to a 1/2-inch iron rod with red plastic cap marked "West Co. Midland" set for an interior angle;

THENCE S 55°18'12" E with the Westerly line of said Tract 2 a distance of 900.60 feet to a 1/2inch iron rod with red plastic cap marked "West Co. Midland" set in the Northwesterly right-of-way line of State Highway 191 a variable right-of-way, as shown on the map or plat thereof filed of record in Vol. 715, PG 251, Deed Records of Midland County, Texas;

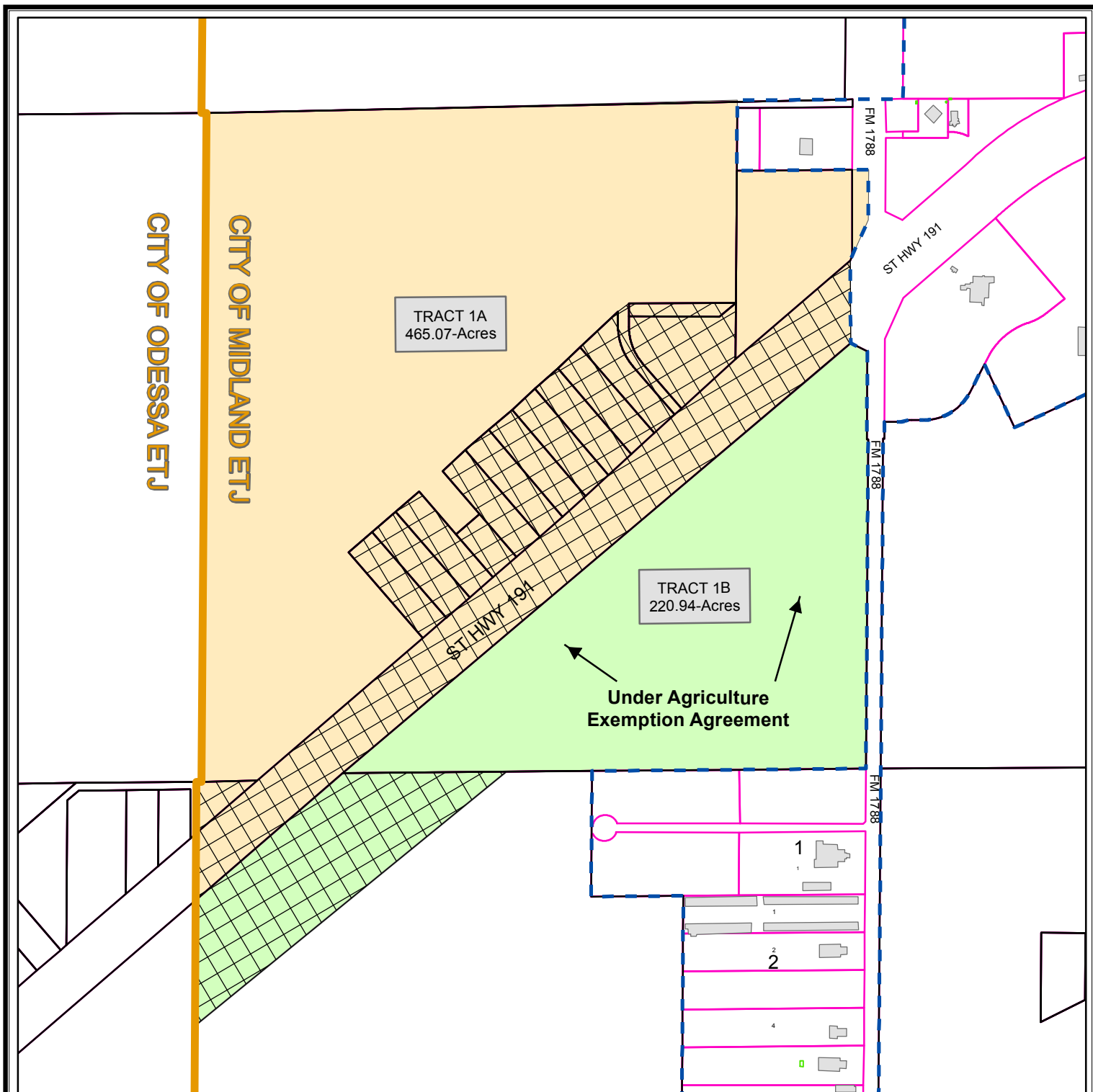
THENCE S 34°43'03" W with the Northwesterly right-of-way line of said State Highway 191 at a distance of 1663.39 feet pass the South line of said Section 37 and the North line of said Section 48, continuing on for a total distance of 2298.17 feet to (Northing (Y): 10,680,447.35 Easting (X): 1,697,800.48) a 1/2 inch iron rod marked "West Co. Midland";

THENCE N 14°08'04" W with the Westerly line of Section 48 a distance of 410.53 feet to 1/2" iron rod at or near the Northwesterly corner of Section 48;

THENCE N 75°02'17" E with the North line of said Section 48 a distance of 38.35 feet to a 1/2 inch iron rod and stone mound found for the Southwest corner of this tract at or near the Southwest corner of said Section 37;

THENCE N 14°06'06" W with the Westerly line of said Section 37 a distance of 5325.32 feet to (Northing (Y): 10685498.48 Easting (X): 1696078.24) a 1/2 inch iron rod found for the Northwest corner of this tract at or near the Northwest corner of said Section 37;

THENCE N 74°59'25" E with the North line of said Section 37 a distance of 5079.07 feet to the POINT OF BEGINNING, subject tract contains 308.72 acres of land.



LOCATION & ZONING MAP

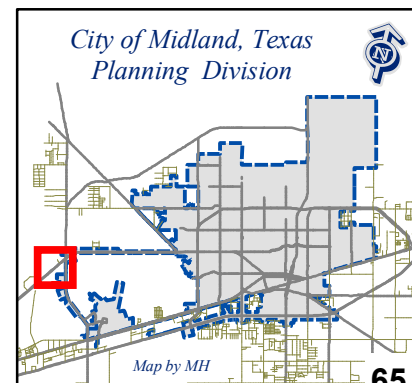
M - 11 - 001

Scale: 1" = 1100'

Consider an amendment to an agriculture exemption agreement related to the annexation of a 465.07-acre tract of land (Tract 1A), out of Sections 37 and 48, Block 41, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- ANNEXED LAND
- ANNEXATION TRACT 1A
- ANNEXATION TRACT 1B
- CITY LIMITS
- ETJ BOUNDARY
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- ACCESSORY BLDGS





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Gary Saunders, Transportation Manager

SUBJECT: Ordinance – Construction Speed Zone

Purpose:

To approve an ordinance establishing a temporary construction speed limit on a portion of Interstate 20 within the City of Midland.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no fiscal impact to the City associated with this request. All costs will be borne by the Texas Department of Transportation (TxDOT).

Discussion:

The Legal Department has prepared an ordinance establishing a temporary construction speed limit of 60 miles per hour (mph) on a portion of Interstate 20 between Loop 250 and State Highway 349 as follows:

60 mph (Both Directions) from the west City limits of the City of Midland and continuing east for a distance of approximately 5.06 miles to a point just east of State Highway 349.

The temporary construction speed limit has been requested by TxDOT in concert with a roadway construction project. The temporary speed limit will be in place for the duration of the project only.

Attached is a map of this portion of IH-20 indicating the proposed temporary construction speed limit area.

Staff recommends approval of this ordinance.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A TEMPORARY CONSTRUCTION SPEED ZONE OF 60 MILES PER HOUR ON A PORTION OF INTERSTATE 20 FOR A STATE HIGHWAY IMPROVEMENT PROJECT BY THE TEXAS DEPARTMENT OF TRANSPORTATION; AUTHORIZING INSTALLATION OF APPROPRIATE SIGNS AND MARKINGS; 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 Texas Department of Transportation is in the process of developing a pavement rehabilitation project within the City of Midland that will require a certain amount of construction; and

WHEREAS, the Texas Department of Transportation has conducted a study and has determined and recommended that a speed limit of 60 miles per hour be established on that portion of Interstate 20 from the west city limits of the City of Midland and continuing east a distance of approximately 5.06 miles to a point just east of State Highway 349; and

WHEREAS, the City Council finds and determines from the above-mentioned study that said portion of Interstate 20 should be temporarily speed zoned to a rate hereinafter set out in this Ordinance;

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

SECTION ONE. That no person shall drive a vehicle at rate of speed in excess of 60 miles per hour on that portion of Interstate 20 under temporary construction as set out below. The speed limit specified in this Section shall be lawful, but any speed in excess of the limit specified in this Section shall be prima facie evidence that the speed is not reasonable and prudent and is unlawful. The speed of motor vehicles on that portion of Interstate 20 under temporary construction as set out below shall be effective during the period of construction and shall terminate when construction is completed as certified by the

District Engineer for the Texas Department of Transportation, to wit:

Interstate 20

60 m.p.h. (both directions) - from the west city limits of the City of Midland and continuing east a distance of approximately 5.06 miles to a point just east of State Highway 349.

SECTION TWO. That the above speed zoning is based upon findings and determinations of the City Council made as a result of certain traffic surveys and studies made by the Texas Department of Transportation.

SECTION THREE. That the Traffic Engineer of the City of Midland is hereby authorized and directed to install appropriate speed zone signs commensurate with the provisions of this Ordinance.

SECTION FOUR. That any person violating the prima facie speed limits established by this Ordinance shall, upon conviction, be punished by a fine of not less than One Dollar (\$1.00) nor more than Two Hundred Dollars (\$200.00), as fully prescribed by Section 542.401 of the Texas Transportation Code.

SECTION FIVE. That all existing ordinances, or any part thereof, in conflict with this Ordinance are hereby expressly repealed.

Not repealed, amended, or in any way affected by this ordinance are those ordinances establishing speed limits in school zones or school crossings.

SECTION SIX. That repeal of the ordinances, or parts of ordinances, effectuated by the enactment of this ordinance shall not be construed as abating any actions pending under or by virtue of such ordinances; or as discontinuing, abating, modifying or altering any penalty accruing or to accrue; or as affecting the liability of any person, firm or corporation; or as waiving any right of the municipality under any section or provision existing at the time of the passage of this Ordinance.

SECTION SEVEN. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not

affect the validity of the remaining portions of this Ordinance. The Council of the City of Midland hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION EIGHT. The 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., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Morris Williams Jr., Director of Solid Waste

SUBJECT: Commercial Rates Ordinance

Purpose:

Consider an ordinance amending Title VIII, "Food Establishments, Health and General Sanitation", Chapter 6, "Garbage, Trash and Rubbish", Section 9, "Collection from Commercial Customers", of the City Code of Midland, Texas, so as to replace the explanatory paragraph of Table 1. Standard Commercial Locations: Three Yard Containers.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

N/A

Discussion:

This proposed amendment includes removing the current explanatory paragraph that states:

"If a commercial location, an apartment complex or mobile home park requires more than one whole three-yard container, the second whole three-yard container will be billed at ten percent less than the first whole container. The third and additional whole three-yard containers will be billed at 20 percent less than the first whole three-yard container."

and replacing it with the following paragraph:

"If a commercial location, an apartment complex or mobile home park requires more than one whole three-yard container, any additional whole three-yard container will be billed at ten percent less than the first whole three-yard container."

This amendment to the current ordinance will correct a conflict between different portions of the ordinance dealing with the rate structure used in Customer Service for garbage billing.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF MIDLAND
AMENDING TITLE VIII, "FOOD ESTABLISHMENTS,
HEALTH AND GENERAL SANITATION," CHAPTER 6,
"GARBAGE, TRASH AND RUBISH," SECTION 9,
"COLLECTION FROM COMMERCIAL CUSTOMERS"
FOR CLARIFICATION; AND ORDERING
PUBLICATION**

WHEREAS, the City Council finds it to be in the public interest to clarify Title VIII, "Food Establishments, Health and General Sanitation," Chapter 6, Garbage, Trash and Rubish," Section 9, "Collection from Commercial Customers";

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

SECTION ONE. That Title VIII, "Food Establishments, Health and General Sanitation," Chapter 6, "Garbage, Trash and Rubbish," Section 9, "Collection from Commercial Customers," Subsection (A) of the City Code of Midland, Texas, shall be amended to read as follows:

(A) The charges for collection and removal of garbage, trash, or waste from all commercial customers which have refuse containers furnished by the City shall be as follows:

TABLE 1. STANDARD COMMERCIAL LOCATIONS:

THREE YARD CONTAINERS.

Commercial rates: (Includes apartments and mobile home parks)

<i>No. of Containers</i>	<i>Rate (plus current tax rate)</i>
Twice a week service (Monday and Thursday or Tuesday and Friday)	
1	51.00
2	96.90
3	142.80
4	188.70
5	234.60
6	280.50

7	326.40
8	372.30
9	418.20
10	464.10
11	510.00
12	555.90
13	601.80
14	647.70
15	693.60
16	739.50
17	785.40
18	831.30
19	877.20
20	923.10
21	969.00
22	1,014.90
23	1,060.80
24	1,106.70
25	1,152.60

Three times a week service (Monday, Wednesday, Friday)

1	76.50
2	145.35
3	214.20
4	283.05
5	351.90
6	420.75
7	489.60
8	558.45
9	627.30
10	696.15
11	765.00
12	833.85
13	902.70
14	971.55
15	1,040.40
16	1,109.25
17	1,178.10

18	1,246.95
19	1,315.80
20	1,384.65
21	1,453.50
22	1,522.35
23	1,591.20
24	1,660.05
25	1,728.90

Four times a week service (Monday, Tuesday, Thursday and Friday)

1	102.00
2	193.80
3	285.60
4	377.40
5	469.20
6	561.00
7	652.80
8	744.60
9	836.40
10	928.20
11	1,020.00
12	1,111.80
13	1,203.60
14	1,295.40
15	1,387.20
16	1,479.00
17	1,570.80
18	1,662.60
19	1,754.40
20	1,846.20
21	1,938.00
22	2,029.80
23	2,121.60
24	2,213.40
25	2,305.20

Five times a week service (Monday through Friday)

1	127.50
2	242.25
3	357.00
4	471.75
5	586.50
6	701.25
7	816.00
8	930.75
9	1,045.50
10	1,160.25
11	1,275.00
12	1,389.75
13	1,504.50
14	1,619.25
15	1,734.00
16	1,848.75
17	1,963.50
18	2,078.25
19	2,193.00
20	2,307.75
21	2,422.50
22	2,537.25
23	2,652.00
24	2,766.75
25	2,881.50

If a commercial location, an apartment complex or mobile home park requires more than one whole three yard container, any additional whole three yard container will be billed at ten percent less than the first whole container.

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 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., 2011; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Marv Esterly, Director of Airports

SUBJECT: Amendments to Airport Minimum Standards Article VIII

Purpose:

Consider a resolution amending Article VIII of the Airport Minimum Standards.

Recommended City Council Action:

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Discussion:

On April 26, 2005, City Council approved a resolution adopting Airport Leasing Policies and Airport Minimum Standards that were designed to encourage and ensure stable, essential, and safe aviation services needed in the community; foster the stable growth of aviation; provide a fair return to the Airport; and comply with FAA and State obligations, policies and regulations. Included in these documents were consistent and fair methodologies for establishing airport leases among airport operators and tenants.

Recent growth at the Midland International Airport and peaked interest in private hangars has required us to revisit and revise Article VIII of the Airport Minimum Standards to accommodate new hangar development concepts. Over the past few years, thoughts on how airports control this growth has changed. Hangar development has become more dense, taking advantage of precious airport property. Our current standards do not allow for this type of dense development.

In the Airport Minimum Standards, Article II Applicability, Section 2.01, the City reserves the right to amend these standards as conditions require. Attached is a copy of the proposed changes to Article VIII of the Airport Minimum Standards necessary to accommodate our new hangar development.

The Department of Airports considers these changes to be fair and consistent with the intent of these policies as mentioned above and requests that City Council approves the proposed changes.



Midland International Airport
9506 La Force Blvd.
Midland, Texas 79711

Phone (432) 560-2200
Fax (432) 560-2237
www.midlandinternational.com

Minimum Standards and Requirements

FOR COMMERCIAL and AERONAUTICAL SERVICE PROVIDERS at

MIDLAND INTERNATIONAL AIRPORT & MIDLAND AIRPARK AIRPORT

Introduction

The City of Midland and its Airport staff extend a warm welcome to all Airport system users. One of our most important goals is the promotion and accommodation of all forms of aviation activities - business and recreational aviation, air carriers, and military flying. These Minimum Standards will ensure that a high quality of commercial aviation service is provided on a fair and equal basis to our customers and patrons. We will be pleased to respond to any questions that you may have about these Standards and their application to your particular business plans.

The Department of Airports looks forward to serving all of your aviation needs, and in helping you achieve a successful business enterprise.

Marvin R. Esterly

Director of Airports

Article I. Definitions

Section 1.01 Airport means Midland International Airport.

Section 1.02 City means the City of Midland a Texas home-rule municipal corporation.

Section 1.03 Commercial Aeronautical Service means a service for hire which involves, makes possible, or is required for the operation of aircraft, or which contributes to, or is required for the safe conduct and utility of such aircraft operations, and includes those services provided by either a Fixed Base Operator or a Specialized Aviation Service Operator (SASO).

Section 1.04 Non-Commercial Hangar and Aviation Fuel Dispensing Facilities: A Non-Commercial applicant which desires to operate from a hangar or facility located on the airport and wishes to dispense aviation fuels and oil and provide other related services for its own aircraft, such as tie-down, maintenance and parking utilizing it's own employees.

Section 1.05 Director means the Director of Airports for the City of Midland Department of Airports, or authorized designee.

Section 1.06 FAA means the Federal Aviation Administration of the United States Department of Transportation (USDOT).

Section 1.07 TSA means the Transportation Security Administration of the United States Department of Homeland Security (USDHS)

Section 1.08 Fixed Base Operator or FBO means a person maintaining facilities at the Airport for the purpose of: (1) engaging in the retail sale of aviation fuels to General Aviation, Military, Charter and Freight Aircraft; (2) providing into-plane fueling for airlines and freight aircraft (3) performing other aircraft line services; and (4) providing aircraft airframe and engine repair and maintenance services. Section VI of these Minimum Standards specifies the minimum services of which an FBO must provide. In addition to those required services, an FBO may provide any of the services of an SASO.

Section 1.09 Specialized Aviation Service Operator or SASO is a Person maintaining facilities at the Airport for the purpose of providing one or more of the following services: (1) specialized aircraft repair services (radios, painting, upholstery, propellers, instruments, accessories, etc.); (2) aircraft airframe and powerplant maintenance and repair; (3) flight training; (4) aircraft sales; (5) aircraft rental; and/or (6) aircraft charter and air taxi service. Aircraft fueling may not be performed as a Specialized Aviation Service; only those Operators that provide each of the Minimum Services required in Section VI will be authorized to perform aircraft fueling. Section VII of these Minimum Standards sets out additional specific standards for SASOs.

Section 1.10 Improvements includes, without limitation, any buildings, hangars, paved areas such as parking lots, ramp, or apron, or other improvements constructed or installed by an Operator on its Premises.

Section 1.11 Operator means either a Fixed Base Operator, or a Specialized Aviation Service Operator, or both, as the context indicates.

Section 1.12 Person means a natural person, corporation, partnership, trust, association, political subdivision, agency of the State, or other legal entity, but does not include the City.

Section 1.13 Premises means a defined area on the Airport which the City has either leased to an Operator, or has granted an Operator the preferential right to use, by lease or other written agreement to provide its Commercial Aeronautical Services.

Section 1.14 Museum means a not for profit or charitable person, firm or corporation, as herein defined, whose purpose is to exhibit and display airworthy and non-airworthy aircraft and aviation artifacts for interpretation by the general public.

Article II. Applicability

Section 2.01 The City, acting by and through its Department of Airports, owns and operates the Midland International Airport. To encourage growth and development of the Airport and to facilitate the development of adequate aeronautical services and facilities for Airport users, the City has established these standards and requirements (the "Minimum Standards") for provision of certain aeronautical services at the Airport. The City may amend these Minimum Standards as conditions require, or to establish Minimum Standards for additional aeronautical services.

Section 2.02 No person may conduct or operate a business at the Airport except as authorized by the Director. These Minimum Standards establish the criteria by which the Director shall consider requests from prospective Commercial Aeronautical Service providers to do business at the Airport. These Minimum Standards shall apply to all Fixed Base Operators Lease and Operating Agreements ("Lease") and Commercial Operating Permits ("Permit") granted or renewed after the effective date of these rules. The provisions of the Lease or Permit will be compatible with the Minimum Standards herein contained and will not change or modify the Minimum Standards themselves. To the extent consistent with the terms of the Lease or Permit, these rules shall apply to all currently existing Leases and Permits.

Section 2.03 The Minimum Standards do not apply to the City itself, to certified air carriers operating aircraft with 19 seats or more from the Airport, or to persons operating aircraft on the Airport who perform services on their own aircraft with their own regular employees and equipment in accordance with applicable Airport rules and regulations and applicable contract, permit, or lease provisions. These Minimum Standards are not intended to be all-inclusive; the Operator will be subject additionally to applicable federal, state and local laws, codes, ordinances and other similar laws or regulations including Airport Rules and Regulations pertaining to all such services.

Article III. Statement of Policy

Section 3.01 In establishing these Minimum Standards, the City's goal is to assure an adequate minimum level of quality of service to aviation users, to foster competition at the Airport, and to avoid unfair or prohibited discrimination among similar Commercial Aeronautical Service providers. The minimum standards shall be applied objectively and uniformly.

Section 3.02 The standards and requirements in this policy are minimums. All Operators will be encouraged to exceed the minimum.

Section 3.03 Contingent upon its qualifications, its meeting the Minimum Standards, the approval of the prospective Operator's application by the Director, the execution of a Lease or Permit, and the payment of the applicable rentals, fees and charges, the Operator shall have the right and privilege of providing the Commercial Aeronautical Service(s) for which it made application on the Airport, as specified in its Lease or Permit. **A WRITTEN AGREEMENT, PROPERLY EXECUTED BY THE CITY AND THE OPERATOR, IS A PREREQUISITE TO TENANCY ON THE AIRPORT AND COMMENCEMENT OF ANY OPERATIONS THEREON.** The Operator may not provide any Commercial Aeronautical Service other than that authorized in its Lease or Permit.

Section 3.04 The granting of such right and privilege, however, shall not be construed in any manner as affording the Operator any exclusive right of use of the premises and facilities and the Airport, other than those premises which may be leased exclusively to it, and then only to the extent provided in a written agreement. The City reserves and retains the right for use of the Airport by others who may desire to use the same, pursuant to applicable federal, state and local laws, ordinances, codes, minimum standards and other regulatory measures pertaining to such use. The City further reserves the right to designate the specific Airport areas in which the specific aeronautical services may be conducted, and to relocate existing Operators to another location on the Airport (See Attachment A). Such designation shall give consideration to the nature and extent of the operation and the land and improvements available for such purpose, consistent with the orderly and safe operation of the Airport.

Section 3.05 If the City determines there are more qualified applicants seeking to provide a particular Commercial Aeronautical Service than there is space or demand at the airport for such service, the City may select the Commercial Aeronautical Service provider through a competitive solicitation or request for proposals.

Section 3.06 These Minimum Standards are subordinate and subject to the provisions of any agreement between the City and the United States Government relative to the operation or maintenance of the Airport, the execution of which has been, or may in the future be, required as a condition precedent to the transfer of federal rights or property to the City for Airport purposes, or the expenditure of federal funds for the development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as amended. The issuance of a Final Agency Order finding a provision of these Minimum Standards inconsistent with such agreement shall operate to invalidate such provision. The invalidity or unenforceability of any provision of these Minimum Standards shall not affect validity or enforceability of any other provision of these Minimum Standards, and the remainder shall be construed and enforced as if the invalid or unenforceable provision were never included in the Minimum Standards.

Article IV. Application Requirements

Section 4.01 To operate a Commercial Aeronautical Service at the Airport, a Person shall submit a written application to the Director, which shall include the following information and, thereafter, shall provide such additional information as may be requested by the Director.

- (a) **Intended Scope of Services.** The prospective Operator must submit a detailed description of the scope of the proposed operation, and the means and methods to be employed to accomplish the contemplated operation, including, at a minimum, the following:
 - (i) The name, address and telephone number of the applicant. If the applicant is a corporation, include the name, address, and telephone number of the corporation's officers and directors. If the applicant is a partnership, provide the name, address, and telephone number of all general partners. Also provide the name, address, and telephone number of any Person that holds a controlling interest, directly or indirectly, in the applicant. Applicant must disclose if any officer, director, partner, or Person having a controlling interest in applicant is also an officer, director, partner, or a Person holding a controlling interest in another Commercial Aeronautical Service provider at the Airport.
 - (ii) The requested or proposed date for commencement of the service and the term of conducting the same.
 - (iii) The services to be offered.
 - (iv) The amount, size and location of land required.
 - (v) The size, type, and location of the building(s) to be constructed or leased.
 - (vi) The number and type of aircraft to be parked, serviced, or provided (as applicable).
 - (vii) The number of persons to be employed (including the names, titles and qualifications of key employees).
 - (viii) The hours of proposed operation.
 - (ix) A list of material assets, goods and equipment necessary or required to perform the proposed services that owned, leased, or under purchase contract by the applicant. Copies of such leases and contracts shall be provided to the Director upon request.
 - (x) Copies of all licenses, certifications and permits possessed by the applicant, or its key employees to be based at the Airport, that are necessary or required to perform the proposed services.

- (xi) Such other or additional information as may be required under Sections VI and VII of these Minimum Standards, or that the Director may reasonably require in evaluating the application.
- (b) **Financial and Managerial Responsibility and Capability.** The prospective Operator must provide a statement, satisfactory to the City, in evidence of its financial responsibility, from a recognized financial institution or from such other source that may be acceptable to the City and readily verified through normal banking channels, together with copies of audited financial statements (SEC Form 10-K's), or previous three year business tax returns if applicable, and annual reports for the prospective Operator for the previous three years. The prospective Operator must also demonstrate financial capability to initiate operations, to construct proposed improvements, and to provide working capital to carry on the contemplated operations. The demonstration of financial and managerial capability shall include a cash flow and a profit and loss projection for the first five years of the proposed operation, and the disclosure of any bankruptcies or assignments within the past seven years.
- (c) **Experience.** The prospective Operator shall furnish the City with a statement of its qualifications and past experience in providing the proposed aviation services, together with a statement that it or its principals have the managerial ability to perform the selected services. The prospective Operator shall meet the applicable minimum experience qualification requirements under Sections VI or VII. The prospective Operator shall include resumes of its key employees engaged in the management and operation of the proposed aeronautical services at the Airport.
- (d) **Grounds for Denial of an Application.** The Director shall consider the application once the prospective Operator has submitted a complete application. The Director shall not unreasonably deny or delay consideration of an application. A delay to implement a competitive process to select an Operator is not unreasonable. Grounds for denial of an application include the following:
 - (i) The applicant does not, for any reason, fully meet the qualification, standards and requirements established in these Minimum Standards
 - (ii) The applicant's proposed operation of construction would create a safety hazard on the Airport.
 - (iii) The applicant, in the opinion of the Director, has not provided verified evidence of adequate financial responsibility or does not exhibit the experience to undertake the proposed operation or activity based on the information provided with the application.
 - (iv) The proposed operation, development, or construction will result in congestion of aircraft or building, or will result in undue interference with the operations of any present Operator at the Airport, or with adequate access to a present Operator's leased premises.
 - (v) The applicant has intentionally or unintentionally misrepresented or omitted any material fact in the application or supporting documents, or has failed to make full disclosure in the application or supporting documents.

- (vi) The applicant, or any officer, director, key employee, or person having a controlling interest in the applicant, has a record of (a) violating the laws, rules and regulations applicable to the Airport or any other airport, including but not limited, to civil air regulations, FAA or TSA regulations, (b) having defaulted in the performance of a lease, license, permit, or similar agreement at the Airport or any other airport, or (c) having been convicted of any felony or misdemeanor involving moral turpitude. The applicant does not, for any reason, fully meet the qualifications, standards and requirements established in these Minimum Standards.
- (vii) The granting of the application will require the Airport to expend funds, or supply labor or materials, in connection with the proposed activity or operation that the Airport is unwilling to spend or supply, or the proposed activity or operation will result in a financial loss to the Airport.
- (viii) No appropriate, adequate, or available land, space, or building exists at the Airport to accommodate the entire operation of the applicant at the time of application, and none is contemplated to be available within a reasonable time thereafter.
- (ix) The proposed operation, development, or construction does not comply with the FAA approved Airport Master Plan or Airport Layout Plan.
- (x) The applicant cannot provide the required performance and other bonds, security deposits, or other acceptable surety in the amount required by the Airport for the proposed operation, activity or construction.

Article V. Requirements Applicable to all Operators

Section 5.01 Standards Applicable to all FBO's and SASO's. The following standards apply to all FBOs and SASOs, unless otherwise explicitly provided. Additional standards specific to each type of operation can be found in Sections VI and VII of these Minimum Standards.

(a) Requirement of a Written Agreement

- (i)** Before beginning operations, the prospective Operator must enter into a written Lease or Permit with the City reciting the terms and conditions under which it will do business on the Airport, including but not limited to, the term of agreement, the rentals, fees, and charges, the rights, privileges and obligations of the respective parties, and other relevant provisions. Such agreement shall be consistent with these Minimum Standards.
- (ii)** Such Lease or Permit shall contain, or adopt by reference, all provisions required by the applicable law, including, without limitation, regulations promulgated by the FAA and TSA, and assurances or agreements entered into by the City as a condition of any Federal Grant to the City for the Airport. The Lease or Permit shall be subordinate to any existing or future Federal grant assurances.
- (iii)** If an Operator desires to sublease space to another Commercial Aeronautical Service Operator, the Operator must obtain the written approval from the Director to sublease the space, and if applicable, subcontract the function. The sub-lessee must apply for and obtain a Permit to operate at the Airport, and must satisfy the applicable Minimum Standards to provide sub-lessee's proposed Commercial Aeronautical Service.
- (iv)** The Lease or Permit shall provide that, at or before execution, the Operator shall deliver to the Director a security deposit in an amount not less than two months' fees and charges owed to the City under such agreement. The security deposit shall be in the form of cash or an irrevocable letter of credit drawn on a City-approved bank, and shall be held by City as security for the operator's performance of its obligations under the Lease or Permit, including, but not limited to, payment of fees and charges or other amounts due the City under the Lease or Permit. The City shall not consider the security deposit an advance payment of such fees and charges, or a measure of damages in the event of default. If the City uses the security deposit, in whole or in part, the Operator shall promptly restore the security deposit to its original amount upon request of City. Provided that the Operator is not in default, the security deposit, or any unused balance thereof, shall be returned to Operator within thirty (30) days following termination of the Lease or Permit.

(b) Site Development Standards

- (i) Location.** FBOs and SASOs may be situated only in those areas of the Airport specified for such use in the Airport Layout Plan (ALP) and the Airport Master Plan.

- (ii) **Space Requirements.** The minimum space requirements as provided in Sections VI and VII of these Minimum Standards shall be satisfied. The City will consider reduction in minimum space requirements for combined operations in a common location (e.g., an SASO that wishes to operate a flight training school and aircraft rental facility need have only one office, one set of restrooms, one customer lounge, etc.). An applicant who proposes combined operations in a common location shall provide a building layout or similar plan that demonstrates functional compliance with the applicable Minimum Standards.
- (iii) **Airport Design Criteria.** All construction of Improvements and infrastructure must conform to the ABIA Design and Development Guide and conform to and comply with the approved plans and specifications submitted by Operator and approved by the City and the Director, the applicable statutes, ordinances, building codes, rules and regulations of City and the FAA and such other authorities as may have jurisdiction over the Airport, the Premises or Operator's operations herein. The height of any structure on the Premises must be within the limits of the FAA regulations governing objects affecting airspace, as set forth in 14 C.F.R., Part 77 and the City's Airport Height Hazard and Compatible Use Zoning Ordinances. Any structure that violates these requirements shall be subject to removal or remediation at the Operator's expense. The Director will have the right to review all plans and specifications for any Improvements to be constructed on the Premises to determine compliance with such regulations. The approval by the Director shall not constitute a representation or warranty as to such conformity or compliance, but responsibility therefore shall at all times remain with the Operator.
- (iv) **Design/Construction Review.** Operator shall not construct, install, remove, or modify any Improvements on the Premises without the prior written approval of the Director, or his designated representative, of Operator's plans and specifications for the proposed project. All plans shall be complete and submitted in accordance with the ABIA Design and Development Guide, and the applicable provisions of the Lease or Permit.
- (v) **Bonds and Insurance.** Operator shall provide or cause to be provided to the City prior to the commencement of any construction of any Improvements, a valid performance bond and payment bond, each in the amount of the maximum estimated hard construction costs, for the successful construction of its Improvements. Said bonds shall be maintained and kept in full force and effect until work items called for in the Operator's agreement with the City are complete. The bonds shall be conditioned to ensure performance and payment by the Operator and its construction contractor of all Improvements required and proposed by the Operator, and to stand as security for the successful completion of the built Improvements on the Premises and for payment of any valid claim by the City against the Operator or its Contractor associated with the construction of the improvements. The bonds shall be in a form acceptable to the City and shall be issued by a surety that complies with the requirements of the Texas Insurance Code, as amended. If Operator engages any contractors and/or subcontractors to construct Improvements on the Premises, the contractors and subcontractors must carry appropriate builders risk and commercial general liability policies as is required at that time by the City Safety/Risk Coordinator for construction projects on City property. Note: a Letter of Credit may be acceptable in lieu of a bond if approved by the City.
- (vi) **Other Facilities.** The Operator shall provide a paved walkway within the leased area to accommodate pedestrian access to the Operator's office; a paved aircraft apron with tie-down facilities within the leased area sufficient to accommodate its services and operations, and telephone facilities.

- (vii) **Landscaping.** Landscaping of facilities is required. Each FBO or SASO will be required to provide a plan for landscaping its area to be approved by the City and maintained by the FBO or SASO in a neat, clean and aesthetically pleasing manner, all in accordance with the ABIA Design and Development Guide.
- (viii) **Right of Relocation.** The City shall have the right to relocate Operator's Premises when necessary to accommodate the Airport development. The Director shall solely determine the need for such relocation. If relocation becomes necessary, the City shall provide the Operator with a replacement area substantially equivalent in size and amenities. Should Operator disagree with the replacement location, Operator shall have the right, within ten (10) calendar days of receipt of the Director's written notice of impending relocation, to provide written notice to the Director that Operator disagrees with the replacement location. Upon such notice by Operator, the parties shall, for a period not to exceed thirty (30) days from the date of such notice, negotiate in good faith in an attempt to resolve the matter to the satisfaction of both parties; however if for any reason the disagreement is not resolved within thirty (30) days, the Director shall have the right to unilaterally decide the matter, and Operator agrees to and shall abide by the Director's decision, subject to such rights of termination as Operator may have under its Lease or Permit. If the City requires the Operator to relocate its facilities during the term of this Agreement, the City shall will reimburse the Operator for its documented actual and reasonable out-of-pocket relocation expenses, if any, but the City shall have no liability for increased overhead or operating costs, or lost profits or revenue of Operator, if any, arising out such relocation.
- (ix) **Ownership of Improvements.** All rights, titles, and interests in any Improvements constructed by or for an Operator on the Airport shall fully vest in the City upon the end of the term of the Operator's Permit or Lease. The Operator shall execute and deliver to the City such documents as may be required to evidence the City's ownership of such Improvements.
- (c) **Annual Reporting Requirement and Notification of Changes.**
- (i) Operators shall report annually, by the anniversary date of the Effective Date of their Lease or Permit, that information listed above, and shall provide the Director with three weeks advance notice of its intention to start up or discontinue an authorized commercial aeronautical service. In addition, all Operators must file updated FAA certificates and ratings (their own and their employees') annually when received, and must file within two weeks of receipt any changes in their own and their employees' FAA certificates or ratings.
- (d) **Maintenance Responsibilities.** Operator shall, at its sole cost and expense, maintain, repair and keep in good condition all of its Improvements on the Premises, as hereinafter described:
- 1) Operator shall maintain pavement, landscaping, greenbelts, lighting and all equipment on the Premises.
 - 2) Operator shall maintain the interior and exterior of all Improvements, to include electrical, mechanical, plumbing, fire protection system(s), roof, floors, load-bearing and exterior walls, utilities, and HVAC system(s).
 - 3) Operator shall clean debris and trash from driveway, taxiways, aprons, greenbelts and sidewalks to maintain safe, clear, unobstructed access to the Improvements at all times for authorized users and emergency vehicles.

- 4) Operator shall maintain all hangar and overhead doors and door operating systems, including weather stripping and glass replacement.
 - 5) Operator shall maintain electric loads within the designed capacity of the system. Any change to such designed capacity will require the prior written consent of the Director.
 - 6) Operator shall install and maintain hand-held fire extinguishers in the interior of all buildings, aircraft shops, aircraft parking and tie-down areas, and fuel storage areas, pursuant to fire and safety codes.
 - 7) Operator shall have the necessary utility meters installed, as required by the utility company(s), at Operator's expense. Operator shall pay all utility charges, including, but not limited to, electricity, water, wastewater, natural gas, and telephone. Operator shall maintain and repair all utility service lines and fixtures, including lighting fixtures, within the Premises to the extent utility company providing such utility service does not perform such maintenance or repair.
 - 8) Operator shall provide, at its sole cost and expense, necessary arrangements for adequate sanitation, handling and disposal from the Airport of all trash, garbage and other refuse which results from Operator's business operations, including receptacles for the deposit of such trash, garbage and other refuse.
 - 9) Operator will not permit any action on the Premises that has an adverse effect, or interferes with the proper function of any drainage system, sanitary sewer system, or any facility provided for the operation or protection of Airport.
 - 10) Operator shall provide for the disposal of all waste oil containers and or other hazardous refuse, at the sole expense of the operator, in accordance with all state, federal and local regulations.
 - 11) Operator will conduct good house keeping practices in accordance with the Airport Certified Storm Water Pollution Prevention Plan (SWPPP)
- (e) Personnel. The Operator shall employ a fully qualified, competent, experienced full-time on-site manager who shall supervise and direct the performance of all Commercial Aeronautical Services provided by the Operator, and one or more qualified assistant managers to act for the manager in his or her absence. During all operating hours, the Operator shall employ and have on duty trained personnel in such numbers and with such certificates and ratings as are required to meet the Minimum Standards, in an efficient manner, for all Commercial Aeronautical Services being provided by the Operator. Operator's employees shall, at all times, be neat and courteous, and shall wear an identification badge that displays the employee's name and the name of the Operator. Operator's employees may not use or possess alcohol, illegal drugs, controlled substances, or firearms at the Airport outside their prescribed job duties. Operator shall closely monitor its employees to insure consistent, high quality service. If permitted by law, the Director may direct Operator to remove from employment at the Airport any employee who violates Airport rules and regulations, or the terms of Operator's Lease or Permit.
- (f) Security. Operator, its employees, agents, customers, and contractors, shall comply fully with the Airport Security Plan.

- 1) If the Premises are located in a restricted area accessible only to those persons displaying a security badge issued by Airport Operations Control Center (AOCC) personnel, each person working on the Premises must wear the badge at all times while at the Airport on their outer most garment at waist level or above. The Employee or Operator will pay for the cost of each badge.
 - 2) To control access to the secured area, Operator will provide written notice to the Director of the names, addresses, telephone number(s), and contact persons for each contractor employed by Operator that will require access to the secured area for the benefit of Operator within five (5) days after the execution of the contract with such person.
 - 3) The Operator shall control the Premises so as to prevent unauthorized access to the AOA. Operator shall strictly comply with TSA 49 CFR Part 1542 (Aviation Security), and Operator's security system must comply with the Airport's security specifications. The City reserves the right to install security devices in or on the premise, as it deems necessary at City's cost. The City will maintain security equipment located on the Operator's premises which is associated with Part 1542 or which the City may elect to install at some future date.
 - 4) If needed the Operator shall supply 120/208 three phase power from an electrical panel, with circuit breaker protection. The Operator shall allow the City to connect AOA security data cables to the Airport cable system (PDS) within the building's telecommunications closet. Energy to operate AOA security equipment on the Operator's premises shall be furnished by the Operator without cost to the City.
- (g) Indemnification. Operator shall defend, indemnify and hold harmless the City and its employees, agents, representatives, successors and assigns (collectively, the "Indemnified Parties"), from and against all costs, expenses (including reasonable attorneys' fees, expenses of investigation and litigation, and court costs), liabilities, damages, claims, suits, judgments, actions, and causes of actions whatsoever (collectively, "Claims") resulting from or concerning the conduct of Operator's Commercial Aeronautical Service at the airport, to the extent arising directly or indirectly out of (a) any failure of the Operator to comply with these Minimum Standards, (b) any breach of the Lease or Permit by Operator, its agents, employees or contractors, (c) any false representation or warranty made by Operator in making application to conduct business on the Airport or in the Lease or Permit, (d) any negligent act or omission or willful misconduct of Operator, or its their agents, employees or contractors, and (e) the negligent acts and omissions of the Indemnified Parties. Operator shall assume on behalf of the Indemnified Parties and conduct with due diligence and in good faith the defense of all claims against any of the Indemnified Parties. Operator may contest the validity of any claims, in the name of Operator or the Indemnified Parties, as Operator may in good faith deem appropriate, provided that Operator thereof shall pay the expenses.
- (h) Insurance. The following requirements pertain to all Operators. See Sections VI, VII and VIII for specific insurance requirements applicable to the specific FBOs and SASOs and Privately Owned Non-Commercial Fuel Dispensing Facilities on the Airport.

(i) General Requirements.

- a) *Operator shall not commence operations or construction until Operator has obtained the types and amounts of required insurance indicated below and until the City has reviewed such insurance or a Certificate of Insurance is received indicating required coverage. If the coverage period ends during the Term of Operator's Lease or Permit, Operator must, prior to the end of the coverage period, forward a new Certificate of Insurance to City as verification of continuing coverage for the duration of the Term of the Lease or Permit. Operator must submit certificates of insurance for all subcontractors to the City prior to them commencing work on the project.*
- b) *Approval of insurance by the City and the required minimums shall not relieve or decrease the liability or responsibility of the Operator hereunder and shall not be construed to be a limitation of liability on the part of the Operator.*
- c) *Operator's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policy is issued and shall be written by companies with an A.M. Best rating of B+VII or better. Hazardous materials insurance, if required, shall be written by companies with A.M. Best ratings of A- or better. The City shall accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.*
- d) *All endorsements naming the CITY as additional insured, waivers of subrogation, and notices of cancellation endorsements as well as Certificates of Insurance shall indicate:*

City of Midland

P.O. Box 60305

Midland, Texas 79711

Attn: Director of Airports

- e) *The "other" insurance clause shall not apply to the City where the City of Midland is an additional insured shown on any policy. It is intended that policies required in this Agreement covering the City and the Operator will be considered primary coverage as applicable.*
- f) *If insurance policies are not written for amounts specified below, the Operator shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.*
- g) *The City shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.*
- h) *The City reserves the right to review insurance requirements set forth during the Term of this Agreement and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry, financial condition of the insurance company as well as the Operator or changes in the Operators initial intended scope of services.*

- i) *The Operator shall not cause any insurance to be canceled nor permit any insurance to lapse during the Term of this Agreement or as required in the Agreement.*
 - j) *Operator shall provide all deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificates of Insurance.*
 - k) *If City property is being transported or stored off-site by Operator, then the appropriate property policy will be endorsed for transit and storage in an amount sufficient to protect City property.*
 - l) *Insurance provided by an Operator pursuant to this Minimum Standards shall cover and protect the City, and its elected and non-elected officials, officers, agents, employees, contractors, successors, and assigns, as their interests may appear.*
- (i) Specific Insurance Requirements. The Operator shall obtain, and maintain throughout the term of its Lease or Permit, the following insurance coverage, and furnish certificates of insurance and policy endorsements as evidence thereof:
- (i) Workers' Compensation and Employers Liability coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Section 401)
 - 1) A Waiver of Subrogation in favor of the City of Midland;
 - 2) A thirty (30) day Notice of Cancellation/Material Change in favor of the City;
 - (ii) Property insurance coverage on an "All Risk of Physical Loss" form for 90% of the value of all improvements leased from the City, or constructed by or for Operator on the Airport Coverage unless waved by the City of Midland shall include but not be limited to fire, wind, hail, theft, vandalism and malicious mischief. The coverage shall be written on a replacement cost basis. The proceeds from such insurance shall be used to restore the improvements to their original condition in the event of a covered loss.
 - (iii) **Liability insurance in the specific types and amounts specified in Sections VI or VII, as applicable for the proposed Commercial Aeronautical Service are considered minimum and may be adjusted to suit the risk of any particular operation as determined by the City. Where more than one Commercial Aeronautical Service is proposed, the minimum limits will vary (depending upon the nature of individual services in such combination) but will not necessarily be cumulative in all instances. Because of these variables, the applicable minimum insurance coverage on combinations of services will be finalized with the prospective Operator at the time of its application or otherwise during lease negotiations.**

(j) Environmental Compliance.

(i) Definitions. In this Section:

- 1) "Environmental Laws" - shall refer to and include, without limitation, all Federal, State, City, and local statutes, laws, ordinances, rules and regulations, now or hereafter in effect, and as amended from time to time, that are intended for the protection of the environment, or that govern, control, restrict, or regulate the use, handling, treatment, storage, discharge, disposal, or transportation of Hazardous Materials. Environmental Laws, specifically include but are not limited to, the National Environmental Policy Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Hazardous Substances Act, the Toxic Substances Control Act, the Clean Water Act, the Superfund Authorization and Recovery Act, the Occupational Safety and Health Administration Hazard Communication Standards, the Texas Hazardous Substances Act, and the Texas Water Quality Control Act.
 - 2) "Hazardous Materials" - shall refer to, and include, without limitation, all substances whose use, handling, treatment, storage, disposal, discharge, or transportation is governed, controlled, restricted, or regulated by Environmental Laws, that have been defined, designated or listed by any responsible regulatory agency as being hazardous, toxic, radioactive, or that may present an actual or potential hazard to human health or the environment if improperly used, handled, treated, stored, disposed, discharged, generated or released. Hazardous Materials specifically include, without limitation, asbestos and asbestos-containing-materials, petroleum products, solvents, and pesticides.
 - 3) "Environmental Claims" – shall refer to, and include, without limitation, all claims, demands, suits, actions, judgments, and liability for:
 - a) *removal, remediation, assessment, transportation, testing and disposal of Hazardous Materials as directed by any government agency, court order, or Environmental Law;*
 - b) *bodily injury, or death;*
 - c) *damage to or loss of use of property of any person;*
 - d) *injury to natural resources;*
 - e) *finest, costs, fees, assessments, taxes, demands orders, directives or any other requirements imposed in any manner by any governmental agency under Environmental Laws; and*
 - f) *costs and expenses of cleanup, remediation, assessment testing, investigation, transportation and disposal of a Hazardous Material spill, release, or discharge.*
- (ii) "City" – shall include the City's elected and non-elected officials, officers, agents, employees, contractors, successors, and assigns.
- (iii) "Operator" - shall include the Operator's directors, officers, agents, employees, contractors, customers, invitees, successors, and assigns.

- (k) Compliance. In its operations at the Airport, Operator shall strictly comply with all applicable Environmental Laws, the Airport Environmental Policies and Procedures (including without limitation, the Storm Water Pollution Prevention Plan ("SWPPP") and Spill Response Plan), and generally accepted industry environmental practices and standards. Without limiting the generality of the foregoing provision, Operator shall not use or store Hazardous Materials on or at the Airport except as reasonably necessary in the ordinary course of Operator's permitted activities at the Airport, and then only if such Hazardous Materials are properly labeled and contained, and notice of and a copy of the current material safety data sheet kept on hand for each such Hazardous Material. Prior to commencing operations at the Airport, Operator will complete an Airport baseline environmental questionnaire. Operator shall not discharge, release, or dispose of any Hazardous Materials on the Airport or surrounding air, lands or waters. Operator shall promptly notify the City of any Hazardous Material spills, releases, or other discharges by Operator at the Airport and promptly abate, remediate, and remove any the same. Operator shall provide the City with copies of all reports, complaints, claims, citations, demands, inquiries, or notices relating to the environmental condition of the Airport, or any alleged material noncompliance with Environmental laws by Operator at the Airport within ten (10) days after such documents are generated by or received by Operator. If Operator uses, handles, treats or stores Hazardous Materials at the Airport, Operator shall have a contract in place with an EPA or TECEQ approved waste transport or disposal company, and shall identify and retain spill response contractors to assist with spill response and facilitate waste characterization, transport and disposal. Complete records of all disposal manifests, receipts and other documentation shall be retained by the Operator and made available to City for review upon request. Landlord shall have the right at any time to enter the Premises to inspect, take samples for testing, and otherwise investigate the Premises for the presence of Hazardous Materials.
- (l) Responsibility. Operator's Hazardous Materials shall be the responsibility of Operator. Operator shall be liable for and responsible to pay all Environmental Claims that arise out of or are caused in whole or in part from Operator's use, handling, treatment, storage, disposal, discharge, or transportation of Hazardous Materials on or at the Airport, the violation of any Environmental Law by Operator, or the failure of Operator to comply with the terms, conditions and covenants of this article. If the City incurs any costs or expenses (including attorney, consultant and expert witness fees) arising from Operator's use, handling, treatment, storage, discharge, disposal, or transportation of Hazardous Materials on the Airport, Operator shall promptly reimburse the City for such costs upon demand. All reporting requirements under Environmental Laws with respect to spills, releases, or discharges of Hazardous Materials by Operator at the Airport under any law are the responsibility of Operator.
- (m) Certifications. The Operator shall obtain and maintain in full force and effect all FAA and other certificates and licenses necessary for the work being performed at the Airport, and shall provide a copy of such certificates to the Director upon request.
- (n) Motor Vehicles on Airport. The Operator shall control the transportation of pilots and passengers, within the secured areas of the airport, of transient general aviation aircraft using the Operator's facilities and services. Customer motor vehicles are not permitted on the secured area in cases where this is not possible the operator shall instruct the tenant on specific access routes. The Operator owned or operated motor vehicles driven on the secured area shall do so only in strict accordance with Airport Rules and Regulations, applicable federal, state and municipal laws, ordinances, codes or other similar regulatory measures now in existence or as may be hereafter modified or amended. The Airport may impose training and licensing requirements and charge a fee for AOA driving privileges.

- (o) Waiver. The Director may (but in no event shall be obligated to) waive one or more of the Minimum Standards applicable to an Operator for good cause shown upon written request of the Operator, provided that such waiver would not adversely affect public health or safety, the quality of service provided by the Operator to the public, or Airport finances or operations, or would violate any Federal, State, City or other law, statute, ordinance, rule, regulation, or Airport grant assurance.

Section 5.02 General Lease Clauses. These lease clauses shall be contained as a minimum in all leases between the City and the Operator engaged in any aeronautical service on the Airport.

- (a) Non-Discrimination. The Operator agreed to operate the premises leased for the use and benefit of the public:
 - 1) To furnish good, prompt, and efficient service, adequate to meet all demands for its service at the Airport.
 - 2) To furnish said service on a fair, equal, and nondiscriminatory basis to all users thereof.
 - 3) To charge fair, reasonable, and nondiscriminatory prices for each unit of sale or service, provided that the Operator may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
 - 4) The Operator, his agents, and employees will not discriminate against any person or class of persons because of race, color, creed, or national origin in providing any services or in the use of its facilities provided for the public in any manner prohibited by Part 21 Assurances of the Regulations of the Office of the Secretary of Transportation. The Operator further agrees to comply with such enforcement procedures as the United States might demand that the City take in order to comply with the Sponsors Assurances.
- (b) Aircraft Service by Owner or Operator of Aircraft. No right or privilege granted herein shall operate to prevent any person or persons, firm, or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own regular employees, including but not limited to maintenance and repair, that it may choose to perform.
- (c) Non-Exclusive Rights. Nothing herein contained shall be construed to grant or otherwise authorize the granting of an exclusive right.
- (d) Airport Development The City reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the views of the Operator, and without interference or hindrance. If the physical development of the Airport requires the relocation of Operator-owned facilities, the City agrees to provide a comparable location, and agrees to relocate all Operator-owned buildings or provide similar facilities for the Operator at no cost to the Operator.
- (e) City Rights. The City reserves the right, but shall not be obligated to the Operator, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport together with the right to direct and control all activities of the Operator in this regard.
- (f) War or National Emergency. During the time of war or national emergency, the City shall have the right to lease the landing area or any part thereof to the United States Government for official use and, if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended or modified in whatever manner is appropriate to the situation.

- (g) Airport Obstructions. The City reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent the Operator from erecting, or permitting to be erected, any building or other structure on the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- (h) Subordination. This lease shall be subordinate to the provisions of any existing or future agreement between the City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport.
- (i) Compliance with Laws, Etc. The Operator shall at all times comply with federal, state, and municipal laws, ordinances, codes, and other regulatory measures now in existence including rules and regulations contained in the Airport Operations Manual required by the Federal Aviation Administration and including the current airport security plan, all as may be hereafter modified or amended, applicable to the specific type of operation contemplated by him. The Operator shall procure and maintain during the term of the agreement all licenses, permits, and other similar authorizations required for the conduct of his business operations.
- (j) Indemnity. The Operator shall hold the City of Midland, the City Council, the Airport Planning and Development Board, the Director of Airports, and the other officers, agents and employees of the City of Midland harmless from and against all suits, claims, demands, actions, and/or causes of action of any kind or nature in any way arising out of, or resulting from, his tenancy and activities, and shall pay all expenses in defending any claims against the City by reason of his tenancy and activities.
- (k) Misrepresentation. All terms and conditions with respect to this lease are expressly contained herein, and the Operator agrees that no representative or agent of the City has made any representation or promise with respect to this lease not expressly contained herein.

Article VI. REQUIREMENTS APPLICABLE TO FIXED BASE OPERATORS

Section 6.01 Minimum Standards For Fixed Base Operators. Each Fixed Based Operator shall provide the following minimum services:

- (a) Aircraft Fueling Services. Each FBO shall provide into-aircraft retail delivery of a recognized brand of aviation fuel (including, but not limited to, aviation gas and jet fuel), motor oil, and lubricants as required by the types of aircraft normally utilizing the Airport. The Operator shall provide proper fuel dispensing equipment to service aircraft, including mobile fuel dispensing trucks as specified below. Separate dispensing pumps for each grade of fuel are required. Fuel may be stored in below ground tanks as approved by the Director of Airports. Aboveground fuel tanks must be double walled safety tanks and approved by the Director of Airports with respect to type and location. All fuel handling and storage facilities, equipment and procedures shall strictly comply with all applicable Federal, State, City and local laws, rules and regulations, including without limitation, the most current rules and regulations promulgated by the USDOT and FAA. Fueling personnel shall be properly trained and qualified to perform their assigned duties. The Operator shall ensure that only clean fuel, free of water or other contaminants, is delivered into the aircraft serviced. The Operator shall maintain current fuel reports on file and available for review at anytime by the Director. Fueling service by the FBO shall be in full compliance with all applicable federal, state and local safety laws and regulations, including proper fire protection and electrical grounding of aircraft during fueling operations. All FBO fueling services and systems shall be subject to inspection for fire and other hazards by the Director or other Airport representative and by the appropriate State and City fire officials. The FBO shall maintain a spill prevention and control plan in accordance with applicable Federal, State, City, and Airport laws, rules and regulations.
- (i) **Fueling Capacity Requirements for Aviation Fueling Activities.**
 - 1) **General Aviation Fueling Operator:** Tank farm storage facilities for aviation fuels in the minimum capacity of at least 20,000 gallons of aviation gasoline and 40,000 gallons of turbine fuel shall be provided by the Operator. As well as, one (1) mobile dispensing truck with a minimum capacity of 800 gallons of aviation gasoline and two (2) mobile dispensing trucks with a minimum capacity of 1500 gallons of turbine fuel.
 - 2) **Airline Fueling Operator:** In addition to the above minimum capacities an Operator providing air carrier fueling services must provide an additional tank farm storage capacity of 60,000 gallons of turbine fuel, as well as, two (2) additional mobile dispensing trucks with a minimum capacity of 5000 gallons of turbine fuel.
 - 3) **Military Refueling Contract:** In addition to the above minimum capacities an operator providing military fueling services must provide an additional tank farm storage capacity of 100,000 gallons of turbine fuel, as well as, one (2) additional mobile dispensing truck with a minimum capacity of 5000 gallons of turbine fuel.

(b) Aircraft Line Services. Each FBO shall provide:

- (i) Adequate ground equipment, including but not limited to, ground power and starting equipment, fire extinguishers, oxygen carts, portable compressed air, towing equipment, disabled recovery equipment, washing and cleaning facilities, and such other equipment, supplies and spare parts as may be reasonably required to service all general aviation aircraft at the Airport in accordance with manufacturers recommendations, including such services as repairing and inflating aircraft tires, servicing struts, changing engine oil, servicing oxygen systems, washing and cleaning of the interior and exterior of aircraft and aircraft windows, and recharging or energizing discharged aircraft batteries and starter.
 - (ii) Adequate waiting lounge(s), briefing room(s), restrooms, telephone facilities, etc.
 - (iii) Sale of aviation maps and charts, rulers, flight computer hardware and software, and such other miscellaneous goods and equipment necessary or appropriate for general aviation or flight planning.
- (c) Aircraft, Engine and Accessory Maintenance. In providing this Minimum Service, the FBO shall comply with the applicable Minimum Standards set forth in Section VII.
- (d) Specialized Aeronautical Service. In addition to the Minimum Services, an FBO must provide two Specialized Aeronautical Service for which it is qualified under these Minimum Standards, and is authorized to perform under its Lease with the City. Specialized Aeronautical Services include aircraft engine and airframe maintenance and repair, specialized aircraft parts maintenance and repair, aircraft sales, charter and air taxi services, and flight training.
- (i) Subcontracting. An FBO may provide any Specialized Aeronautical Service using its own resources and personnel, or with the prior written consent of the Director, it may provide such Service through a subcontractor subleasing space from the FBO, in accordance with the Minimum Standards and Lease terms applicable to subleasing and subcontracting. The FBO shall remain primarily responsible for any services performed by a subcontractor, and the compliance by such subcontractor with these Minimum Standards.
- (e) Rates and Charges. The FBO's rates or charges to General Aviation users for its services shall be determined by the FBO, subject to the requirement that all such rates or charges shall be reasonable and equally and fairly applied to all users of the services.
- (f) Hours of Operation. A minimum of twenty four (24) hours per day, seven (7) days per week. The FBO shall have personnel available on an on-call basis at all times for emergency services.
- (g) Staffing. During all operating hours, the FBO shall employ and have on duty trained personnel in such numbers and with such certificates and ratings as are required to meet the Minimum Standards.
- (h) Minimum Space Requirements
- (i) Leased Premises. The minimum amount of land to be leased for a Fixed Base Land Operation shall be nine (9) acres.

- (ii) Aircraft Parking. The FBO must provide a minimum of 250,000 square feet of paved apron parking for aircraft parking and tie-downs with taxi-out capability, including sufficient taxi clearance, in accordance with applicable FAA regulations.
- (iii) Hangars. The FBO shall provide a minimum of 25,000 square feet of hangar space, including not less than 17,000 square feet dedicated to the storage of FBO tenant and transient aircraft, and not less than 8,000 square feet dedicated to provision of aircraft repair and maintenance services and spare parts storage. Excluding T-Hangars, FBO hangars must be not less than 8000 square feet in area, and able to accommodate, at a minimum, FAA Airport Design Group I Aircraft.
- (iv) Automobile Parking. The FBO must provide sufficient paved and striped parking to accommodate FBO, and FBO subtenant customers, passengers, and employees on a daily basis, in accordance with applicable City Code requirements.
- (v) Terminal/Office Space. The FBO shall have a permanent terminal and office space designed and constructed in accordance with the ABIA Design and Development Manual consisting of at least 7,000 square feet of air-conditioned space for crew and passenger lounge facilities, public restrooms, training, flight planning, and office space. Restrooms shall be conveniently located, free of charge, accessible to passengers and crews, and maintained in a clean and sanitary manner. At least one working telephone shall be provided for public use. At least 1,000 square feet of office and shop space shall be provided for aircraft maintenance and repair services, in either the terminal building or the hangar in which such services are provided.
- (i) Term. The term of a Lease with an FBO shall be as agreed between the City and the Operator up to a maximum of fifteen (15) years unless the Operator can demonstrate to the Director that a longer term is necessary to finance and construct the necessary Improvements required to operate its business at the Airport in accordance with these Minimum Standards.
- (j) Minimum Experience. The Operator shall have a minimum of five (5) years of experience in operating a full service Fixed Base Operator facility similar in levels and type of service and traffic, to the Airport.
- (k) Insurance. FBOs shall carry and maintain throughout the term of their Lease the following coverage:
 - (i) Commercial (Airport) General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$5,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and \$5,000,000 product/completed operations limit of liability. The policy shall contain:
 - a) *Independent Contractors coverage*
 - b) *Ground Hangarkeepers Liability with a limit of \$10,000,000*
 - c) *Blanket contractual liability coverage for liability assumed under the Lease or Permit*
 - d) *Medical expense coverage with a limit of \$5,000 any one person*
 - e) *City of Midland listed as additional insured*
 - f) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*

- g) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
- 2) *Automobile Liability Insurance.* If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 for bodily injury and property damage. The policy shall contain:
 - a) *City of Midland named as additional insured*
 - b) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - c) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
- 3) *Aircraft Liability Insurance.* Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage Bodily Injury and Property Damage and \$1,000,000 for Personal and Advertising Injury. The policy shall contain:
 - a) *Contractual liability coverage for liability assumed under the Lease or Permit*
 - b) *Medical Expense coverage with a limit of \$5,000 any one person*
 - c) *City of Midland as additional insured*
 - d) *Thirty (30) day Notice of Cancellation in favor of the City*
 - e) *Waiver of Transfer of Rights of Recovery Against Others in favor of the City of Midland*
 - f) *Non-owned aircraft liability with a minimum limit of \$1,000,000*

Article VII. STANDARDS APPLICABLE TO SPECIALIZED AERONAUTICAL SERVICE PROVIDERS.

Section 7.01 The following standards apply to Specialized Aviation Service Operators. SASOs provide one or more of the following services and shall comply with the Minimum Standards described in this section. The term of a Lease with an SASO shall be as agreed between the City and the Operator up to a maximum of ten (10) years unless the Operator can demonstrate to the Director that a longer term is necessary to finance and construct the necessary Improvements required to operate its business at the Airport in accordance with these Minimum Standards. If an Operator is not leasing land from the City, but is leasing from another Airport tenant, and shall operate under a Permit, the term of such Permit shall be for one year, and month to month thereafter, unless the Operator can demonstrate to the Director that a longer term is necessary to operate its business at the Airport in accordance with these Minimum Standards.

- (a) **Aviation Specialty Repair Services.** (Radios, Painting, Upholstery, Propellers, Instruments, Accessories, etc.) An Aviation Specialty Repair Services Operator is a Person engaged in the business of operating a shop, or a combination of FAA certified shops for the repair of aircraft radios, propellers, instruments, and accessories for general aviation aircraft. The Operator may furnish one, or if desired, any combination of these services. This category includes sale of new and/or used aircraft radios, propellers, instruments and accessories.
- (i) Minimum Standards. The Operator shall maintain, as necessary, the repair station certificates required by the FAA which are applicable to the operation or operations contemplated. The avionics portion of the services offered must maintain current the qualifications of Class I and Class II FAA designated repair station. The Operator shall have in its employ, and on duty during the required operating hours, trained personnel currently certified as FAA radio, instrument or propeller repairmen in such numbers as are required to meet the minimum standards set forth for this category in an efficient manner.
- (ii) Minimum Space Requirements. The Operator shall lease or sublease a sufficient amount of land upon which all required Improvements shall be located, including adequate:
 - 1) hangar or shop space for aircraft maintenance and repair and parts and equipment storage, air conditioned space for office, restrooms, lounge and telephone facilities for customer use,
 - 2) paved aircraft apron space to accommodate the maximum number and type of aircraft that Operator can service at any one time, and
 - 3) paved motor vehicle parking facilities to accommodate Operators customers and employees on a daily basis. If painting operations are contemplated, the Operator shall provide a separate paint shop that meets all applicable safety and air quality and other environmental requirements.

- (iii) Hours of Operation. The Operator shall have personnel available on two hours' notice on an on-call basis at all times outside of the Operator's regularly scheduled business hours for emergency services.
- (iv) Minimum Experience. The Operator shall have a minimum of two (2) years of experience in providing the Commercial Aeronautical Service specified in this section.
- (v) Insurance. The Operator shall carry and maintain the following insurance coverage:
- 1) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and \$1,000,000 product/completed operations limit of liability. The policy shall contain the following provisions:
 - a) *Independent Contractors Coverage*
 - b) *Blanket contractual liability coverage for liability assumed under the Lease or Permit*
 - c) *Medical expense coverage with a limit of \$5,000 any one person*
 - d) *Hangar Keeper's Insurance in such amounts as may be required to cover all aircraft hangared for others with a minimum of \$500,000*
 - e) *City of Midland listed as additional insured*
 - f) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - g) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
 - 2) Automobile Liability Insurance. If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 for bodily injury and property damage. The policy shall contain:
 - a) *City of Midland named as additional insured*
 - b) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - c) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
 - 3) Aircraft Liability Insurance. Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage Bodily Injury and Property Damage and \$1,000,000 for Personal and Advertising Injury. The policy shall contain:
 - a) *Contractual liability coverage for liability assumed under the Lease or Permit*
 - b) *Medical Expense coverage with a limit of \$5,000 any one person*
 - c) *City of Midland as additional insured*
 - d) *Thirty (30) day Notice of Cancellation in favor of the City*
 - e) *Waiver of Transfer of Rights of Recovery Against Others in favor of the City of Midland*
 - f) *Non-owned aircraft liability with a minimum limit of \$1,000,000*

- (vi) **Independent Repair Service Technicians.** An independent repair service technician may provide aircraft repair services at the Airport if the independent technician applies for and is granted, an Independent Repair Service Technician Permit in accordance with these Minimum Standards. The independent repair service technician must pay the applicable permit fee, and provide proof of proper and current required FAA certifications for the type of repair services offered, and liability insurance as specified above. Independent repair service technicians are not subject to the Minimum Space and Hours of Operation requirements of this Section. Repair services may be performed only in areas of the Airport designated by the Director as suitable for such work.
- (b) **Aircraft Airframe and Powerplant Repair and Maintenance.** The Operator is a Person engaged in the business of providing aircraft airframe and powerplant repair and maintenance services, including the non-exclusive right to sell aircraft parts and accessories.
- (i) **Minimum Standards.** The Operator shall apply for Part 145 Repair Station Certification from the FAA, and shall provide a true copy of the Certificate to the Director when granted. Failure to obtain Repair Station Certification within six months of application shall be a violation of these Minimum Standards, unless the Operator can demonstrate the failure is attributable to FAA delays, and not the fault of Operator. Operator shall employ a sufficient number of FAA certified mechanics with airframe, powerplant and inspector ratings to properly and safely perform the work performed by Operator, including at least one FAA certified A&P mechanic on duty during normal business hours. Operator shall have all necessary tools, equipment, supplies, and parts necessary to perform its repair and maintenance services in accordance with manufacturer's recommendations and applicable FAA regulations.
- (ii) **Minimum Space Requirements.** The Operator shall lease or sublease a sufficient amount of land upon which all required Improvements shall be located, in accordance with the requirements of Part 145, including:
- 1) one or more hangars adequate for aircraft maintenance and repair and parts and equipment storage,
 - 2) air conditioned space for office, restrooms, customer lounge and telephone facilities for customer use office,
 - 3) paved aircraft apron space to accommodate the maximum number and type of aircraft that Operator can service at any one time, and
 - 4) paved motor vehicle parking facilities to accommodate Operator's customers and employees on a daily basis. If painting operations are contemplated, the Operator shall provide a separate paint shop that meets all applicable safety and air quality and other environmental requirements.

- (iii) The Operator shall have personnel Hours of Operation. available upon two hours' notice on an on-call basis at all times outside of the Operator's regularly scheduled business hours for emergency services.
- (iv) Minimum Experience. The Operator shall have a minimum of two (2) years of experience in providing the Commercial Aeronautical Service specified in this section.
- (v) Insurance. The Operator shall carry and maintain the following insurance coverage:
 - 1) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and \$1,000,000 product/completed operations limit of liability. The policy shall contain the following provisions:
 - a) *Independent Contractors Coverage*
 - b) *Blanket contractual liability coverage for liability assumed under the Lease or Permit*
 - c) *Medical expense coverage with a limit of \$5,000 any one person*
 - d) *Hangar Keeper's Insurance in such amounts as may be required to cover all aircraft hangared for others with a minimum of \$500,000.*
 - e) *City of Midland listed as additional insured*
 - f) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - g) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
 - 2) Automobile Liability Insurance. If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 for bodily injury and property damage. The policy shall contain:
 - a) *City of Midland named as additional insured*
 - b) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - c) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
 - 3) Aircraft Liability Insurance. Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage Bodily Injury and Property Damage and \$1,000,000 for Personal and Advertising Injury. The policy shall contain:
 - a) *Contractual liability coverage for liability assumed under the Lease or Permit*
 - b) *Medical Expense coverage with a limit of \$5,000 any one person*
 - c) *City of Midland as additional insured*
 - d) *Thirty (30) day Notice of Cancellation in favor of the City*
 - e) *Waiver of Transfer of Rights of Recovery Against Others in favor of the City of Midland*
 - f) *Non-owned aircraft liability with a minimum limit of \$1,000,000*

- (c) **Ground School.** A flight training and ground school Operator is a Person engaged in the business of instructing pilots in dual and solo flight operations, in fixed and/or rotary wing aircraft, and such related ground school instruction as is necessary to prepare persons for taking a written examination and flight check for the category or categories of pilots' licenses and rating involved.
- (i) **Minimum Standards.** The Operator shall obtain and maintain an FAA certificate under FAR Part 61 or 141, as applicable to its operation. The Operator shall employ at a sufficient number of instructors to provide the type of flight and ground training offered. All instructors shall be fully trained and properly certificated by the FAA. Flight instructors shall have a current pilot's license and, to the extent required by applicable regulations, medical certificate. The Operator shall own or lease and have available for use in flight training at least one properly certified aircraft appropriate to the type of flight instruction offered. The Operator shall have appropriate training equipment and instructional materials to provide proper and effective flight training, including adequate mock-ups, pictures, slides, films or other visual aids. All equipment and materials must comply with applicable FAA requirements for the training offered.
- (ii) **Minimum Space Requirements.** The Operator shall lease or sublease;
- 1) a sufficient amount of hangar or tie-down space for all aircraft used for flight instruction at the Airport, air conditioned space for classroom, office, briefing room, restrooms, and telephone facilities for customer use, and
 - 2) sufficient paved motor vehicle parking facilities to accommodate Operator's customers and employees on a daily basis. Ground instruction may not be provided in public areas of the Airport.
- (iii) **Hours of Operation.** A minimum of eight (8) hours per day, five (5) days per week.
- (iv) **Minimum Experience.** The Operator shall have a minimum of two (2) years of experience in providing the Commercial aeronautical Service specified in this section.
- (v) **Insurance.** The Operator shall carry and maintain the following insurance coverage:
- 1) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and \$1,000,000 product/completed operations limit of liability. The policy shall contain:
 - a) *Independent Contractors Coverage*
 - b) *Blanket contractual liability coverage for liability assumed under the lease or Permit*
 - c) *Medical expense coverage with a limit of \$5,000 any one person*
 - d) *City of Midland listed as additional insured*
 - e) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - f) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*

- 2) Automobile Liability Insurance. If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 for bodily injury and property damage. The policy shall contain:
 - a) *City of Midland named as additional insured*
 - b) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - c) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*

- 3) Aircraft Liability Insurance. Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage Bodily Injury and Property Damage and 1,000,000 for Personal and Advertising Injury. The policy shall contain:
 - a) *Contractual liability coverage for liability assumed under the Lease or Permit*
 - b) *Medical Expense coverage with a limit of \$5,000 any one person*
 - c) *City of Midland as additional insured*
 - d) *Thirty (30) day Notice of Cancellation in favor of the City*
 - e) *Waiver of Transfer of Rights of Recovery Against Others in favor of the City of Midland*
 - f) *Non-owned aircraft liability with a minimum limit of \$1,000,000*

- (vi) **Independent Flight Instructors.** An independent flight instructor may provide aircraft flight instruction at the Airport if the independent instructor applies for, and is granted, an Independent Flight Instructor Permit in accordance with these Minimum Standards. The independent flight instructor must pay the applicable permit fee, and provide proof of proper and current pilot's license, required FAA certifications for the type of instruction offered, and liability insurance as specified above in Section VI.(k). Independent flight instructors are not subject to the Minimum Space and Hours of Operation requirements of this Section. Ground school and briefing/debriefing may be provided off-airport or on-airport in leased or subleased space, but such instruction may not be provided in public areas of the Airport.
- (d) **Aircraft Sales.** An aircraft sales Operator is a Person engaged in the business of selling new or used aircraft through franchises, or licensed dealership or distributorship (either on a retail or wholesale basis) of an aircraft manufacturer or otherwise; and providing such repair, services and parts as necessary to meet any guarantee or warranty on new or used aircraft sold.
- (i) Minimum Standards. The Operator shall have at least one full time authorized agent to transact sales, and at least one fully licensed and certificated pilot with ratings appropriate for the types of aircraft to be demonstrated. All dealers shall be properly bonded and licensed in accordance with applicable Federal, State, City, and local laws, rules and regulations. A new aircraft sales Operator shall have available or on call at least one current model of the aircraft made by the manufacturer the Operator represents, and shall provide for demonstrations of additional models of such manufacturer. The Operator shall provide all parts, equipment and services required to perform repair and service aircraft sold by the Operator during applicable warranty periods. Warranty service facilities may be provided through written agreement with an FBO or other repair shop Operator at the Airport.
- (ii) Minimum Space Requirements. The Operator shall lease or sublease a sufficient amount of land to include (a) an adequate amount of paved aircraft ramp or apron space to accommodate its projected inventory of aircraft, (b) air conditioned space for salesroom, office, restrooms, and telephone facilities for customer use, (c) if the Operator is providing warranty maintenance itself, sufficient additional space to provide warranty maintenance and service for aircraft and for parts storage, and (d) sufficient paved motor vehicle parking facilities to accommodate Operator's customers and employees on a daily basis.
- (iii) Minimum Experience. The Operator shall have a minimum of two (2) years of experience in providing the Commercial Aeronautical Service specified in this section.
- (iv) Insurance. The Operator shall carry and maintain the following insurance coverage:
- 1) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage A (Bodily Injury and Property damage) and coverage B (Personal and Advertising Injury); and \$1,000,000 product/completed operations limit of liability. The policy shall contain:
 - a) *Independent Contractors Coverage*
 - b) *Blanket contractual liability coverage for liability assumed under the Lease or Permit*
 - c) *Medical expense coverage with a limit of \$5,000 any one person*
 - d) *City of Midland listed as additional insured*
 - e) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*

- f) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
- 2) Automobile Liability Insurance. If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 for bodily injury and property damage. The policy shall contain:
 - a) *City of Midland named as additional insured*
 - b) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - c) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
- 3) Aircraft Liability Insurance. Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage Bodily Injury and Property Damage and \$1,000,000 for Personal and Advertising Injury. The policy shall contain:
 - a) *Contractual liability coverage for liability assumed under the Lease or Permit*
 - b) *Medical Expense coverage with a limit of \$5,000 any one person*
 - c) *City of Midland as additional insured*
 - d) *Thirty (30) day Notice of Cancellation in favor of the City*
 - e) *Waiver of Transfer of Rights of Recovery Against Others in favor of the City of Midland*
Non-owned aircraft liability with a minimum limit of \$1,000,000

- (e) **Aircraft Rental.** An aircraft rental Operator is a Person engaged in the business of renting aircraft to the public.
- (i) Minimum Standards. The Operator shall own or lease and have available for rental, either owned or under written lease to Operator, a sufficient number of airworthy aircraft properly certificated to handle the proposed scope of its operation. Operator shall employ at least one person having current FAA pilot's license appropriate for the each of the aircraft models offered for rental. The Operator shall develop and implement written policies to ensure that only properly qualified and licensed Persons may rent aircraft, and shall provide a copy of such policies to the Director.
- (ii) Minimum Space Requirements. The Operator shall lease or sublease a sufficient amount of land to include (a) an adequate amount of paved aircraft ramp or apron space to accommodate its projected inventory of rental aircraft, (b) air conditioned space for office, restrooms, and telephone facilities for customer use, and (c) sufficient paved motor vehicle parking facilities to accommodate Operator's customers and employees on a daily basis.
- (iii) Hours of Operation. A minimum of a minimum of eight (8) hours per day, six (6) days per week.
- (iv) Minimum Experience. The Operator shall have a minimum of two (2) years of experience in providing the Commercial Aeronautical Service specified in this section.
- (v) Liability Insurance. The Operator shall carry and maintain the following insurance coverage:
- 1) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and \$1,000,000 product/completed operations limit of liability. The policy shall contain:
 - a) *Independent Contractors Coverage*
 - b) *Blanket contractual liability coverage for liability assumed under the Lease or Permit*
 - c) *Medical expense coverage with a limit of \$5,000 any one person*
 - d) *City of Midland listed as additional insured*
 - e) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - f) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
 - 2) Automobile Liability Insurance. If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 for bodily injury and property damage. The policy shall contain:
 - a) *City of Midland named as additional insured*
 - b) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - c) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*

- 3) **Aircraft Liability Insurance.** Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage Bodily Injury and Property Damage and 1,000,000 for Personal and Advertising Injury. The policy shall contain:
 - a) *Contractual liability coverage for liability assumed under the Lease or Permit*
 - b) *Medical Expense coverage with a limit of \$5,000 any one person*
 - c) *City of Midland as additional insured*
 - d) *Thirty (30) day Notice of Cancellation in favor of the City*
 - e) *Waiver of Transfer of Rights of Recovery Against Others in favor of the City of Midland*
 - f) *Non-owned aircraft liability with a minimum limit of \$1,000,000*
- (f) **Aircraft Charter and Air Taxi Service.** An aircraft charter and air taxi Operator is a Person engaged in the business of providing air transportation to the public for hire, either on a charter basis or as an air taxi Operator, as defined in the Federal Aviation Act of 1958, or as said Act may be amended from time to time. Non-scheduled air carrier companies providing service to and from the Airport, but not based on the Airport, are exempt from these Minimum Standards.
 - (i) **Minimum Standards.** The Operator must hold a valid current FAA Air Charter and Taxi Certificate under FAR Part 135, with appropriate ratings and licenses for the services to be provided at the Airport. All pilots must be fully qualified and certificated for air charter and air taxi service. The Operator must own or lease and have available under its exclusive control at least one airworthy and fully certificated multi-engine all-weather aircraft. The Operator shall have available sufficient trained personnel for checking in and ticketing passengers, and handling luggage.
 - (ii) **Minimum Space Requirements.** The Operator shall lease or sublease a sufficient amount of land to include (a) an adequate amount of paved aircraft ramp or apron space to accommodate its fleet of aircraft based at the Airport, (b) air conditioned space for office, customer lounge, cargo and luggage storage and handling space, restrooms, and telephone facilities for customer use, and (c) sufficient paved motor vehicle parking facilities to accommodate Operator's customers and employees on a daily basis.
 - (iii) **Hours of Operation.** A minimum of a minimum of eight (8) hours per day, five (5) days per week and shall be available on two hours' notice on an on-call basis after Operator's regularly scheduled business hours.
 - (iv) **Minimum Experience.** The Operator shall have a minimum of two (2) years of experience in providing the Commercial Aeronautical Service specified in this section.
 - (v) **Insurance.** The Operator shall carry and maintain the following insurance coverage:
 - 1) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and \$1,000,000 product/completed operations limit of liability. The policy shall contain the following provisions:
 - a) *Independent Contractors Coverage*
 - b) *Blanket contractual liability coverage for liability assumed under the Lease or Permit*

- c) *Medical expense coverage with a limit of \$5,000 any one person*
 - d) *City of Midland listed as additional insured*
 - e) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - f) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
- 2) Automobile Liability Insurance. If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 for bodily injury and property damage. The policy shall contain:
- a) *City of Midland named as additional insured*
 - b) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - c) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
- 3) Aircraft Liability Insurance.
- a) **Single Engine Piston:** *Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$5,000,000 for coverage Bodily Injury and Property Damage and \$5,000,000 for Personal and Advertising Injury. The policy shall contain:*
 - i) *Contractual liability coverage for liability assumed under the Lease or Permit*
 - ii) *Medical Expense coverage with a limit of \$5,000 any one person*
 - iii) *City of Midland as additional insured*
 - iv) *Thirty (30) day Notice of Cancellation in favor of the City*
 - v) *Waiver of Transfer of Rights of Recovery Against Others in favor of the City of Midland*
 - vi) *Non-owned aircraft liability with a minimum limit of \$5,000,000*
 - b) **Twin Engine Piston:** *Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$10,000,000 for coverage Bodily Injury and Property Damage and \$10,000,000 for Personal and Advertising Injury. The policy shall contain:*
 - i) *Contractual liability coverage for liability assumed under the Lease or Permit*
 - ii) *Medical Expense coverage with a limit of \$5,000 any one person*
 - iii) *City of Midland as additional insured*
 - iv) *Thirty (30) day Notice of Cancellation in favor of the City*
 - v) *Waiver of Transfer of Rights of Recovery Against Others in favor of the City of Midland*
 - vi) *Non-owned aircraft liability with a minimum limit of \$10,000,000*

- c) **Turbine Powered Propeller:** Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$20,000,000 for coverage Bodily Injury and Property Damage and \$20,000,000 for Personal and Advertising Injury. The policy shall contain:
- i) Contractual liability coverage for liability assumed under the Lease or Permit
 - ii) Medical Expense coverage with a limit of \$5,000 any one person
 - iii) City of Midland as additional insured
 - iv) Thirty (30) day Notice of Cancellation in favor of the City
 - v) Waiver of Transfer of Rights of Recovery Against Others in favor of the City of Midland
 - vi) Non-owned aircraft liability with a minimum limit of \$20,000,000
- d) **Turbine powered jet:** Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$50,000,000 for coverage Bodily Injury and Property Damage and \$50,000,000 for Personal and Advertising Injury. The policy shall contain:
- i) Contractual liability coverage for liability assumed under the Lease or Permit
 - ii) Medical Expense coverage with a limit of \$5,000 any one person
 - iii) City of Midland as additional insured
 - iv) Thirty (30) day Notice of Cancellation in favor of the City
 - v) Waiver of Transfer of Rights of Recovery Against Others in favor of the City of Midland
 - vi) Non-owned aircraft liability with a minimum limit of \$50,000,000

- (g) **Aviation Museum.** A not for profit or charitable person, firm or corporation, as herein defined, whose purpose is to exhibit and display airworthy and non-airworthy aircraft and aviation artifacts for interpretation by the general public.
- (vi) Minimum Standards An Aviation Museum will be required to comply with the following requirements with respect to providing a museum open to the public:
- 1) Permitted Services:
 - a) *The restoration and maintenance of historic aircraft owned by the museum.*
 - b) *Flight instruction only as required by normal museum operations commensurate with the Museum's aircraft operations programs, but not for hire.*
 - c) *Historic flight programs for its membership.*
 - d) *Local charity flight rides at will and at any time for the purpose of raising funds for the museum.*
 - e) *The exhibit and display aviation artifacts for interpretation by the general public.*
 - f) *The operation of a museum gift shop.*
 - 2) Excluded Services:
 - a) *A museum shall be prohibited from performing any aeronautic services for hire to the general public.*
 - b) *A museum shall be prohibited from storing and dispensing fuel*
 - 3) Organizational and Operating Standards
 - a) *Establish and maintain a statement of mission which is solely related to aviation and aviation history and which is educational in nature.*
 - b) *Must have previously applied to the Internal Revenue Service for non-profit foundation status and have on hand an initial determination letter from the IRS stating that the organization has met the provisions of the IRS code for nonprofit foundation status.*
 - c) *Maintain itself as an aviation museum open to the public.*
 - d) *Have established an initial collection of a minimum of 6 (six) aircraft, all of which are owned by the corporation and not by individuals.*
 - e) Hours of Operation. *Maintain regular full-time hours and days of operation, holidays excluded, on a set schedule which is consistent with the full-time operation of any business enterprise and which is compatible with the typical practices of other professional museums and historical societies within Midland County.*
 - 4) Financial Statements. *Provide financial statements to the City in a form acceptable to the Department of Airports for review, in accordance with acceptable accounting practices by a recognized CPA, for the City's determination of the organization's ability to meet its anticipated financial obligations to the City.*
 - 5) Facilities.
 - a) *Maintain office space on the Airport sufficient for the conduct of the normal day-to-day business of the business organization.*

- b) *Maintain office space on the Airport appropriate to the discipline and scope of the museum organization.*
 - c) *Maintain maintenance and restoration facilities on the Airport appropriate to service the types of aircraft now present or reasonably anticipated to be included in the museum's collection.*
 - d) *Maintain a museum store with sufficient stock to service those persons of the general public who may reasonably be expected to visit the museum facility.*
 - e) *Maintain a minimum of one main aircraft display capable of housing and displaying those types of aircraft that the museum chooses to collect.*
 - f) *Maintain a dedicated vehicle parking area of no less than 30 paved spaces, one of which shall be a handicapped parking space.*
 - g) *Maintain the overall museum facility in compliance with in the standards of the Americans with Disabilities Act including, but not limited to, rest room facilities, parking, doorways, access ramps and elevators, as appropriate.*
 - h) *Maintain an outdoors aircraft-parking apron capable of accommodating the operations, parking and/or display of those types of aircraft that the museum chooses to collect.*
 - i) *Utilities brought onto the property must be underground facilities.*
 - j) *Any utilities of the Airport may be utilized; however, all hook-ups must be underground and at the sole cost of the museum operator.*
 - k) *All construction must meet the local, state or federal building safety, health and ADA codes in affect at the time of construction.*
 - l) *All of the proposed construction and improvements will be subject to the approval of the Midland International Airport, Department of Airports or their designated representative.*
- 6) Liability Insurance. The Operator shall carry and maintain the following insurance coverage:
- a) *Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$3,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and \$3,000,000 product/completed operations limit of liability. The policy shall contain:*
 - i) Independent Contractors Coverage
 - ii) Blanket contractual liability coverage for liability assumed under the lease or Permit
 - iii) Medical expense coverage with a limit of \$5,000 any one person
 - iv) City of Midland listed as additional insured
 - v) Thirty (30) day Notice of Cancellation in favor of the City of Midland
 - vi) Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland
- 7) Automobile Liability Insurance. If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 for bodily injury and property damage. The policy shall contain:

- a) *City of Midland named as additional insured*
 - b) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - c) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
- 8) *Aircraft Liability Insurance*. Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage Bodily Injury and Property Damage and 1,000,000 for Personal and Advertising Injury. The policy shall contain:
- a) *Contractual liability coverage for liability assumed under the Lease or Permit*
 - b) *Medical Expense coverage with a limit of \$5,000 any one person*
 - c) *City of Midland as additional insured*
 - d) *Thirty (30) day Notice of Cancellation in favor of the City*
 - e) *Waiver of Transfer of Rights of Recovery Against Others in favor of the City of Midland*
 - f) *Non-owned aircraft liability with a minimum limit of \$1,000,000*

Article VIII. PRIVATELY OWNED NON-COMMERCIAL HANGAR AND AVIATION FUEL DISPENSING FACILITIES

Section 8.01 PRIVATELY OWNED NON-COMMERCIAL HANGAR AND AVIATION FUEL DISPENSING FACILITIES. An applicant desiring to operate from privately owned hangars with the option to dispense aviation fuels and oil and provide other related services for its own aircraft, such as aircraft tie-down and parking.

(a) Minimum Standards.

- (i) Land Requirements. The leasehold shall contain sufficient land as determined by the leaseholder and approved by the Director of Airport and the City Building Official to provide space for all buildings, paved aircraft apron, paved private employee automobile parking, vehicular driveways and service access ways, and minimum building setbacks from edges of the leasehold. If the applicant desires to maintain its own aviation fuel farm facility, such facility shall be located within the above described leasehold area, subject to applicable building and fire codes in effect at time of applicants construction of such fueling facility. In addition to the approved leasehold requirement for hangar facilities, the applicant shall provide, if needed, paved taxiway access to the Airports existing taxiway system. Such taxiways provided by applicant shall be constructed in full conformance with applicable FAA standards for the largest type of aircraft expected to use the taxiway.
- (ii) Building Requirements. A building of sufficient size as determined by the leaseholder and approved by the Director of Airport and the City Building Official and paved aircraft parking apron shall be constructed on the leasehold, which will provide hangar and other space suitable to accommodate the tenants' needs. The Director of Airports and City Building Official shall approve all building and construction plans before being sent to the City Council for final approval.
- (iii) Services Permitted. Lessee may hangar, tie-down, adjust, repair, refuel, clean, and otherwise service its own aircraft, provided it does so with its own employees. Lessee shall not sell, barter, trade, share, sublease, or in other manner provide hangar space, fuel or fueling facilities to any other Airport tenant or user, or to any other aircraft except those aircraft owned or leased for the exclusive use of the tenant designated in the Airport lease agreement.
- (iv) Lessee shall use the leased premises for the primary purpose of the storage, maintenance, and servicing of its own aircraft. No commercial activity of any kind shall be permitted on the premises unless approved by the Director of Airports. No aeronautical services of any kind except operation and servicing of its own aircraft shall be permitted on the premises. Commercial activity is herein defined as the operation of any business for the exchange, trading, buying, hiring, selling or bartering of any commodities, goods, services, or property of any kind, or any other revenue-producing activity, whether or not a profit is produced.
- (v) Hangar, office, shop, or ramp space shall not be shared, subleased or used by anyone other than the Lessee of the Premises. Lessee shall not exercise any other rights or privileges reserved to commercial Fixed Base Operators or Specialty Shop Operations at the Airport.

- (vi) Fuel Facilities. Lessee may construct and maintain its facilities at its own expense at a location approved by the Director of Airports, and shall conduct self-fueling operations in compliance with all applicable federal, state, local and fueling industry laws, ordinances, standards and regulations. Lessee shall enter into an annual Airport Fueling Agreement with the City which provides for current safety, operational, quality control and maintenance requirements for fuel farms; payment of fuel flowage fees; inspection and testing of fuel farms and fueling personnel; and FAA procedures for aircraft fueling operations. Fuel farm facilities shall contain properly metered and filtered fixed dispensers for fuel storage tanks.
- (vii) Liability Insurance. The Operator shall carry and maintain the following minimum insurance coverage unless specific amounts of coverages are dictated otherwise in the their lease agreement with the City:
- 1) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and \$1,000,000 product/completed operations limit of liability. The policy shall contain:
 - a) *Independent Contractors Coverage*
 - b) *Blanket contractual liability coverage for liability assumed under the lease or Permit*
 - c) *Medical expense coverage with a limit of \$5,000 any one person*
 - d) *City of Midland listed as additional insured*
 - e) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - f) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
 - 2) Automobile Liability Insurance. If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 for bodily injury and property damage. The policy shall contain:
 - a) *City of Midland named as additional insured*
 - b) *Thirty (30) day Notice of Cancellation in favor of the City of Midland*
 - c) *Waiver of Transfer of Right of Recovery Against Others in favor of the City of Midland*
 - 3) Aircraft Liability Insurance. Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverage Bodily Injury and Property Damage and 1,000,000 for Personal and Advertising Injury. The policy shall contain:
 - a) *Contractual liability coverage for liability assumed under the Lease or Permit*
 - b) *Medical Expense coverage with a limit of \$5,000 any one person*
 - c) *City of Midland as additional insured*
 - d) *Thirty (30) day Notice of Cancellation in favor of the City*
 - e) *Waiver of Transfer of Rights of Recovery Against Others in favor of the City of Midland*
 - f) *Non-owned aircraft liability with a minimum limit of \$1,000,000*

4) Specific Restriction On Use of Premises. proposed

- a) *Only one (1) tenant shall be permitted to lease, use and occupy a hangar and its related facilities. No subleasing of hangar, office, shop, or ramp space shall be permitted. Aircraft based and serviced upon the premises shall be directly owned by, or exclusively leased in writing for a minimum period of six (6) months to, the tenant. No aircraft owned, leased, or borrowed, or otherwise used by employees of the tenant shall be permitted on the premises excluding temporary guests of the tenant.*
- b) *All maintenance and service work conducted on the premises and performed on the tenants aircraft shall be performed only by employees of the tenant, or by commercial aircraft service operators (FBOs or SSOs) or Independent Repair Service Technicians (IRST) which have written agreements with the City authorizing such Operators to conduct said activities.*
- c) *A tenant must be a person, individual, firm, company, corporation, partnership, or a joint venture, which has substance under State Law and a specific legal identity, and corporate purpose as registered with the Secretary of State in such tenants state of corporate residence. Said corporate purpose shall not in any way, shape, or form be related to the use, ownership, maintenance, or operation of aircraft or hangar activities, or to any commercial aviation activity or enterprise. The use and ownership of a tenant's aircraft must be incidental, and not relative to, the corporate purpose of the tenant.*

RESOLUTION NO.

**RESOLUTION AUTHORIZING AN AMENDMENT TO
ARTICLE VIII. PRIVATELY OWNED NON-
COMMERCIAL HANGAR AND AVIATION FUEL
DISPENSING FACILITY OF THE AIRPORT MINIMUM
STANDARDS AT THE MIDLAND INTERNATIONAL
AIRPORT**

WHEREAS, the City Council previously approved Resolution # 2005-138 adopting the Airport Leasing Policy and Airport Minimum Standards and Requirements; and

WHEREAS, the current Airport Minimum Standards and Requirements does not allow for the accommodation of new hangar development concepts necessary for land lease agreements to build private hangars; and

WHEREAS, the City Council finds it to be in the public interest to amend Article VIII. Privately Owned Non-Commercial Hangar and Aviation Fuel Dispensing Facilities of the Airport Minimum Standards;

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

THAT the City Council of the City of Midland, Texas, hereby approves and amends Article VIII. Privately Owned Non-Commercial Hangar and Aviation Fuel Dispensing Facilities of the Airport Minimum Standards, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

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., 2011 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

APPROVED AS TO CONTENT AND COMPLETENESS:

Marv Esterly, Director of Airports



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Marv Esterly, Director of Airports

SUBJECT: Airport Land Lease

Purpose:

Consider a resolution authorizing the execution of a Land Lease Agreement between Good Luck Investments L.L.C. and the City of Midland for a 0.28 acre tract of land located in Lot 4, Block 11, Midland International Airport, Industrial Park Addition, Section 6, an addition of the City of Midland, Midland County, Texas.

Recommended City Council Action:

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

Annual Rental of \$5,314.80

Discussion:

In November 2011, City Council authorized the City Manager and City Attorney to begin negotiations with Good Luck Investments L.L.C. to lease a .028 acre tract of land at Midland International Airport.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE EXECUTION OF A
LAND LEASE AGREEMENT WITH GOOD LUCK
INVESTMENTS L.L.C., FOR HANGAR DEVELOPMENT
LOCATED ON A 0.28 ACRE TRACT OF LAND
LOCATED IN LOT 4B, BLOCK 11, MIDLAND
INTERNATIONAL AIRPORT, INDUSTRIAL PARK
ADDITION, SECTION 6, AN ADDITION TO THE CITY
OF MIDLAND, MIDLAND COUNTY, TEXAS**

WHEREAS, the City Council finds it to be in the public interest to authorize the execution of a land lease agreement with Good Luck Investments, L.L.C., to lease land from the City at the Midland International Airport, Industrial Park Addition;

**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, the lease agreement with Good Luck Investments L.L.C., in the form shown in Exhibit "A", attached hereto and made a part hereof for all legal purposes.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2011 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

APPROVED AS TO CONTENT
AND COMPLETENESS:

Marv Esterly, Director of Airports

City of Midland
City Secretary's Office
Interoffice Memorandum

Date: December 8, 2011
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 December 13, 2011. Remaining expirations and vacancies are listed below:

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS –Two terms expired on September 30, 2011 and two vacancies for Alternate terms expired on September 30, 2007.

MIDLAND FOOTBALL-SOCCER AND BASEBALL COMPLEX DEVELOPMENT CORPORATION – Two terms expired in November 2011.

MIDLAND HIGHER EDUCATION FACILITIES CORPORATION – Three vacancies expired on January 1, 2007, one term expired on January 1, 2009 and two terms expired on January 1, 2010.

MIDLAND HOUSING FINANCE CORPORATION –One vacancy expired on September 30, 2010 and two terms expired on September 30, 2011.

MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD – One vacancy.

PARKS AND RECREATION COMMISSION –One term expired on September 30, 2011.

PERMIAN BASIN AIRPORT BOARD – Two terms expired on September 30, 2010 (Carlsbad and Hobbs New Mexico) and three terms expired on September 30, 2011.

PLANING AND ZONING COMMISSION – One term expired on September 30, 2011.

TAX INCREMENT REINVESTMENT ZONE BOARD – One term expired on March 20, 2009 (one College representative), seven terms expired on March 20, 2010 and two terms expired March 20, 2011. (Four City representatives, two Hospital representatives, two County representatives and one College representative.)

ZONING BOARD OF ADJUSTMENT AND AIRPORT ZONING BOARD OF ADJUSTMENT-
Two terms expired on September 30, 2011, one vacancy for Alternate term expired on September 30, 2006 and one vacancy for Alternate term expired September 30, 2009.

Should you have any questions, please call me on 685-7432.

BOARDS AND COMMISSIONS OF THE CITY OF MIDLAND

December 13, 2011

AIRPORT PLANNING AND DEVELOPMENT BOARD

(Advisory)

(Membership-10; Terms - 3 Years expiring 3-3-4.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Ronald Schwisow	09/06	Sept 30 2012	Sept 30 2012
Herbert Blankinship	09/06	Sept 30 2012	Sept 30 2012
Jerry Walton	11/09	Sept 30 2012	Sept 30 2015
Mike Owen	10/07	Sept 30 2013	Sept 30 2013
Gregory F. Baiano	09/10	Sept 30 2013	Sept 30 2016
John T. Echols	09/10	Sept 30 2013	Sept 30 2016
Dallas L. Smith	09/10	Sept 30 2013	Sept 30 2016
Earl Erdmann, Chairman	09/08	Sept 30 2014	Sept 30 2014
Brooks Smith	11/11	Sept 30 2014	Sept 30 2017
Don "Woody" Woodward	11/11	Sept 30 2014	Sept 30 2017

Ex-Officio members are Harry Spannaus, the City Manager and the City Attorney. The Secretary is the Director of Aviation.

ANIMAL SERVICES ADVISORY COMMISSION

(Advisory)

(Membership - 6; Terms - 4 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Dr. Tom Green (Veterinarian)	10/07*	Sept 30 2013	Sept 30 2017
Kelly Spencer	09/09	Sept 30 2013	Sept 30 2017
Laura Hollifield	09/08*	Sept 30 2013	Sept 30 2017
Justin Petty	04/07*	Sept 30 2013	Sept 30 2017
Tony Carrillo	09/09	Sept 30 2013	Sept 30 2017
Paul O'Neill	09/09	Sept 30 2013	Sept 30 2017

BUILDING CODES REVIEW COMMITTEE

(Membership – 9; Terms – 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
James Rigger	12/09	Dec 31 2013	Dec 31 2013
Chris Repman	12/09	Dec 31 2013	Dec 31 2013
John Cooper	12/09	Dec 31 2013	Dec 31 2013
Bill Routh	12/09	Dec 31 2013	Dec 31 2013
Tom Woodruff	12/09	Dec 31 2013	Dec 31 2013
Ron Ainsworth	12/09	Dec 31 2013	Dec 31 2013
Walter Pate	12/09	Dec 31 2013	Dec 31 2013
Robert Harrington	12/09	Dec 31 2013	Dec 31 2013
Jerry Morales	12/09	Dec 31 2013	Dec 31 2013

* Indicates appointment to an unexpired term.

CITY DEVELOPMENT ADVISORY COMMITTEE

(Advisory)

(Membership - 5; Terms - 2 Years expiring 2 even & 3 odd)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Vicky Hailey	09/10	Sept 30 2012	Sept 30 2014
Reggie Lawrence	09/10	Sept 30 2012	Sept 30 2014
Lena Margita	10/09	Sept 30 2013	Sept 30 2013
Alonda Massey`	11/11	Sept 30 2013	Sept 30 2015
Tim Bryson	11/11	Sept 30 2013	Sept 30 2015

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

(Decision Making)

(Membership - 7; Terms - 4 Years expiring 2-2-2-1)

To sunset December 31, 2011

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Joe Molina, Jr.	09/03	Sept 30 2011	Sept 30 2011
James W. Rikken (Architect)	09/99	Sept 30 2011	Sept 30 2011
Don Woodward (At Large)	11/11*	Sept 30 2012	Sept 30 2020
Richard D. Dunham	10/05	Sept 30 2013	Sept 30 2013
Greg Turner	03/11*	Sept 30 2013	Sept 30 2021
Chris Repman	10/07*	Sept 30 2014	Sept 30 2018
Jay K. Bradford	09/10	Sept 30 2014	Sept 30 2018

ALTERNATES:

Vacancy	Sept 30 2007
Vacancy	Sept 30 2007

HOTEL/MOTEL TAX ADVISORY BOARD

(Advisory)

(Membership - 7; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Tyler Wolfe	04/11*	Sept 30 2012	Sept 30 2012
Jon S. Blair	02/09*	Sept 30 2012	Sept 30 2014
David Baur	09/10	Sept 30 2013	Sept 30 2014
Lisa Grissom	9/09	Sept 30 2013	Sept 30 2013
Alice Church	4/11*	Sept 30 2013	Sept 30 2015
Steve Jones	02/09*	Sept 30 2013	Sept 30 2013
Alex Singh-Hotel/Motel Assn. Rep.	09/09	Dec 31 2013	Assn. Appt.
Vicky Hailey (Liaison Officer)			

* Indicates appointment to an unexpired term.

HOUSING AUTHORITY COMMISSION

(Membership - 5; Terms - 2 Years expiring 2 even & 3 odd.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Rosie Gransberry	06/08*	Oct 2012	Oct 2012
Norma Duran	11/08*	Oct 2012	Oct 2014
Gregory Maes	11/11	Oct 2013	Oct 2015
Carla Repman, Vice Chairman	09/09	Oct 2013	Oct 2013
James A. Blischke	01/10	Oct 2013	Oct 2013

ALTERNATES:

Dennis Bade	11/11	Oct 2013	Oct 2015
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JOINT ECONOMIC DEVELOPMENT TASK FORCE

(Ad Hoc)

	<u>Appt. Date</u>
(Midland)	
Wes Perry	01/08
LuAnn Morgan	12/00
Keith Stretcher	12/00
Tommy Hudson	08/07
John Breier	01/04
(Odessa)	
Larry Melton	08/01
Jim Morris	11/00
Richard Morton	01/02
Joel Roberts	11/00
Neil McDonald	11/00

MANAGED COMPETITION COMMITTEE

(Ad Hoc)

	<u>Appt. Date</u>
Jon Morgan	01/02
Wes Perry	01/02
Roy Nelson	01/02
Hugh "Andy" Shaffer	12/03
Scott Dufford	01/02
Ted Tipton	04/04
Kevin Sparks	11/07
Scott Lovett	04/10
P. Lourcey Sams	04/10

Ex-Officio members are the Mayor and the City Manager.

- **Indicates appointment to an unexpired term.**

MIDLAND CENTER ADVISORY BOARD

(Advisory & Decision Making)

(Membership - 9; Terms - 3 Years expiring 3-2-2.)

		<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Brent Blackburn	(City)	09/09*	Sept 30 2013	Sept 30 2016
Charles Spence	(CC)	11/07	Sept 30 2013	N/A
Lorri Lyon West	(City)	09/10	Sept 30 2013	Sept 30 2016
Patricia S. Blackwell	(City)	10/07*	Sept 30 2014	Sept 30 2014
Paula Mitchell	(City)	09/08	Sept 30 2014	Sept 30 2014
Greg Turner	(CC)	12/11	Sept 30 2014	N/A
Tracy Bacon	(CC)	12/11	Sept 30 2014	N/A
Jerry Morales (Liaison Officer)				

Ex-Officio members are the City Manager and Executive Director of the Chamber of Commerce.

MIDLAND CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS

Five Directors, Elected by Local Taxing Entities.

City Nominates/Cast Vote for one Director

(Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>
Fred Poe	12/95	Dec 31 2011

MIDLAND DEVELOPMENT CORPORATION

(Membership - 5; Terms -3 Years - Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Michael Trost	02/11*	Jan 14 2013	Jan 14 2019
Cary J. Love	12/09	Jan 14 2013	Jan 14 2016
Gary Douglas	11/11*	Jan 14 2013	Jan 14 2019
Laura Roman	01/08	Jan 14 2014	Jan 14 2014
Robert Rendall, Chairman	01/09*	Jan 14 2014	Jan 14 2017

- Indicates appointment to an unexpired term.

**MIDLAND FOOTBALL-SOCCER AND BASEBALL COMPLEX
DEVELOPMENT CORPORATION**

(Decision Making)

Membership - 7; Terms - 2 Years)

	<u>Appt Date</u>	<u>Eligibility Term Expires</u>	<u>Expires</u>
Ken Marks, Vice President	10/07	Nov 2011	Nov 2011
James G. Smith	12/07	Nov 2011	Nov 2011
Mike Thompson	11/11	Nov 2013	Nov 2015
Tim Bryson	11/11	Nov 2013	Nov 2015
Wesley D. Bownds	02/09*	Nov 2013	Nov 2013
John James	08/08*	Nov 2013	Nov 2013
Rick Davis (MISD Resp.)	10/10*	Nov 2013	Nov 2015

MIDLAND HIGHER EDUCATION FACILITIES CORPORATION

(Membership - 7; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2009	
Cathy Oestmann	11/05*	Jan 1 2010	Jan 1 2010
Steve Jones	09/08*	Jan 1 2010	Jan 1 2012
Curt Kamradt	11/05*	Jan 1 2012	Jan 1 2012

MIDLAND HOUSING FINANCE CORPORATION

(Decision Making)

(Membership - 5; Terms - 2 Years - Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Vacancy - (Damon L. Blakeley)	07/07*	Sept 30 2010	
Adrianne Valencia	10/07	Sept 30 2011	Sept 30 2011
Melissa Wicker	10/07	Sept 30 2011	Sept 30 2011
Jerry Morales (Liaison Officer)	10/08	Sept 30 2012	Sept 30 2012
Nathan Miller	11/11*	Sept 30 2012	Sept 30 2016

- Indicates appointment to an unexpired term.

MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD

(Ad Hoc)

Appt. Date**Vacancy**

Richard Hatchett	11/08
W. L. "Scooter" Brown	09/04
Ken Burgess	09/04
Jim Hightower	11/08
Ted H. Jones	09/04
Mitch Malouf	11/08
Christi Newton	09/04
Dan Rush	09/04

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD

(Decision Making)

(Membership - 6; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Willie Barber	09/08	Sept 30 2012	Sept 30 2012
Raymond McCarthy	09/08	Sept 30 2012	Sept 30 2012
Michael Trost	09/08	Sept 30 2012	Sept 30 2012
John H. James	09/09	Sept 30 2013	Sept 30 2013
Karen York	06/09*	Sept 30 2013	Sept 30 2013
Guy McKenize	03/11*	Sept 30 2013	Sept 30 2015

OIL AND GAS ADVISORY COMMITTEE

(Advisory)

(Membership – 5; Terms – 3 Years expiring 2-2-1)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Richard D. Dunham (Realtor/Petro Eng.)	01/10	Sept 30 2013	Sept 30 2016
D. Patrick Darden (Petroleum Eng.)	02/10	Sept 30 2012	Sept 30 2015
Don Eubank (Drilling Eng.)	04/10	Sept 30 2012	Sept 30 2015
Paul Brown	11/11	Sept 30 2014	Sept 30 2017
David Rosen	11/11	Sept 30 2014	Sept 30 2017

* Indicates appointment to an unexpired term.

PARKS AND RECREATION COMMISSION

(Advisory)

(Membership - 9; Terms - 3 Years expiring 3-3-3.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Berry Simpson	09/10*	Sept 30 2011	Sept 30 2017
Amanda McCann	11/11*	Sept 30 2012	Sept 30 2018
David Ham	09/06	Sept 30 2012	Sept 30 2012
Charles A. Spence	01/10*	Sept 30 2013	Sept 30 2016
Susan Nichols	02/06*	Sept 30 2013	Sept 30 2013
Eric L. West	10/07	Sept 30 2013	Sept 30 2013
Richard J. McGrath	09/10	Sept 30 2013	Sept 30 2016
P. Lourcey Sams	09/08	Sept 30 2014	Sept 30 2014
Tina Corbett	09/08	Sept 30 2014	Sept 30 2014

PERMIAN BASIN AIRPORT BOARD

(Advisory)

(Membership - 30; Terms - 1 year.)

	<u>Appt. Date</u>	<u>Term Expires</u>
10 Members of the Airport Planning and Development Board		
Bob Forrest (Carlsbad, NM)	10/04	Sept 30 2010
Larry Shed (Hobbs, NM)	10/01	Sept 30 2010
Larry Gill (Abilene)	10/10	Sept 30 2011
Isabelle Blanchard (Pecos)	10/10	Sept 30 2011
David Harrell (Snyder)	10/07	Sept 30 2011
Elvin Brownlee III (Andrews)	12/10*	Sept 30 2012
Jim Little (Big Spring)	09/03	Sept 30 2012
David Hardwick (Ft. Stockton)	10/07	Sept 30 2012
Don Bethel (Lamesa)	02/91	Sept 30 2012
Henry Cutbirth (Monahans)	09/05	Sept 30 2012
Willie Taylor (Odessa)	02/00	Sept 30 2012
Gloria Pena (Odessa)	03/03*	Sept 30 2012
Barbara Graff (Odessa)	06/10*	Sept 30 2012
Luis E. Elguezabal (San Angelo)	10/07	Sept 30 2012
Lex Hinds (Seminole)	10/08	Sept 30 2012
Glenn Wortham (Sweetwater)	10/07	Sept 30 2012
Lance Goodrich (Artesia, NM)	09/09	Sept 30 2012
Larry Fry (Roswell, NM)	09/00	Sept 30 2012

Ex-Officio members are the City Manager and the City Attorney. The Secretary is the Director of Aviation.

* Indicates appointment to an unexpired term.

**PERMIAN BASIN COMMUNITY CENTER FOR MENTAL HEALTH
AND MENTAL RETARDATION**

(Decision Making)

(Membership - 2 (City); Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Janet R. Pritchett (City)	05/09*	June 2012	June 2014
Larry Edgerton	07/10*	June 2013	June 2015

PERSONNEL BOARD OF APPEALS

(Decision Making)

(Membership - 3; No designated terms.)

	<u>Appt. Date</u>
John James	03/08
Hugh A. "Andy" Shaffer	09/05
Michael Trost	01/10

PLANNING AND ZONING COMMISSION

(Advisory & Decision Making)

(Membership - 9; Terms - 3 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Becky Ferguson, Vice Chairman	03/04*	Sept 30 2011	Sept 30 2011
Kevin Wilton	09/08*	Sept 30 2012	Sept 30 2015
Bill Woodruff	02/05*	Sept 30 2012	Sept 30 2012
Royce Watkins	02/08*	Sept 30 2012	Sept 30 2015
Karen York	01/10*	Sept 30 2012	Sept 30 2018
Jane Wolf	03/09*	Sept 30 2013	Sept 30 2016
Cindy Lanning	09/10	Sept 30 2013	Sept 30 2016
Jay Norris	11/11	Sept 30 2014	Sept 30 2017
Galen Gatten	09/08	Sept 30 2014	Sept 30 2014

ALTERNATES:

Tony Carrillo	11/11	Sept 30 2014	Sept 30 2017
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- Indicates appointment to an unexpired term.

TAX INCREMENT REINVESTMENT ZONE BOARD

(Decision Making)

(Membership - 12; Terms - 2 Years, or 3 Years if appointed after 3/1/07)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Neil Florer (College)	07/01	Mar 20 2009	Mar 20 2009
Dan Rush (City)	07/01	Mar 20 2010	Mar 20 2010
Mark T. Wellen (City), Vice Chairman	07/01	Mar 20 2010	Mar 20 2010
Jay Reynolds (Hospital)	03/02	Mar 20 2010	Mar 20 2010
Ralph Way (College)	07/01	Mar 20 2010	Mar 20 2010
Jimmy Davis (Hospital)	03/07	Mar 20 2010	Mar 20 2013
Randy Prude (County)	03/07	Mar 20 2010	Mar 20 2013
Judge Mike Bradford (County)	01/07*	Mar 20 2010	Mar 20 2014
C. Mark Wheeler (City), Treasurer	04/08	Mar 20 2011	Mar 20 2014
Bob Lanier (City), Secretary	04/03	Mar 20 2011	Mar 20 2011
Brent Kennedy (City)	06/09	Mar 20 2012	Mar 20 2015
John L. Kennedy (City)	10/09*	Mar 20 2012	Mar 20 2018

Ex-Officio member is President, Board of Trustees, Midland Independent School District

ZONING BOARD OF ADJUSTMENT**AND****AIRPORT ZONING BOARD OF ADJUSTMENT**

(Decision Making)

(Membership - 5; Terms - 2 Years expiring 3 odd & 2 even.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Trudi Edwards	10/07	Sept 30 2011	Sept 30 2011
Manny Ribera	10/07	Sept 30 2011	Sept 30 2011
Todd Byars	02/08*	Sept 30 2012	Sept 30 2014
Ken Morgan	01/10*	Sept 30 2012	Sept 30 2014
Carla Repman	01/10*	Sept 30 2013	Sept 30 2015

ALTERNATES: (not applicable to Airport Zoning)

Vacancy		Sept 30 2006	
Vacancy		Sept 30 2009	
Annabel Holguin	11/11	Sept 30 2013	Sept 30 2015
Greg Turner	11/11	Sept 30 2013	Sept 30 2015

*

Indicates appointment to an unexpired term.



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: Bobby Norman
Address: 4505 Cherrywood Dr.
Midland Texas 79707
(City) (State) (Zip)

Date: 11/29/2011
Phone: 432-689-8284 (Home)
432-620-6566 (Business)
Email: BNorman@mysbank.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 17 years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Banking

Professional and/or Community Activities:

President - Citibank - 13 years; Board Member/Chairman - Midland Chamber of Commerce 2000-2003; Board - Midland Country Club; Board - American Cancer Society Roundup; Dev. Board - UTPB Bus. School; March of Dimes, National Kidney Foundation; Multiple Sclerosis Society; Instrumental in obtaining Nationwide event; Org. Committee - FBC Foundation; many others

What is your personal vision for the City?

To see the City thrive economically, culturally, socially, educationally and spiritually. To see the City encourage and support a superior business and personal environment for all citizens, while assisting in providing an outstanding quality of life. To continue to support a city and community which plans for future generations, while being mindful of the concept of limited and small govt.

Please specify any time constraints you may have.

Tuesday & Thursday - 8 - 9 am. Standing business meetings

Most other time slots can be adjusted as long as Commission and Board meetings are pre-set.

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:

4A - Midland Development Corporation

4B - Midland Football-Soccer and Baseball Complex Development Corporation

Please tell us why you are interested in serving on this board or commission.

I believe in the mission of both the 4A & 4B Boards. I believe they each have a responsibility in assisting in the future economic diversity and health of our community. My experience of 35 years in Finance, business, real estate and marketing will allow my

input to be additive to the business of each of these Boards. I am willing to serve.

What contribution would you most like to make?

To contribute to the professional business decisions, analysis and long-term planning of the Midland Development Board. The MDB deals with complex issues and both small, and often, extremely large businesses. I have experience in these areas. To contribute to the responsible oversight and operation of our terrific sports complex, which is a significant quality of life addition to our community.

Additional pertinent information or references:

As President of First American Bank - negotiated the first Naming Rights contract with the City. Negotiated assumption Agmt. - Citi

As Chairman of the Midland Chamber of Commerce - assisted in the negotiation of the AT & T contract

(2) Name of Board/Commission:

Planning and Zoning Commission

What contribution would you most like to make?

To provide a common-sense, experienced, and reasonable business approach to the P & Z Commission. I have experience in both residential and commercial construction projects, and am a home owner. I believe I understand many of the issues involved in planning and zoning.

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

Bobby Norman

Digitally signed by Bobby Norman
DN: cn=Bobby Norman, o=Security Bank, ou,
email=BNorman@mysbank.com, c=US
Date: 2011.11.29 17:34:31 -06'00'

Applications may be submitted online via email or print in order to send by mail or fax:

City of Midland
City Secretary's Office
PO Box 1152
Midland, TX 79702
FAX: (432) 685-7433

Submit Via Email

Print Application



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-006; consider a resolution approving an oil and gas well drilling permit for Bluestem Energy (Evans "J" #1) on the east side of Midland Drive, north of Mockingbird Lane.

Purpose:

To consider a resolution on a request from Bluestem Energy to drill an oil and gas well on property located 2,322' FSL and 2,310' FEL of the land described as Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. Council held a public hearing on October 25, 2011; therefore, it is now appropriate to consider a resolution since the required 30-day comment period has passed. No public comments were received.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the landscaping requirement. No waiver from the road repair agreement has been submitted.

Attachments: Application; Location map; Drill site location.

RESOLUTION NO.

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 2,322 FEET FROM THE SOUTH LINE AND 2,310 FEET FROM THE EAST LINE, SECTION 8, BLOCK “X”, T-1-S, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY ½ MILE NORTH OF MOCKINGBIRD LANE); AND CONSOLIDATING SAID PERMIT UNDER AN EXISTING 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 October 25, 2011; 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 2,322 feet from the south line and 2,310 feet from the east line, Section 8, Block "X", T-1-S, H.P. Hilliard Survey, City and County of Midland, Texas. Said permit is attached hereto as Exhibit "A" and incorporated herein for all legal purposes.

SECTION THREE. That said permit shall be consolidated under the existing Road Repair Agreement between Operator and the City of Midland for Operator's wells located on the property described in Section Two hereof.

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., 2011, 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

OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on December 13, 2011, considered the application of Bluestem Energy Holdings, LLC, dated July 22, 2011, to drill an oil and gas well inside the territorial limits of the City of Midland, Texas. The City Council of the City of Midland, Texas, by appropriate action approved the application and authorized the issuance of this permit.

This documentation hereby constitutes a permit, issued in accordance with the Midland City Code, Ordinance 8769, to drill an oil and gas well, in the application of Bluestem Energy Holdings, LLC, dated July 22, 2011, and filed with the Midland City Secretary, a copy of which is attached here to as Exhibit "A" and incorporated herein for all legal purposes.

The location of Bluestem Energy Holdings, LLC, Evans "J" #1 oil and gas well shall be 2,322 feet from the south line and 2,310 feet from the east line, Section 8, Blk X, H.P. Hilliard 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 Bluestem Energy Holdings, LLC., attached hereto as Exhibit "A". 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 "B" 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 "C", and incorporated into and made a part of this permit for all purposes.

This permit shall be effective from December 13, 2011, through December 13, 2012, and so long thereafter as oil or gas is produced or until such time as the permittee has permanently abandoned the operations of the well or facility for which this permit is issued.

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

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of December, 2011.

CITY OF MIDLAND, TEXAS

BY: _____

W. Wesley Perry, Mayor

UNDERSTOOD AND AGREE THIS _____ day of December, 2011.

Bluestem Energy Holdings, LLC

By: _____

James C. Gresham, Jr. CPL

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

(K)

General Conditions of all Oil and Gas Well Permits.

1.

General Obligations of Operator.

The Operator shall be required to:

a.

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

b.

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

c.

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

d.

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

e.

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

f.

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

g.

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

2.

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

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

a.

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

b.

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

c.

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

d.

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

e.

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

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

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

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

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

3.

Insurance.

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

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

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

x.

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

xi.

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

b.

Standard Commercial General Liability Policy.

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

c.

Excess or Umbrella Liability.

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

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

d.

Environmental Pollution Liability Coverage.

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

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

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

e.

Workers Compensation and Employers Liability Insurance.

i.

Workers Compensation benefits shall be Texas Statutory Limits.

ii.

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

iii.

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

f.

Automobile Liability Insurance.

i.

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

ii.

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

g.

Certificates of Insurance.

i.

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

ii.

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

iii.

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

iv.

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

v.

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

vi.

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

Indemnification.

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

Notice.

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

Notice addresses are as follows:

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

OPERATOR: _____
James C. Gresham, Jr. CPL

Bluestem Energy Holdings, LLC
301 Commerce Street, STE. 2001
Ft. Worth, Texas 76102
(817)872-9800

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

(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. WAIVED by City Council on December 13, 2011.

When this area is developed at a future time by the surface owner Bluestem Energy will landscape and irrigate the area surrounding the well site, consistent with surface owner housing development plan. In no event will the plan be of lesser quality than as contained in the Ordinance 8769.

(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: _____
James C. Gresham, Jr. CPL

Bluestem Energy Holdings, LLC
301 Commerce Street, Ste. 2001
Ft. Worth, Texas 76102
(817)872-9800



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-006; consider a resolution approving an oil and gas well drilling permit for Bluestem Energy (Evans "J" #1) on the east side of Midland Drive, north of Mockingbird Lane.

Purpose:

To consider a resolution on a request from Bluestem Energy to drill an oil and gas well on property located 2,322' FSL and 2,310' FEL of the land described as Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. Council held a public hearing on October 25, 2011; therefore, it is now appropriate to consider a resolution since the required 30-day comment period has passed. No public comments were received.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the landscaping requirement. No waiver from the road repair agreement has been submitted.

Attachments: Application; Location map; Drill site location.



0-11-006

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date 07/22/2011	Operator Name (must match W-1) Bluestem Energy Holdings, LLC	Operator Address 301 Commerce St, Ste. 2001, Fort Worth, TX 76102
Representative Name Wendell Brown	Representative Address (within Midland City Limits) 400 W. Illinois, Ste. 1630, Midland, TX 79701	Rep. Tele. (432) 687-4414 Rep. Fax (432) 682-4497
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: Wendell Brown, No.1 (432) 687-4414, No.2 (432) 889-5080 24/7 Answering Services - No. 1 (Tele.): _____ No. 2 (Tele.): _____ Option B: Wendell Brown, No.1 (432) 687-4414, No.2 (432) 889-5080 Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A): _____ Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): Same as above		
Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]).		
II. Mineral Ownership		
Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):		
1. Evans Resources, LP, P.O. Box 7962, Midland, TX 79708		
2. Joy D. Anguish Trust and David D. Anguish Trust, P.O. Box 2749, Longview, TX 75606		
3. Anguish Partnership, P.O. Box 63, Midland, TX 79702		
ATTACHED AS EXHIBIT C is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from _____, a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].		
III. Surface Ownership & Use		
General Description of Current Surface Use (within 860 feet of proposed surface location): Farming		
ATTACHED AS EXHIBIT D is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/a Take-off from _____, a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].		

ATTACHED AS EXHIBIT E is a (map/p 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: Evans "J" #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:

2322' FSL and 2310' FEL, Sec. 8, Blk. X, Hilliard Survey

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

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

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

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

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: None

Description of water source to be used during Drilling:

Evans water wells located in N/2 of Sec. 8, Blk. X, Hilliard Survey

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

All electric lines will be buried in the proposed corridors as shown on Exhibit N.

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

See Exhibit O

V. Additional Required Exhibits

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

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

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

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

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

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

BLUESTEM ENERGY HOLDINGS, LLC

By: _____

Wendell Brown, Consultant

COUNTY OF MIDLAND

}

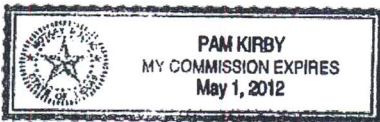
STATE OF TEXAS

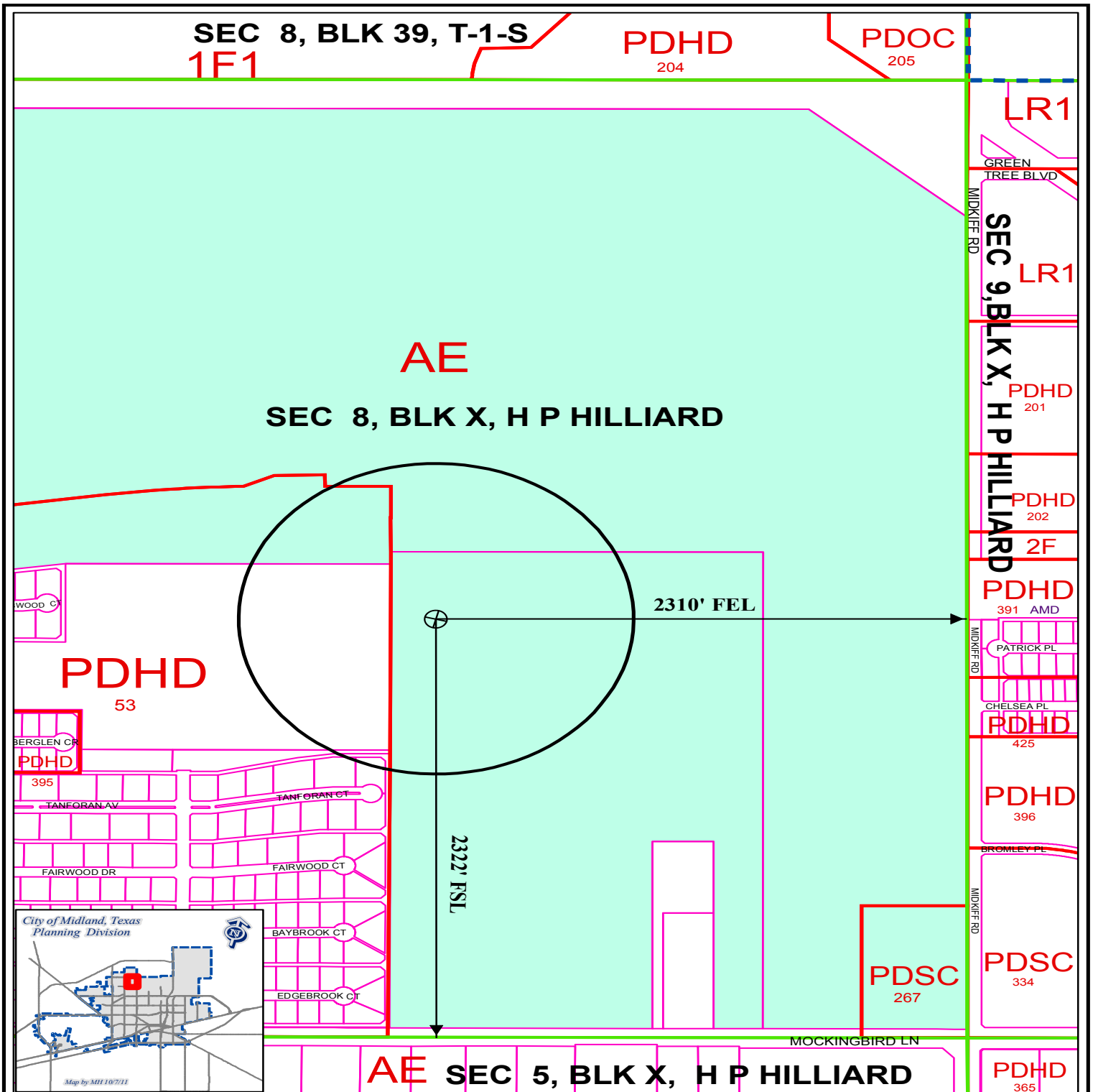
}

Wendell Brown, 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.

Pam Kirby

Notary Public, State of Texas





LOCATION AND ZONING MAP

O - 11 - 006

Scale: 1" = 600'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 2322' FSL and 2310' FEL, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas.

Evans "J" #1

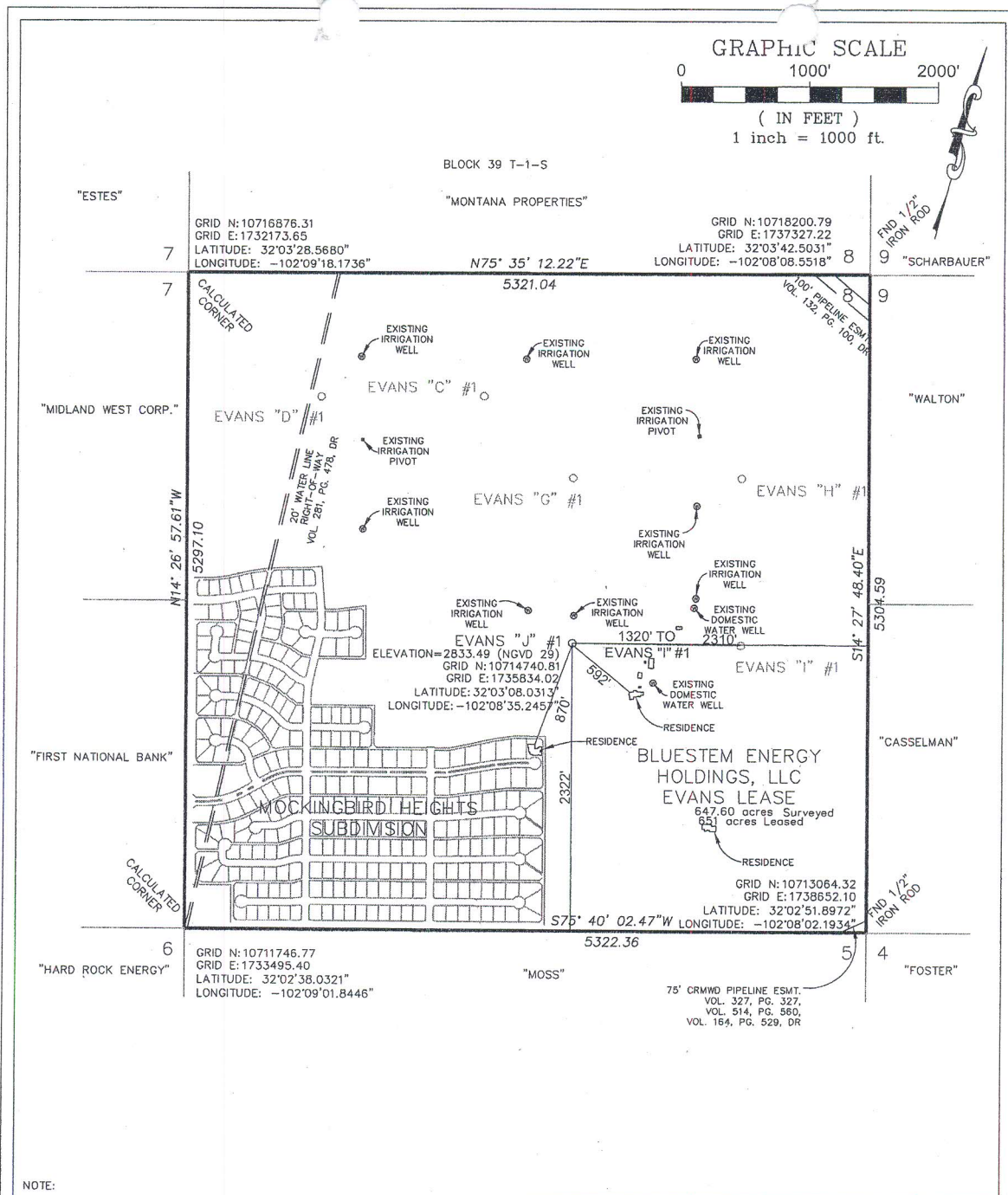
LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
SURVEY SEC.	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	

ZONING DISTRICTS:

FD PD AE 1F1, 1F2, 1F3 MH TH 2F MF1, MF2	FUTURE DEVELOPMENT PLANNED DISTRICT AGRICULTURE ESTATE ONE-FAMILY DWELLING MOBILE HOME DWELLING TOWNHOUSE DWELLING TWO-FAMILY DWELLING MULTIPLE FAMILY DWELLING	BP P 01, O2 NS LR1, LR2, LR3 C1, C2, C3 IP, JP1, IP2, IP3 LI HI	BUSINESS PARK PARKING OFFICE NEIGHBORHOOD SERVICE LOCAL RETAIL COMMERCIAL INDUSTRIAL PARK LIGHT INDUSTRY HEAVY INDUSTRY
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71.41



NOTE:

COURSES, DISTANCES AND COORDINATES SHOWN HEREON ARE LAMBERT GRID AND CONFORM TO THE "TEXAS COORDINATE SYSTEM", TEXAS NORTH 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 28TH DAY OF JULY, 2011

Max A. Schumann, Jr.
MAX A. SCHUMANN, JR.
RPLS 137



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



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-007; consider a resolution approving an oil and gas well drilling permit for Callon Petroleum (Annie #3) on the west side of FM 1788, approximately 1 mile south of SH 191.

Purpose:

To consider a resolution on a request from Callon Petroleum to drill an oil and gas well on property located 849' FNL and 2,087' FEL of the land described as Section 48, Block 41, T-1-S, T&P RR. Co. Survey, Midland County, Texas. Council held a public hearing on October 25, 2011; therefore, it is now appropriate to consider a resolution since the required 30-day comment period has passed. No public comments were received.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the landscaping requirement. A waiver for road repair agreement is anticipated since the drill site will be accessible from a State roadway (FM 1788).

Attachments: Application; Location map; Drill site location.



City Council Agenda

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JNichols
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MEETING DATE: December 13, 2011

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Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

N/A

Discussion:

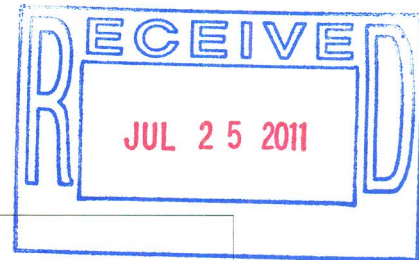
The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the landscaping requirement. A waiver for road repair agreement is anticipated since the drill site will be accessible from a State roadway (FM 1788).

Attachments: Application; Location map; Drill site 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
06/01/11	Callon Petroleum Operating Company	P.O. Box 1287 Natchez, MS 39121
Representative Name	Representative Address (within Midland City Limits)	Rep. Tele. (432) 686-1828
Jimmy Baggett	4305 N. Garfield, Ste. 235 Midland, TX 79710	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 (432) 202-7210 4305 N. Garfield, Ste. 235, Midland, TX 79710		
Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):		
Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):		
Vince Borrello (432) 553-9522 4305 N. Garfield, Ste. 235, Midland, TX 79710		
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): SEE ATTACHMENT 1

- 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):

COMMERCIAL STORAGE BUILDINGS
OIL FIELD RELATED INDUSTRIES

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)]. 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: Annie #3

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

Legal Description of Proposed Well Site:

849' FNL and 2087" FEL of Section 48 Blk 41 T1S being part of the T&PRR Co./TRIPP, T.B., Survey

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 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 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): 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: No public utilities will be needed during drilling operations.
- (2) Operations: See Exhibit N and N-3

Description of water source to be used during Drilling:

Water will be pulled from water wells existing on the property and hauled if necessary.

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

See Exhibit 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 to 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 & 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
[NAME OF COMPANY]

By Carl D. Sayers
Its Regulatory Manager

County of ADAMS)

State of MISSISSIPPI))

Carl D. Sayers, 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.

Pam Alexander Middleton
Notary Public, State of Mississippi



SEC 37, BLK 41, T-1-S

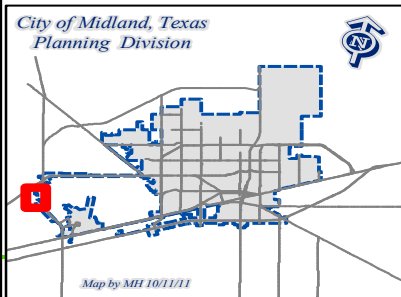
**SEC 42,
BLK 40,
T-1-S**

SEC 48, BLK 41, T-1-2

SEC 43, BLK 40, T-1-S

SEC 1, BLK 41, T-2-S

LOCATION AND ZONING MAP



O - 11 - 007

Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 849' FNL and 2087' FEL, Section 48, Block 41, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Annie #3

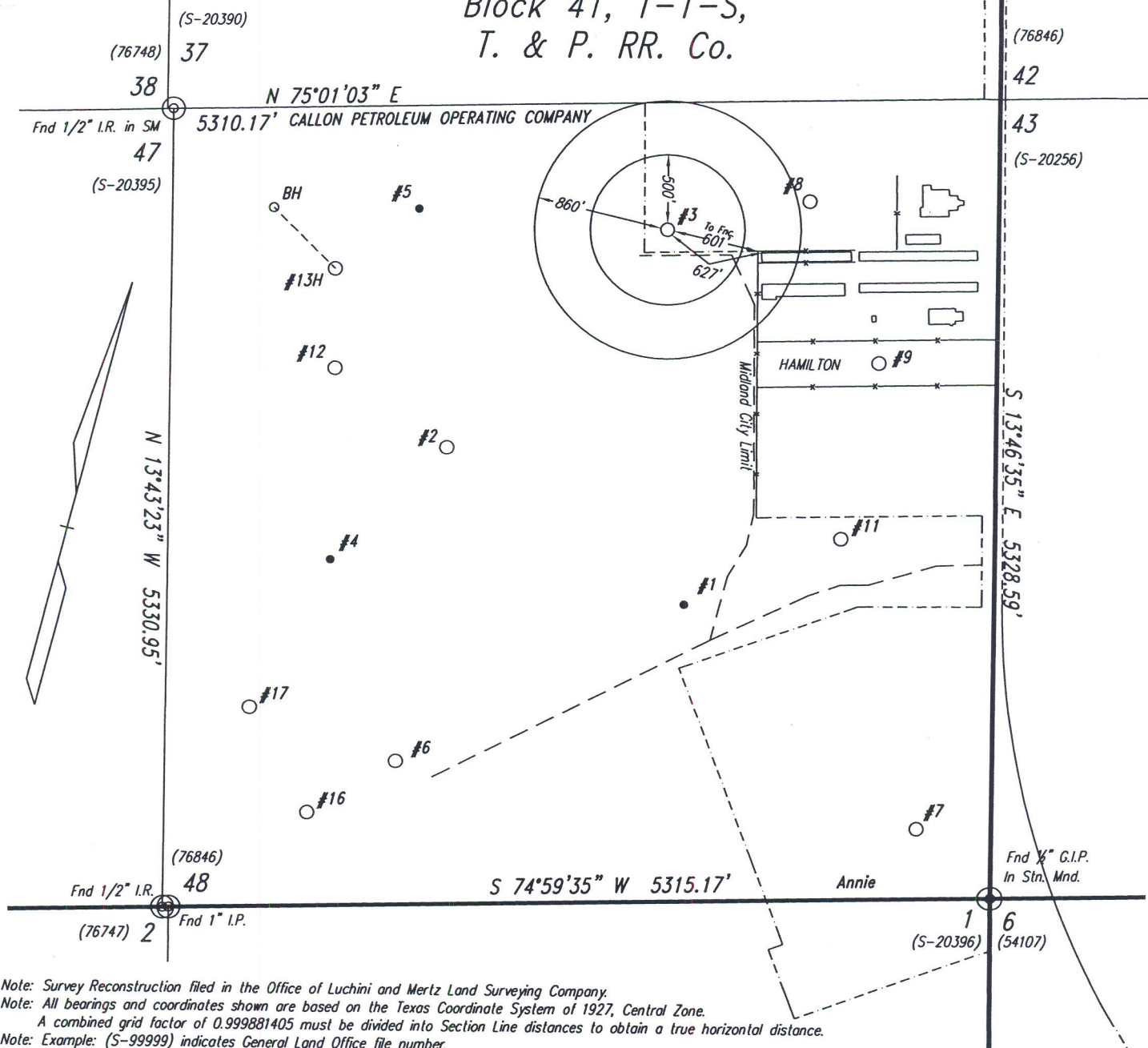
LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD PD AE 1F1, 1F2, 1F3 MH TH 2F MF1, MF2	FUTURE DEVELOPMENT PLANNED DISTRICT AGRICULTURE ESTATE ONE-FAMILY DWELLING MOBILE HOME DWELLING TOWNHOUSE DWELLING TWO-FAMILY DWELLING MULTIPLE FAMILY DWELLING	BP P 01, 02 NS LR1, LR2, LR3 C1, C2, C3 IP, JP1, IP2, IP3 LI HI	BUSINESS PARK PARKING OFFICE NEIGHBORHOOD SERVICE LOCAL RETAIL COMMERCIAL INDUSTRIAL PARK LIGHT INDUSTRY HEAVY INDUSTRY
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Block 41, T-1-S,
T. & P. RR. Co.



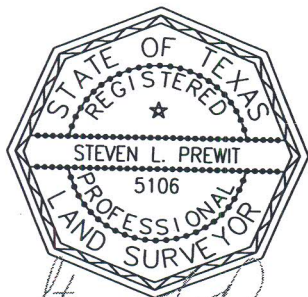
Note: Survey Reconstruction filed in the Office of Luchini and Mertz Land Surveying Company.

Note: All bearings and coordinates shown are based on the Texas Coordinate System of 1927, Central Zone.

A combined grid factor of 0.999881405 must be divided into Section Line distances to obtain a true horizontal distance.

Note: Example: (S-99999) indicates General Land Office file number.

Note: Well location is approximately 10.8 miles west-southwest of Midland.

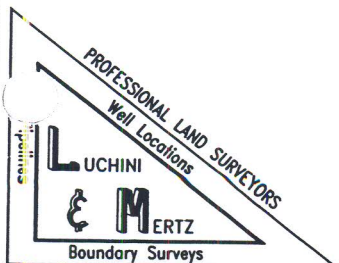


Steven L. Prewit

Revised: July 2011

April 28, 2011

1104280H



P. O. Box 1963 Midland, Texas 79702 (432) 684-6728 Fax 686-1845

Plat
CALLON PETROLEUM OPERATING COMPANY
"Annie" Lease
all of
Section 48, Block 41, T-1-S,
T. & P. RR. Co.,
Midland County, Texas

Scale: 1" = 1000'

0-11-72.77

RESOLUTION NO.

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 849 FEET FROM THE NORTH LINE AND 2,087 FEET FROM THE EAST LINE, SECTION 48, BLOCK 41, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH FARM-TO-MARKET ROAD 1788, APPROXIMATELY 1 MILE SOUTH OF STATE HIGHWAY 191); 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 October 25, 2011; 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 849 feet from the north line and 2,087 feet from the east line, Section 48, Block 41, 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., 2011, 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

OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on December 13, 2011, considered the application of Callon Petroleum Operating Company, dated June 1, 2011, to drill an oil and gas well inside the territorial limits of the City of Midland, Texas. The City Council of the City of Midland, Texas, by appropriate action approved the application and authorized the issuance of this permit.

This documentation hereby constitutes a permit, issued in accordance with the Midland City Code, Ordinance 8769, to drill an oil and gas well, in the application of Callon Petroleum Operating Company, dated June 1, 2011, and filed with the Midland City Secretary, a copy of which is attached here to as Exhibit "A" and incorporated herein for all legal purposes.

The location of Callon Petroleum Operating Company, Annie #3 oil and gas well shall be 849 feet from the north line and 2087 feet from the east line, Section 48, Blk 41, T1S, T&P RR., 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 Callon Petroleum Operating Company, attached hereto as Exhibit "A". 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 "B" 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 "C", and incorporated into and made a part of this permit for all purposes.

This permit shall be effective from December 13, 2011, through December 13, 2012, and so long thereafter as oil or gas is produced or until such time as the permittee has permanently abandoned the operations of the well or facility for which this permit is issued.

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

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of December, 2011.

CITY OF MIDLAND, TEXAS

BY: _____

W. Wesley Perry, Mayor

UNDERSTOOD AND AGREE THIS _____ day of December, 2011.

Callon Petroleum Operating Company

By: _____

Jimmy Baggett

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

(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.
WAIVED by City Council on December 13, 2011.

2.

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

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

a.

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

b.

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

c.

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

d.

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

e.

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

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

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

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

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

3.

Insurance.

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

a. General requirements applicable to all policies.

i.

The City, the City's officials, employees, agents and officers shall be endorsed as an "Additional Insured" on all policies, except under Operator's Workers Compensation Policy.

ii.

All policies shall be written on an occurrence basis, except for Environmental Pollution Liability (Seepage and Pollution coverage) and Excess and Umbrella Liability, which may be on a claims-made basis.

iii.

All policies shall be written by an admitted insurer or eligible surplus lines insurer authorized to do business in the State of Texas.

iv.

Deductibles shall be listed on the Certificate of Insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.

v.

Certificates of Insurance shall be delivered to the City of Midland, P.O. Box 1152, Midland, Texas 79702, Attn: City Attorney's Office, evidencing all the required coverages, including endorsements, prior to the issuance of an Oil and Gas Well Permit under this Section.

vi.

All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.

vii.

Any failure on the part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.

viii.

Each policy shall be endorsed to provide the City a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.

ix.

During the term of any Oil and Gas Well Permit issued hereunder, the Operator shall report, in writing, within thirty (30) days of the occurrence, to the City Manager, any known

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

x.

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

xi.

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

b.

Standard Commercial General Liability Policy.

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

c.

Excess or Umbrella Liability.

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

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

d.

Environmental Pollution Liability Coverage.

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

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

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

e.

Workers Compensation and Employers Liability Insurance.

i.

Workers Compensation benefits shall be Texas Statutory Limits.

ii.

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

iii.

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

f.

Automobile Liability Insurance.

i.

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

ii.

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

g.

Certificates of Insurance.

i.

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

ii.

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

iii.

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

iv.

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

v.

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

vi.

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

Indemnification.

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

Notice.

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

Notice addresses are as follows:

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

OPERATOR: _____
Jimmy Baggett

Callon Petroleum Operating Company
4305 North Garfield Street, Ste 235
Midland, Texas 79710
(432)686-1828

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

(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 (100) 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-1 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. WAIVED by City Council on December 13, 2011.

(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: _____
Jimmy Baggett

Callon Petroleum Operating Company
4305 N. Garfield, Ste. 235
Midland, Texas 79710
(432) 686-1828



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: December 13, 2011

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-008; consider a resolution approving an oil and gas well drilling permit for Callon Petroleum (Annie #8) on the west side of FM 1788, 1 mile south of SH 191.

Purpose:

To consider a resolution on a request from Callon Petroleum to drill an oil and gas well on property located 671' FNL and 1,197' FEL of the land described as Section 48, Block 41, T-1-S, T&P RR. Co. Survey, Midland County, Texas. Council held a public hearing on October 25, 2011; therefore, it is now appropriate to consider a resolution since the required 30-day comment period has passed. No public comments were received.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. The applicant is requesting a variance from the landscaping requirement and also a variance from the 500' minimum distance from a commercial building, which is 328' from the proposed drill site. A waiver for road repair agreement is anticipated since the drill site will be accessible from a State roadway (FM 1788).

Attachments: Application; Location map; Drill site location.



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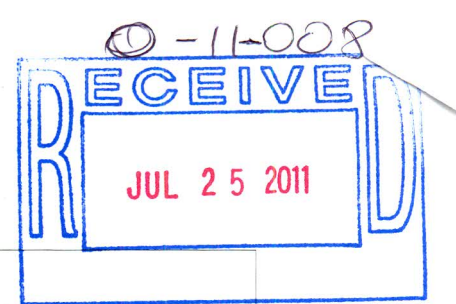
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APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)



I. General Information		
Date	Operator Name (must match W-1)	Operator Address
06/01/11	Callon Petroleum Operating Company	P.O. Box 1287 Natchez, MS 39121
Representative Name	Representative Address (within Midland City Limits)	Rep. Tele. (432)686-1828
Jimmy Baggett	4305 N. Garfield, Ste. 235 Midland, TX 79710	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, Ste. 235, Midland, TX 79710		
Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):		
Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): Vince Borrello (432) 553-9522 4305 N. Garfield, Ste. 235, Midland, TX 79710		
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): SEE ATTACHMENT 1		
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): COMMERCIAL STORAGE BUILDINGS OIL FIELD RELATED INDUSTRIES		
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)]. 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: Annie #8

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

Legal Description of Proposed Well Site:

671' FNL and 1197' FEL of Section 48 Blk 41 T1S being part of the T&PRR Co./TRIPP, T.B., Survey

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 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 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): 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: No public utilities will be needed during drilling operations.
- (2) Operations: See Exhibit N and N-3

Description of water source to be used during Drilling:

Water will be pulled from water wells existing on the property and hauled if necessary.

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

See Exhibit 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 to 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 & 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
[NAME OF COMPANY]

By *Carl D. Sayers*
Its Regulatory Manager

County of ADAMS)

State of MISSISSIPPI))

Carl D. Sayers, 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.

Phyllis B. Copeland
Notary Public, State of Mississippi

[S E A L]



SEC 37, BLK 41, T-1-S

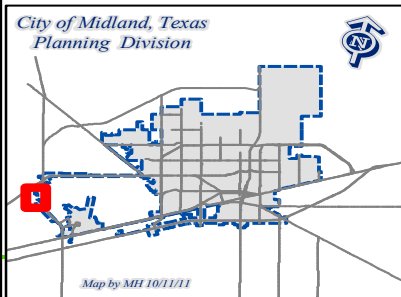
SEC 42,
BLK 40,
T-1-S

SEC 48, BLK 41, T-1-2

SEC 43, BLK 40, T-1-S

SEC 1, BLK 41, T-2-S

LOCATION AND ZONING MAP



O - 11 - 008

Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 671' FNL and 1197' FEL, Section 48, Block 41, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Annie #8

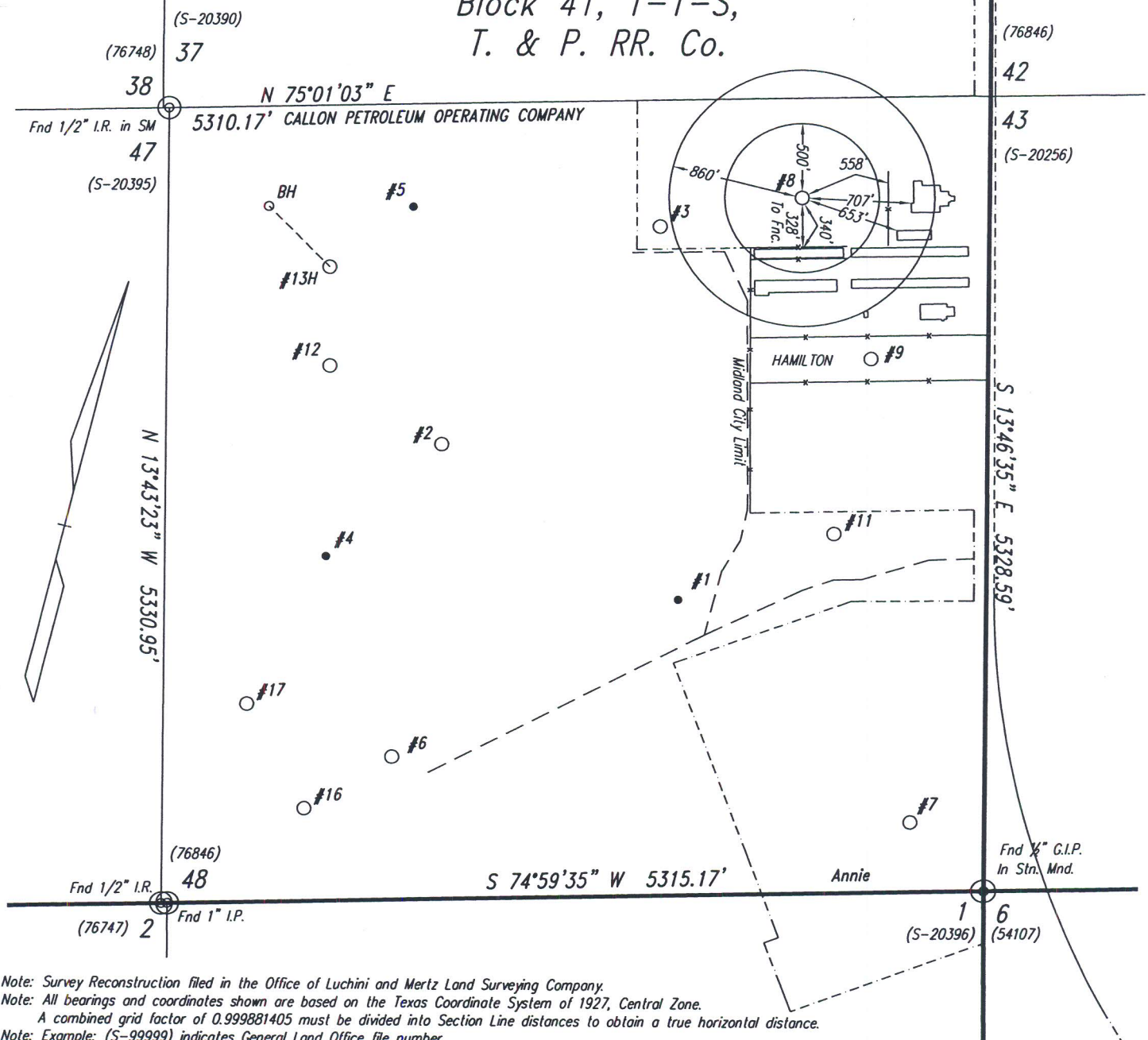
LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
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

Block 41, T-1-S,
T. & P. RR. Co.

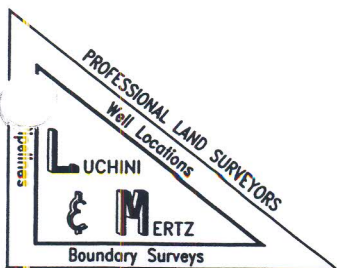


Steven L. Prewit

Revised: July 2011

April 28, 2011

110428DH



P. O. Box 1963 Midland, Texas 79702 (432) 684-6728 Fax 686-1845

Plat
CALLON PETROLEUM OPERATING COMPANY
"Annie" Lease
all of
Section 48, Block 41, T-1-S,
T. & P. RR. Co.,
Midland County, Texas

Scale: 1" = 1000'

0-11-073.7

RESOLUTION NO.

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 671 FEET FROM THE NORTH LINE AND 1,197 FEET FROM THE EAST LINE, SECTION 48, BLOCK 41, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH FARM-TO-MARKET ROAD 1788, APPROXIMATELY 1 MILE SOUTH OF STATE HIGHWAY 191); 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 October 25, 2011; 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 671 feet from the north line and 1,197 feet from the east line, Section 48, Block 41, 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., 2011, 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

OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on December 13, 2011, considered the application of Callon Petroleum Operating Company, dated June 1, 2011, to drill an oil and gas well inside the territorial limits of the City of Midland, Texas. The City Council of the City of Midland, Texas, by appropriate action approved the application and authorized the issuance of this permit.

This documentation hereby constitutes a permit, issued in accordance with the Midland City Code, Ordinance 8769, to drill an oil and gas well, in the application of Callon Petroleum Operating Company, dated June 1, 2011, and filed with the Midland City Secretary, a copy of which is attached here to as Exhibit "A" and incorporated herein for all legal purposes.

The location of Callon Petroleum Operating Company, Annie #8 oil and gas well shall be 671 feet from the north line and 1,197 feet from the east line, Section 48, Blk 41, T1S, T&P RR., 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 Callon Petroleum Operating Company, attached hereto as Exhibit "A". 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 "B" 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 "C", and incorporated into and made a part of this permit for all purposes. Included is approved variance for permitted well to be located 328 feet from occupied commercial structures, marked as Exhibit "D", and incorporated into and made a part of this permit for all purposes.

This permit shall be effective from December 13, 2011, through December 13, 2012, and so long thereafter as oil or gas is produced or until such time as the permittee has permanently abandoned the operations of the well or facility for which this permit is issued.

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

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of December, 2011.

CITY OF MIDLAND, TEXAS

BY: _____

W. Wesley Perry, Mayor

UNDERSTOOD AND AGREE THIS _____ day of December, 2011.

Callon Petroleum Operating Company

By: _____

Jimmy Baggett

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

(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. WAIVED by City Council on December 13, 2011.

2.

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

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

a.

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

b.

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

c.

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

d.

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

e.

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

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

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

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

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

3.

Insurance.

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

a. General requirements applicable to all policies.

i.

The City, the City's officials, employees, agents and officers shall be endorsed as an "Additional Insured" on all policies, except under Operator's Workers Compensation Policy.

ii.

All policies shall be written on an occurrence basis, except for Environmental Pollution Liability (Seepage and Pollution coverage) and Excess and Umbrella Liability, which may be on a claims-made basis.

iii.

All policies shall be written by an admitted insurer or eligible surplus lines insurer authorized to do business in the State of Texas.

iv.

Deductibles shall be listed on the Certificate of Insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.

v.

Certificates of Insurance shall be delivered to the City of Midland, P.O. Box 1152, Midland, Texas 79702, Attn: City Attorney's Office, evidencing all the required coverages, including endorsements, prior to the issuance of an Oil and Gas Well Permit under this Section.

vi.

All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.

vii.

Any failure on the part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.

viii.

Each policy shall be endorsed to provide the City a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.

ix.

During the term of any Oil and Gas Well Permit issued hereunder, the Operator shall report, in writing, within thirty (30) days of the occurrence, to the City Manager, any known

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

x.

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

xi.

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

b.

Standard Commercial General Liability Policy.

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

c.

Excess or Umbrella Liability.

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

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

d.

Environmental Pollution Liability Coverage.

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

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

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

e.

Workers Compensation and Employers Liability Insurance.

i.

Workers Compensation benefits shall be Texas Statutory Limits.

ii.

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

iii.

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

f.

Automobile Liability Insurance.

i.

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

ii.

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

g.

Certificates of Insurance.

i.

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

ii.

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

- iii. Set forth all endorsements and insurance coverage according to requirements and instructions contained herein.
- iv. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the City. All policies shall be endorsed to read "THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT THIRTY (30) DAYS ADVANCE WRITTEN NOTICE TO THE OWNER AND THE CITY, EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE, TEN (10) DAYS ADVANCE WRITTEN NOTICE IS REQUIRED".
- v. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.
- vi. At the request of an Operator, the Council may grant a variance to insurance requirements if the Council determines that the insurance procured by the Operator is sufficient to protect the City. A variance of this type may be required because of a change in underwriting policies of admitted insurance carriers.

Indemnification.

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

Notice.

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

Notice addresses are as follows:

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

OPERATOR: _____
Jimmy Baggett

Callon Petroleum Operating Company
4305 North Garfield Street, Ste 235
Midland, Texas 79710
(432)686-1828

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

(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 (100) 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-1 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. WAIVED by City Council on December 13, 2011.

(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: _____
Jimmy Baggett

Callon Petroleum Operating Company
4305 N. Garfield, Ste. 235
Midland, Texas 79710
(432) 686-1828

EXHIBIT D

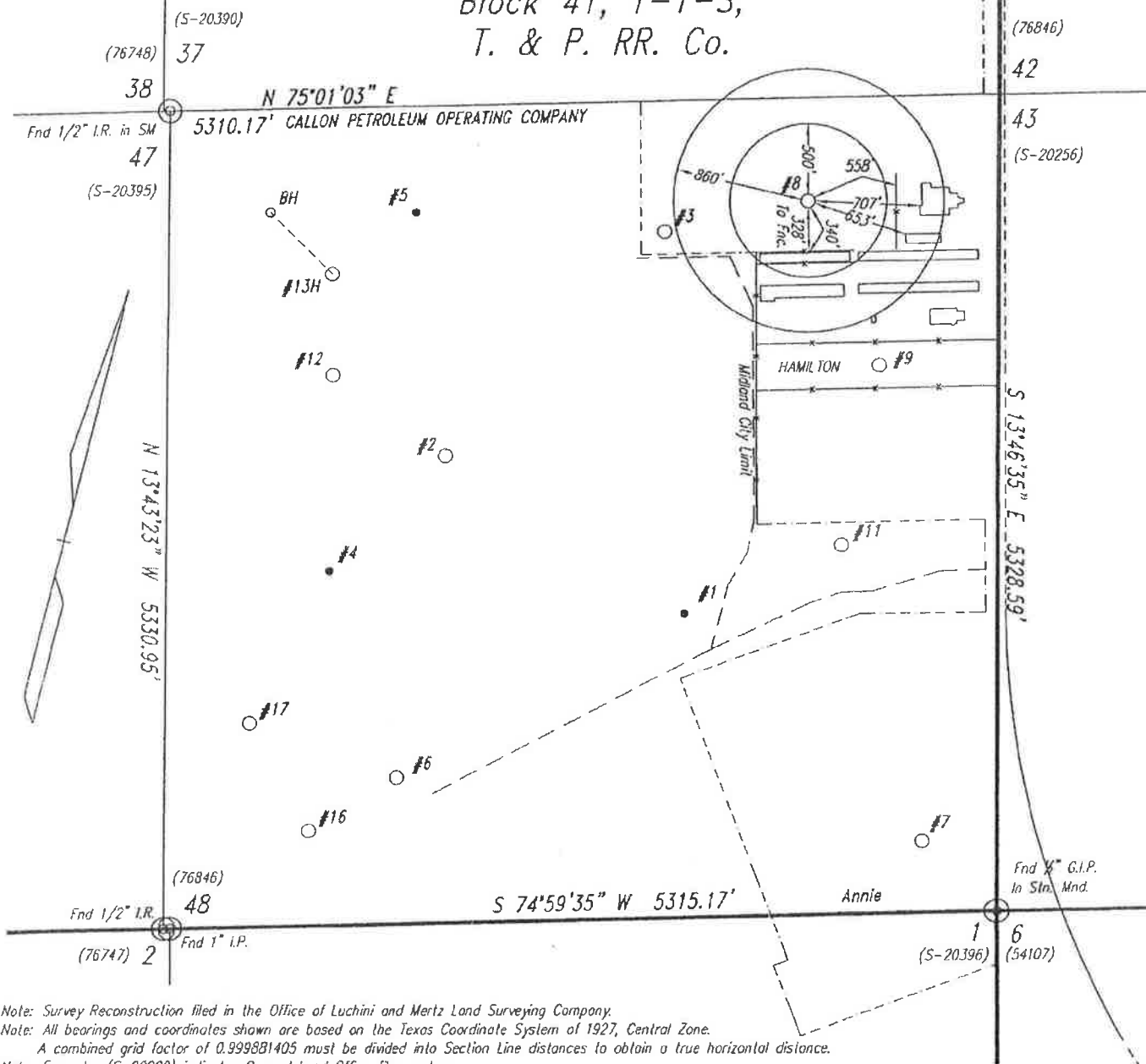
CALLON PETROLEUM OPERATING COMPANY

Annie #8 has three commercial mini-storage warehouse buildings within 500' of the proposed location and four commercial mini-storage warehouse buildings, caliche pit and two commercial offices within 860' of the proposed location.

Find attached certified plat of well site with 500' and 860' radius of proposed wellhead depicted. (Attachment D-1)

Callon Petroleum Operating Company is requesting a variance from the 500 ft. restrictions of Midland City Code Section 6-1-23 H.2. with regard to the location of the proposed drill-site for the Annie #8 Well in relation to Occupied Commercial Structures located within 328 feet of the proposed drill-site for said well. (See Attachment D-1 for certified plat of Commercial Structures located within 500 feet of the proposed drill-site for said well).

Block 41, T-1-S,
T. & P. RR. Co.



Note: Survey Reconstruction filed in the Office of Luchini and Mertz Land Surveying Company.
 Note: All bearings and coordinates shown are based on the Texas Coordinate System of 1927, Central Zone.
 A combined grid factor of 0.999881405 must be divided into Section Line distances to obtain a true horizontal distance.
 Note: Example: (S-99999) indicates General Land Office file number.
 Note: Well location is approximately 10.8 miles west-southwest of Midland.



Steven L. Prewit

Revised: July 2011

April 28, 2011

1104280H

Plot

CALLON PETROLEUM OPERATING COMPANY
 "Annie" Lease
 all of
 Section 48, Block 41, T-1-S,
 T. & P. RR. Co.,
 Midland County, Texas

Scale: 1" = 1000'



P. O. Box 1963 Midland, Texas 79702 (432) 684-6728 Fax 686-1845