CITY OF MIDLAND, TEXAS
AGENDA FOR CITY COUNCIL MEETING
June 14, 2022 - 10:00 AM
300 North Loraine
Midland, Texas
Council Chamber - City Hall

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

OPENING ITEMS

1. Invocation – Pastor Larry Droll, St. Ann's Catholic Church

2. Pledge of Allegiance

PRESENTATIONS

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

   3a. Presentation of Proclamation honoring Pioneer Natural Resources

   3b. Presentation of a Proclamation for "Emancipation Proclamation Celebration Days"

CONSENT AGENDA

4. MOTION APPROVING THE FOLLOWING MINUTES:

   4a. REGULAR SESSION OF MAY 24, 2022

5. 2022-075 – RESOLUTION APPROVING A CONTRACT WITH RESTROOM FACILITIES, LTD., THROUGH BUYBOARD, FOR THE PURCHASE AND INSTALLATION OF A RESTROOM AND CONCESSION FACILITY AT THE SCHARBAUER SPORTS COMPLEX AUXILIARY FIELDS FOR A TOTAL COST OF $548,179.00; APPROVING $55,000.00 FOR CONTINGENCIES; AND APPROPRIATING FUNDS FOR SAID PROJECT (DISTRICT 4) (GENERAL SERVICES)

6. 060-2022 – MOTION AUTHORIZING THE EXECUTION OF A TERMINAL LEASE AGREEMENT WITH THE PERMIAN BASIN APARTMENT ASSOCIATION REGARDING CERTAIN OFFICE FACILITIES LOCATED IN THE WRIGHT OFFICE COMPLEX AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT (DISTRICT 4) (AIRPORTS)

7. 061-2022 – MOTION AUTHORIZING THE MAYOR, CITY MANAGER, AND CITY

ATTORNEY TO EXECUTE FEDERAL AVIATION ADMINISTRATION GRANT #68 IN ORDER TO RECEIVE GRANT FUNDS FOR THE PURCHASE OF AN AQUEOUS FILM FORMING FOAM TEST CART FOR AIRCRAFT RESCUE FIRE FIGHTING VEHICLES (DISTRICT 4) (AIRPORTS)

8. 062-2022 – MOTION AUTHORIZING THE MAYOR, CITY MANAGER, AND CITY ATTORNEY TO EXECUTE FEDERAL AVIATION ADMINISTRATION GRANT #69 IN ORDER TO RECEIVE GRANT FUNDS FOR THE FOLLOWING PROJECTS: (I) RECONSTRUCT TAXIWAY E, WEST OF TAXIWAY A; (II) RECONSTRUCT RUNWAY 16R BLAST PAD, REMOVE RUNWAY 34L CONCRETE BLAST PAD AND ADD ASPHALT SHOULDERS TO RUNWAY 10 BLAST PAD; AND (III) RECONSTRUCT ASPHALT AIR CARRIER APRON PAVEMENT WITH CONCRETE (DISTRICT 4) (AIRPORTS)

9. 2022-076 – RESOLUTION OF THE CITY OF MIDLAND, TEXAS, SUSPENDING THE JUNE 17, 2022 EFFECTIVE DATE OF ONCOR ELECTRIC DELIVERY COMPANY'S ("ONCOR'S") REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH ONCOR AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO SEND COPIES OF THIS RESOLUTION TO ONCOR AND LEGAL COUNSEL FOR THE STEERING COMMITTEE (DISTRICT: NONE) (CITY MANAGER)

10. 2022-077 – RESOLUTION APPROVING THE FISCAL YEAR 2022-2023 BUDGET OF THE MIDLAND DEVELOPMENT CORPORATION, A TYPE A CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE (DISTRICT: NONE) (CITY MANAGER)

11. 063-2022 – MOTION AUTHORIZING THE EXECUTION OF A 7.223-ACRE SANITARY SEWER EASEMENT AGREEMENT LOCATED IN SECTION 30, BLOCK 38, T-1-S, T & P RR COMPANY SURVEY, MIDLAND COUNTY, TEXAS, FROM DOLORES L. MCCALL; AND ORDERING THE CITY SECRETARY TO RECORD SAID INSTRUMENT IN THE OFFICIAL REAL PROPERTY RECORDS OF MIDLAND COUNTY, TEXAS (DISTRICT 2) (UTILITIES)

PUBLIC HEARINGS

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

12. 10313 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 20.719-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO SF-3 SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF MIDLAND DRIVE, APPROXIMATELY 475 FEET SOUTH OF GREENTREE BOULEVARD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A

MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)

13. 10314 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 5.720-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO O-1, OFFICE DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF MIDLAND DRIVE AND GREENTREE BOULEVARD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)

14. 064-2022 – THE PROPOSED GRANTING OF OIL AND GAS WELL PERMITS TO PERMIAN DEEP ROCK OIL CO., LLC (“OPERATOR”) FOR THE DRILLING OF THE FOLLOWING OIL AND GAS WELLS: CHARGER 110 MIPA UNIT #H110SS AND CHARGER 120 MIPA UNIT #H120MS; SAID WELLS BEING GENERALLY LOCATED BETWEEN 1,750 FEET AND 2,320 FEET WEST OF RANKIN HIGHWAY AND 520 FEET SOUTH OF WEST I-20; THIS IS A PUBLIC HEARING ONLY (DISTRICT 2) (DEVELOPMENT SERVICES)

15. 065-2022 – THE PROPOSED GRANTING OF AN OIL AND GAS WELL PERMIT TO PERMIAN DEEP ROCK OIL CO., LLC (“OPERATOR”) FOR THE DRILLING OF THE OIL AND GAS WELL MUSTANG 110 MIPA UNIT #H110SS; SAID WELL BEING GENERALLY LOCATED 2,335 FEET EAST OF RANKIN HIGHWAY AND 170 FEET SOUTH OF I-20; THIS IS A PUBLIC HEARING ONLY (DISTRICT 2) (DEVELOPMENT SERVICES)

16. 10315 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,399-SQUARE FOOT PORTION OF LOT 1, BLOCK 8, POLO PARK ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH GARFIELD STREET AND WEST LOOP 250 NORTH), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)

17. 10316 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 3,210-SQUARE FOOT PORTION OF LOT 33C, BLOCK 3, BRIARWOOD ADDITION, SECTION 16, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 428 FEET WEST OF

NORTH MIDLAND DRIVE), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A NIGHTCLUB FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)

18. 10317 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 3.570-ACRE TRACT OF LAND OUT OF SECTION 9, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM SF-1, SINGLE-FAMILY DWELLING DISTRICT TO BP, I-20 BUSINESS PARK DISTRICT (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST COUNTY ROAD 110, APPROXIMATELY 150 FEET EAST OF SOUTH COUNTY ROAD 1205); 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 (DISTRICT 2) (DEVELOPMENT SERVICES)

19. 10318 – AN ORDINANCE VACATING AND ABANDONING A 0.871-ACRE PORTION OF WEST INDIANA AVENUE AND SOUTH K STREET RIGHT-OF-WAY LOCATED ADJACENT TO BLOCKS 93, 94, 96, 104, AND 105, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF SOUTH L STREET AND WEST INDIANA AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $75,881.52; RETAINING A NONEXCLUSIVE UTILITY EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY (DISTRICT 3) (DEVELOPMENT SERVICES)

20. 10319 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 2, BLOCK 2, GRANDRIDGE PARK ADDITION, SECTION 1, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH LOOP 250 WEST AND WADLEY AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 4) (DEVELOPMENT SERVICES)

21. 10320 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 1, BLOCK 1, CLAYDESTA PLAZA NORTH, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND WEST LOOP 250 NORTH), BY PERMITTING (1) THE USE OF ALTERNATIVE BUILDING MATERIALS FOR THE DUMPSTER SCREENING

WALL AND (2) A DEVIATION FROM OFF-STREET PARKING REQUIREMENTS; 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 (DISTRICT 3) (DEVELOPMENT SERVICES)

22. 066-2022 – HOLD A PUBLIC HEARING IN ORDER FOR THE CITY OF MIDLAND AND THE CDBG PRIORITIZATION COMMITTEE TO RECEIVE PUBLIC COMMENTS, GUIDANCE AND RECOMMENDATIONS REGARDING THE 2022-2023 CDBG GRANT APPLICATION SUBMISSIONS AND THE THIRD YEAR ACTION PLAN IN ACCORDANCE WITH THE FIVE-YEAR CONSOLIDATED PLAN GOALS; THIS IS A PUBLIC HEARING ONLY (DISTRICT: ALL) (DEVELOPMENT SERVICES)

MISCELLANEOUS

23. 067-2022 – MOTION APPROVING WITH STAFF'S RECOMMENDED CONDITIONS A PROPOSED PRELIMINARY PLAT OF MOCKINGBIRD HEIGHTS, SECTION 16, BEING A PLAT OF A 26.44-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF GREEN TREE BOULEVARD AND NORTH MIDLAND DRIVE) (DISTRICT 1) (DEVELOPMENT SERVICES)

24. MOTION MAKING VARIOUS APPOINTMENTS TO BOARDS AND COMMISSIONS (CITY SECRETARY'S OFFICE)

PUBLIC COMMENT

25. Receive public comments where individuals may address the City Council on City related issues and projects not on the present agenda. 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. (Please limit comments to three minutes or less.)

EXECUTIVE SESSION

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

    a. Section 551.072, Deliberation Regarding Real Property

    a.1. Discuss the purchase, exchange, lease or value of real property

Respectfully Submitted,

Robert Patrick
City Manager

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

MIDLAND CITY COUNCIL
MINUTES
May 24, 2022

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., May 24, 2022.

Council Members present:	Dan Corrales, Robin Poole, Lori Blong, Scott Dufford, Jack Ladd, John Norman
Council Members absent:	Patrick Payton
Staff members present:	City Manager Robert Patrick, Deputy City Manager Morris Williams Jr, First Assistant City Attorney Stephen Gates

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

OPENING ITEMS

1. Invocation – Pastor Anthony Paredes, Homeline Baptist Church

2. Pledge of Allegiance

CONSENT AGENDA

Jack Ladd moved to approve consent agenda items 3-17, excluding items 6 and 8; seconded by Dan Corrales.

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

3. MOTION APPROVING THE FOLLOWING MINUTES:

   3a. SPECIAL SESSION OF MAY 5, 2022

   3b. BRIEFING SESSION OF MAY 10, 2022

   3c. REGULAR SESSION OF MAY 10, 2022

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3d. SPECIAL SESSION OF MAY 12, 2022

3e. SPECIAL SESSION OF MAY 17, 2022

4. 2022-064 – RESOLUTION APPROVING THE CITY OF MIDLAND'S FISCAL YEAR 2022 INVESTMENT POLICY (DISTRICT: NONE) (FINANCE)

5. 2022-065 – RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH BKD, LLP FOR AUDIT SERVICES FOR THE CITY OF MIDLAND, TEXAS (DISTRICT: NONE) (FINANCE)

7. 2022-066 – RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH PARAGON ROOFING, INC., THROUGH THE INTERLOCAL PURCHASING SYSTEM, FOR THE PURCHASE AND INSTALLATION OF A 50-MIL PVC DUROLAST FLEECE SYSTEM ROOF AT THE HEALTH DEPARTMENT AND MIDLAND SENIOR CENTER BUILDING FOR A TOTAL COST OF $354,200.00; APPROVING $45,800.00 FOR CONTINGENCIES; AND APPROPRIATING FUNDS FOR SAID CONTRACT (DISTRICT 4) (GENERAL SERVICES)

9. 2022-068 – RESOLUTION AUTHORIZING THE SOLE-SOURCE PURCHASE OF AN AVIAN AVERTING SYSTEM FOR THE DEPARTMENT OF AIRPORTS FROM AVIAN FLYAWAY INC. FOR A TOTAL COST OF $149,990.00 (DISTRICT 4) (AIRPORTS)

10. 056-2022 – MOTION APPROVING A SECOND AMENDMENT TO THAT CERTAIN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND KEPLER AEROSPACE, LTD (DISTRICT 4) (CITY MANAGER)

11. 2022-069 – RESOLUTION APPROVING THE ISSUANCE OF PERMITS TO PERMIAN DEEP ROCK OIL CO., LLC (“OPERATOR”) TO DRILL TWO OIL AND GAS WELLS LOCATED IN SECTION 12, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED BETWEEN 320 FEET AND 350 FEET EAST OF SOUTH LAMESA ROAD AND 183 FEET SOUTH OF INTERSTATE 20) (DISTRICT 2) (DEVELOPMENT SERVICES)

12. 2022-070 – RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH PERMIAN DEEP ROCK OIL CO., LLC (“OPERATOR”) REGARDING ITS APPLICATION TO DRILL OIL AND GAS WELLS WITHIN THE CITY LIMITS IN SECTION 12, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (DISTRICT 2) (DEVELOPMENT SERVICES)

13. 2022-071 – RESOLUTION APPROVING AMENDMENTS TO THE PERMITS ISSUED TO PIONEER NATURAL RESOURCES USA, INC. (“OPERATOR”) TO DRILL EIGHT OIL AND GAS WELLS LOCATED IN SECTION 1, BLOCK X, H.P. HILLIARD SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED BETWEEN 320 FEET AND 445 FEET SOUTH OF SOLOMON LANE EXTENSION AND BETWEEN 952 FEET

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AND 1,541 FEET WEST OF FAIRGROUNDS ROAD EXTENSION); SAID AMENDMENTS AUTHORIZING THE USE OF ELECTRIC DRIVE COMPRESSORS (DISTRICT 1) (DEVELOPMENT SERVICES)

14. 2022-072 – RESOLUTION APPROVING AMENDMENTS TO THE PERMITS ISSUED TO PIONEER NATURAL RESOURCES USA, INC. ("OPERATOR") TO DRILL THREE OIL AND GAS WELLS LOCATED IN SECTION 1, BLOCK X, H.P. HILLIARD SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED BETWEEN 320 FEET AND 380 FEET SOUTH OF SOLOMON LANE EXTENSION AND 171 FEET WEST OF FAIRGROUNDS ROAD EXTENSION); SAID AMENDMENTS AUTHORIZING THE USE OF ELECTRIC DRIVE COMPRESSORS (DISTRICT 1) (DEVELOPMENT SERVICES)

15. 2022-073 – RESOLUTION APPROVING AMENDMENTS TO THE PERMITS ISSUED TO PIONEER NATURAL RESOURCES USA, INC. ("OPERATOR") TO DRILL FIVE OIL AND GAS WELLS LOCATED IN SECTION 1, BLOCK X, H.P. HILLIARD SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED BETWEEN 2,226 FEET AND 2,386 FEET EAST OF LAMESA ROAD AND BETWEEN 2,125 FEET AND 2,185 FEET NORTH OF LOOP 250); SAID AMENDMENTS AUTHORIZING THE USE OF ELECTRIC DRIVE COMPRESSORS (DISTRICT 1) (DEVELOPMENT SERVICES)

16. 057-2022 – MOTION APPROVING WITH STAFF'S RECOMMENDED CONDITIONS A PROPOSED PRELIMINARY PLAT OF HAWK VIEW ADDITION, SECTION 5 BEING A REPLAT OF LOTS 18 AND 19, BLOCK 1, AND LOT 11, BLOCK 2, HAWK VIEW ADDITION, LOTS 29A, 29B, 30, AND 31, BLOCK 1, AND LOTS 1A, 8B, 12A, AND 15C, BLOCK 2, HAWK VIEW ADDITION, SECTION 4, ALL OUT OF MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF SOUTH COUNTY ROAD 1270 AND WEST COUNTY ROAD 150) (EXTRATERRITORIAL JURISDICTION) (DISTRICT: NONE) (DEVELOPMENT SERVICES)

17. 058-2022 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (22-329-004) WITH PINNACLE DOS PICOS LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 9 AND 16, BLOCK 37, TOWNSHIP 3 SOUTH, T&P RR CO SURVEY, MIDLAND COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)

The following item(s) were pulled from consent agenda and considered individually.

6. 055-2022 – MOTION REJECTING THE SOLE PROPOSAL FOR CROSSING GUARD SERVICES; AND AUTHORIZING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO: (I) REISSUE A REQUEST FOR PROPOSALS FOR CROSSING GUARD SERVICES PURSUANT TO THE STATUTES OF THE STATE OF TEXAS FOR ACCOMPLISHING THE WORK SET FORTH IN THE REQUEST FOR PROPOSALS, AND (II) NEGOTIATE A CONTRACT FOR SAID SERVICES; PROVIDED, HOWEVER, THAT SAID CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL (DISTRICT: ALL) (GENERAL SERVICES)

Administrative Services Director Mark Widmann reported the City of Midland contracts

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crossing guards for MISD because the City is responsible for traffic control. Staff is requesting to reject the bid because the sole provider was non-responsive.

City Manager Robert Patrick reported that cities with a population over 80,000 must provide crossing guard services.

General Services Director Regina Stephenson reported that if this bid is rejected, they will come back to Council the second meeting in June since crossing guards would need to be in place by July for schools to start in August.

Jack Ladd moved to approve Motion No. 055-2022; seconded by John Norman.

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

8. 2022-067 – RESOLUTION APPROVING A CONTRACT WITH RESTROOM FACILITIES, LTD., THROUGH BUYBOARD, FOR THE PURCHASE AND INSTALLATION OF A RESTROOM FACILITY AT THE SCHARBAUER SPORTS COMPLEX AUXILIARY FIELDS FOR A TOTAL COST OF $384,734.00; APPROVING $35,000.00 FOR CONTINGENCIES; AND APPROPRIATING FUNDS FOR SAID PROJECT (DISTRICT 4) (GENERAL SERVICES)

Council Member Norman reported that after further discussion in a recent Parks and Recreation meeting it is in our best interest to add concession stands to this facility.

Community Services Director Christina Burns reported that they received a quote for a restroom building with concessions which is a difference of about $160,000 from just the restroom building. It can be ready to come back to Council in three weeks. Rockhounds is the sole concessionaire for Momentum Bank and Grande Stadium so they would not be able to use their funds. The concessions are equipped and run by sports associations. A refrigerator is provided and whoever uses the facility will provide the food items they need. Currently, when the Rockhounds are not playing, the restrooms are opened up in their facility. When they are playing, individuals have to walk over 1,000 feet to the blue and white fields. This will all be funded through the unappropriated fund for the sports complex.

John Norman moved to defer Resolution No. 2022-067; seconded by Jack Ladd.

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

SECOND READINGS

18. 10308 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF

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MIDLAND TO REZONE LOT 1, BLOCK 1, EASTOVER SECOND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF JESSE STREET AND ILLINOIS AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 3) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 10, 2022)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10308.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10308; seconded by Scott Dufford.

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

19. 10309 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 1.38-ACRE TRACT OF LAND OUT OF LOTS 1, 2, 3 AND 4, BLOCK 4, WEST MIDLAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM SF-2, SINGLE-FAMILY DWELLING DISTRICT, IN PART, AND O-1, OFFICE DISTRICT, IN PART, TO O-1, OFFICE DISTRICT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF F STREET AND ILLINOIS AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 3) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 10, 2022)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10309.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10309; seconded by Dan Corrales.

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

20. 10310 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 14 THROUGH 21, BLOCK 7, AND LOTS 1 THROUGH 8, BLOCK 8, NUEVA LA JOLLA ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE EAST AND WEST SIDES OF SOUTH BENTON STREET, APPROXIMATELY 217 FEET NORTH OF ORCHARD LANE);

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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 (DISTRICT 2) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 10, 2022)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10310.

John Norman moved to approve the second and final reading of Ordinance No. 10310; seconded by Dan Corrales.

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

21. 10311 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,800-SQUARE FOOT PORTION OF LOT 1-J, BLOCK 5, COLONY PLACE, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WADLEY AVENUE, APPROXIMATELY 254 FEET EAST OF NORTH GARFIELD STREET), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT , ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 3) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 10, 2022)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10311.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10311; seconded by John Norman.

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

22. 10312 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE SOUTH 200 FEET OF THE WEST 150 FEET OF THE EAST 857 FEET OF THE SOUTH HALF OF THE EAST 34 ACRES OF A CERTAIN 44-ACRE TRACT OUT OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 22, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF WESTERN DRIVE AND WEST GOLF COURSE ROAD), BY PERMITTING A REDUCED MINIMUM LOT WIDTH; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY

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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 (DISTRICT 3) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 10, 2022)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10312.

Dan Corrales moved to approve the second and final reading of Ordinance No. 10312; seconded by Robin Poole.

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

PUBLIC HEARINGS

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

23. 059-2022 – HOLD A PUBLIC HEARING IN ORDER FOR THE CITY OF MIDLAND AND THE CDBG PRIORITIZATION COMMITTEE TO RECEIVE PUBLIC COMMENTS, GUIDANCE AND RECOMMENDATIONS REGARDING THE 2022-2023 CDBG GRANT APPLICATION SUBMISSIONS AND THE THIRD YEAR ACTION PLAN IN ACCORDANCE WITH THE FIVE YEAR CONSOLIDATED PLAN GOALS (DISTRICT: ALL) (DEVELOPMENT SERVICES)

Community Services Manager Isaac Garnett gave a report on the CBDG grant application submission and the third year action plan in accordance with the five year consolidated plan goals. Surveys have been submitted to the community and reflect the same projects as last year such as neighborhood improvements, streets, flooding, sidewalk improvements, childcare, homelessness, interventions and senior services.

As for funding, the Federal Government is still operating off of a continued resolution so the grant for the City of Midland regarding HUD has not yet been funded. We are hoping to receive last year's number of approximately $1.3 million. Mr. Garnett went on to provide the tentative funding request numbers and information for each program.

Council Member Blong opened the public hearing at 10:28 a.m.

Tracy Renton, 4000 Compton, reported that 81% of seniors listed living safe and independently in their homes as a quality of life option for them. Through Midland Meals on Wheels and the home bound wrap around service assistance can be provided to seniors wanting to live independently. This grant will allow them to better serve seniors within our community.

Michelle McClellan, 8614 Fortuna Court, Midland Memorial Hospital, sees many people come through the hospital emergency room for mental health and substance use issues; predominately children and indigent. The CRISP (Community Referral and Indigent Services Program) targets those two specifically due to issues that come from COVID. One

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part of the program would be to introduce an Adverse Childhood Experiences (ACE's) screening. A parent support group has been established and the goal is prevention and early intervention.

Individuals at risk for homelessness and the indigent population are two other categories that comes through the ER for assistance. They typically use the ER for medical services as they do not have transportation to get to a doctor nor do they have insurance. One way to assist them is through collaboration with the Salvation Army, EZ Rider and other services within the community.

The startup fund in the amount of $260,000 requested would also help get into the schools and assist students who may be struggling, especially those whose first language is not English. The school district they are working with is St. Ann's.

Tonya Eckert, 1101 Garden Lane, applied for the Resiliency Project for senior citizens. They are also working with Stephanie Palmer on a project with GAIM Plan Counseling to assist seniors with services such as grief counseling and other subjects.

Brooke Rich, 3109 Ma Mar Avenue, a local business owner, mother of three children and a volunteer with Midland Memorial has been through the mental health system with her 16 year old daughter due to suicidal ideation. She has received calls from parents whose children attempted suicide. She works with parent support groups to help find resources for their children. She also works with the program at St. Ann's which has 400 students. A request for additional assistance has been put into Midland Health Services Coordinators. There is a huge need in the community for services to assist children who are suffering.

There being no one else wishing to speak, the public hearing was closed at 10:52 a.m. This was a public hearing only, no action was taken.

MISCELLANEOUS

24. 2022-074 – RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, APPROVING THE REDISTRICTING OF THE CITY OF MIDLAND'S SINGLE-MEMBER COUNCIL DISTRICTS; ESTABLISHING NEW DISTRICT BOUNDARY LINES FOR THE CITY OF MIDLAND'S CITY COUNCIL ELECTIONS BASED ON 2020 CENSUS DATA; AND PROVIDING FOR AN EFFECTIVE DATE (DISTRICT: ALL) (CITY MANAGER)

Jack Ladd moved to approve Resolution No. 2022-074 with Plan A; seconded by Dan Corrales.

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

PUBLIC COMMENT

25. Receive public comments where individuals may address the City Council on City related

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issues and projects not on the present agenda. 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. (Please limit comments to three minutes or less.)

Liza Evans, Austin, Senior Counselor at WhiteWater Midstream spoke on behalf of Bangle and Whistler who has requested right-of-way licenses in the City for crossings of City owned property. As a gas and liquids transportation company they provide a safe take-a-way from the City and reduce the need for flaring which benefits the City and the community. The Utilities Department and the Assistant City Attorney have advised WhiteWater of Council's decision to increase right-of-way rates in accordance with University Lands rates, however, the proposed rates received are ten times University Lands rates. They would like to provide their proposal at the next Council meeting for a one-time ten year payment at University Lands rates or a single payment annualized over ten years.

City Manager Robert Patrick reported Council has not increased those rates. Based on University Lands rates the City charges an annual fee which is applied to all of the right-of-ways.

All the business at hand having been completed, the meeting adjourned at 10:57 a.m.

PASSED AND APPROVED June 14, 2022.

Patrick Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

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City Council Meeting

Item Number: 5

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: RESOLUTION APPROVING A CONTRACT WITH RESTROOM FACILITIES, LTD., THROUGH BUYBOARD, FOR THE PURCHASE AND INSTALLATION OF A RESTROOM AND CONCESSION FACILITY AT THE SCHARBAUER SPORTS COMPLEX AUXILIARY FIELDS FOR A TOTAL COST OF $548,179.00; APPROVING $55,000.00 FOR CONTINGENCIES; AND APPROPRIATING FUNDS FOR SAID PROJECT (DISTRICT 4) (GENERAL SERVICES)

Purpose:

Resolution executing a contract with Restroom Facilities, Ltd through Buyboard contract 592-19 for the purchase and installation of a restroom and concession facility at the Scharbauer Sports Complex at the Red and Yellow Auxiliary fields.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding is available in the Scharbauer Sports Complex Fund Unappropriated Fund Balance and will be transferred and appropriated to a project in the Capital Projects Fund.

Discussion:

Staff recommends the purchase and installation of a restroom and concession facility at the Scharbauer Sports Complex at the Red and Yellow Auxiliary fields. This purchase is available through Buyboard. 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. Please

refer to the memo from Cristina Odenborg Burns, Community Services Director, for additional information.

Therefore, please consider a resolution executing a contract with Restroom Facilities, Ltd through Buyboard contract 592-19 for the purchase and installation of a restroom and concession facility at the Scharbauer Sports Complex at the Red and Yellow Auxiliary fields for a cost of $548,179.00 plus $55,000.00 in contingencies for a total project cost of $603,179.00 for the Community Services Department.

Tina Gaug

City Manager's Office

CITY OF MIDLAND

Community Services Department
Scharbauer Sports Complex Division
Interoffice Memorandum

Date: June 1, 20202
To: Morris Williams, Deputy City Manager
From: Cristina Burns, Community Services Director
Subject: Purchase and Installation of a modular restroom/concession building at Scharbauer Sports Complex Red/Yellow Auxiliary Fields

The Community Services Department recommends the BuyBoard purchase of a modular restroom/concession facility to be installed at the Scharbauer Sports Complex at the red/yellow auxiliary fields. This facility will be used extensively by children and adults participating in sports such as football, soccer, and lacrosse.

City staff has worked with Restrooms Facilities Limited to design a practical and cost-effective building that will be similar in architectural details to the existing structures at the Sports Complex. The building will be block construction with brick veneer and a metal roof. The facility will meet the expanding needs at the fields and eliminate the need to open the restrooms inside Momentum Bank Ballpark. The floorplan is identical to the building at the blue/white fields with a concession area, restrooms and storage room.

BUYBOARD CONTRACT 592-19		
RFL BASE MODEL #W624CN2ST (CUSTOM DESIGN)	**@**	**$472,513.00**
INSTALL	**@**	**$ 12,600.00**
TOTAL WITH BUYBOARD DISCOUNT	**@**	**$485,113.00**
FREIGHT AND CRANE	**@**	**$ 47,100.00**
PAYMENT AND PERFORMANCE BONDS	**@**	**$ 15,966.00**
TOTAL BUYBOARD W/ FREIGHT AND CRANE	**@**	**$548,179.00**

The completed building will be delivered to the location and set in place, then plumbing and electrical will be completed by the installation crew. The BuyBoard price includes all architectural / design, building engineering, construction of the building, inspections, freight, crane, installation, bonds and permits. Contingency funds in the amount of $55,000 are requested to allow the Parks Construction Crew to prepare a level base for the building and bring the utilities within 5 feet of the building location.

The staff anticipates that construction of the facility will be completed in December 2022 in order to be available to users in early 2023.

Staff recommends the BuyBoard purchase of the modular restroom building from Restrooms Facilities Limited in the amount of $548,179.00. With the additional $55,000 requested contingency funds, total project funding requested is $603,179.00

$603,179.00 is available in the Scharbauer Sports Complex unappropriated fund balance and is hereby appropriated and will be transferred to a project in the Special Revenue Capital Projects Fund.

RESOLUTION NO. _____

RESOLUTION APPROVING A CONTRACT WITH RESTROOM FACILITIES, LTD., THROUGH BUYBOARD, FOR THE PURCHASE AND INSTALLATION OF A RESTROOM AND CONCESSION FACILITY AT THE SCHARBAUER SPORTS COMPLEX AUXILIARY FIELDS FOR A TOTAL COST OF $548,179.00; APPROVING $55,000.00 FOR CONTINGENCIES; AND APPROPRIATING FUNDS FOR SAID PROJECT

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

WHEREAS, Restroom Facilities, Ltd., has submitted a total proposed cost to the City of $548,179.00 for the purchase and installation of a restroom and concession facility at the Scharbauer Sports Complex auxiliary fields through Buyboard; and

WHEREAS, the Council finds the price proposed by Restroom Facilities, Ltd., through Buyboard for the purchase and installation of said restroom and concession facility to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to approve a contract with Restroom Facilities, Ltd., for the purchase and installation of a restroom and concession facility at the Scharbauer Sports Complex auxiliary fields through Buyboard; and

WHEREAS, the City Council finds it to be in the public interest to approve $55,000.00 for contingencies;

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 with Restroom Facilities, Ltd., for the purchase and installation of a restroom and concession facility at the Scharbauer Sports Complex auxiliary fields, through Buyboard, for a total cost of $548,179.00. Said contract to be kept on file in the office of the City Secretary, referenced

by the date and number of this Resolution.

SECTION TWO. That the sum of $55,000.00 for contingencies is hereby approved.

SECTION THREE. That the sum of $603,179.00 is hereby appropriated from the Scharbauer Sports Complex Fund Unappropriated Fund Balance to a project established by the City of Midland Finance Department in the Capital Projects Fund.

SECTION FOUR. That the City Comptroller is hereby authorized and directed to pay Restroom Facilities, Ltd., in accordance with the provisions of the above-referenced contract from funds available in project established by the City of Midland Finance Department 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., 2022, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Regina Stephenson, General Services Director

APPROVED AS TO FORM ONLY:

_____
John Ohnemiller, City Attorney

THE CITY OF MIDLAND

CONTRACT

Contract No. 22003269

THIS CONTRACT, effective the 15 day of June, 2022, by and between the City of Midland, hereinafter referred to as "CITY", and Restroom Facilities LTD, hereinafter referred to as "COMPANY", is made for the following considerations:

1. **Cost:** Total Proposal: $ 548,179.00 DOLLARS

2. **Scope of Work:** COMPANY shall perform all work described for purchase and installation of a modular restroom and concession at Scharbauer Sports Complex Red/Yellow Auxiliary Fields 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. **City:** The words "CITY's Representative" or "representative" shall mean Cristina Odenborg or the 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 CITY to act in any particular capacity under this Contract.

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

5. **Company:** Unless otherwise stipulated, COMPANY 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. COMPANY shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

5.1. COMPANY 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 COMPANY'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. COMPANY 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 CITY to be done by COMPANY to accomplish any alteration or addition to the work as shown on the Specifications.

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

7. **Safety:** COMPANY 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: COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, 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 COMPANY, 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 COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 8 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

8.1. **COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL 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 CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH COMPANY OR COMPANY'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 COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 8.1 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.**

8.2. **COMPANY AGREES THAT IT WILL INDEMNIFY AND SAVE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS AND ALL SUPPLIES, INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS CONTRACT. WHEN CITY SO DESIRES, COMPANY SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREINABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED. COMPANY, ITS SURETIES AND INSURANCE CARRIERS SHALL DEFEND, INDEMNIFY AND SAVE HARMLESS CITY AND**

ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ARISING FROM ANY ACT OF COMPANY 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 CITY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 8.2 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

9. **Start of Work:** COMPANY 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 180 calendar days after release to proceed.

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

11. **Warranty:** Neither the final payment nor any provision in this contract shall relieve COMPANY 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. CITY shall give notice of observed defects with reasonable promptness.

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

12.1. Defective work not remedied; or

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

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

12.4. Damages to another contractor or subcontractor.

When the above grounds to withhold payment are removed, or COMPANY provides a surety bond satisfactory to CITY, which will protect CITY in the amount withheld, payment may 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 CITY of any kind whatsoever.

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

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

15. **Prompt Pay Act:** CITY and COMPANY agree that Texas Government Code, Chapter 2251, Payment for Goods and Services (the "Prompt Pay Act") does not waive governmental immunity.

16. **Payment; Retainage:** After all work is completed by COMPANY, including all Change Orders altering the original scope and amount of the contract are completed, and the CITY has inspected and approved that the work is completed and in compliance with the contract and all subsequent Change Orders, the CITY may thereafter issue payment to COMPANY in the amount of the contract and all Change Orders. The CITY shall be the final judge of when the work is completed by COMPANY. The CITY, in its sole discretion, shall determine if the work under the contract and under any Change Orders has been done to the CITY's requirements.

16.1. The CITY may make periodic payments to COMPANY; provided, however, such periodic payments may only be made pursuant to this section, and only after all work and all Change Orders are completed by COMPANY and approved by the CITY. The approval shall be in the CITY's sole discretion. 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 CITY or the CITY's representative, the request and invoice shall be forwarded for payment less 5% retainage. The total of these payments shall not exceed 95% of the total contract amount.

17. **Late Completion; Liquidated Damages:** It is hereby understood and mutually agreed, by and between COMPANY and the CITY, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed." COMPANY agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between COMPANY and the CITY, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

17.1. In the event COMPANY shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the CITY, then COMPANY and COMPANY's surety, if any, shall be liable for and does hereby agree, as a part consideration for the awarding of this contract, to pay to the CITY $500.00, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every day that COMPANY shall be in default after the time stipulated in the contract for completing the work. Further, the CITY shall have the right to cancel this contract for such delay. In the event the CITY cancels this contract pursuant to the terms of this section, the CITY shall pay to COMPANY only those monies deemed appropriate by the CITY, in its sole discretion, to compensate COMPANY for any work actually performed, less any liquidated damages COMPANY owes the CITY.

17.2. The said amount is fixed and agreed upon by and between COMPANY and the CITY because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the CITY would in such event sustain, and said amount is agreed to be the amount of damages which the CITY would sustain and said amount shall be retained from time to time by the CITY from current periodical estimates.

17.3. It is further agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided, that COMPANY shall not be charged with liquidated damages or any excess cost when the CITY determines, in its sole discretion, that COMPANY is without fault and COMPANY's reasons for the time extension are acceptable to the CITY. Provided, further, that COMPANY shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

a. To any preference, priority or allocation order duly issued by the Government;

b. To unforeseeable cause beyond the control and without the fault or negligence of COMPANY, including, but not restricted to, acts of God, or of the public enemy, acts of the CITY, acts of another contractor in the performance of a contract with the CITY, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and

c. To any delays of subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article.

17.4. Provided, further, that COMPANY shall, within ten (10) days from the beginning of such delay, unless the CITY shall, in its sole discretion grant a further period of time prior to the date of final settlement of the contract, notify the CITY, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay and notify COMPANY within a reasonable time of its decision in the matter.

17.5. **COMPANY AGREES THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES MAY BE RECOVERED BY THE CITY FROM RETAINAGE HELD BY THE CITY. NOTWITHSTANDING ANY OTHER PROVISION HEREOF, 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 ARISING FROM THE CITY WITHHOLDING PAYMENT FROM COMPANY AS LIQUIDATED DAMAGES FOR COMPANY'S FAILURE TO COMPLETE THE WORK WITHIN THE TIME SPECIFIED HEREIN, 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.**

17.6. **COMPANY SHALL RECEIVE NO FINANCIAL COMPENSATION FOR DELAY OR HINDRANCE TO THE WORK. IN NO EVENT SHALL THE CITY BE LIABLE TO COMPANY OR ANY SUBCONTRACTOR OR SUPPLIER, ANY OTHER PERSON OR ANY SURETY FOR OR ANY EMPLOYEE OR AGENT OF ANY OF THEM, FOR ANY DAMAGES ARISING OUT OF OR ASSOCIATED WITH ANY DELAY OR HINDRANCE TO THE WORK, REGARDLESS OF THE SOURCE OF THE DELAY OR HINDRANCE, INCLUDING EVENTS OF FORCE MAJEURE, AND EVEN IF SUCH DELAY OR HINDRANCE RESULTS FROM, ARISES OUT OF OR IS DUE, IN WHOLE OR IN PART, TO THE NEGLIGENCE OF THE CITY. COMPANY'S SOLE REMEDY IN ANY SUCH CASE SHALL BE AN EXTENSION OF TIME.**

18. **No Third Party Beneficiary:** CITY's approval of this contract does not create a third party

beneficiary. There is no third party beneficiary to this contract. No person or entity who is not a party to this contract shall have any third party beneficiary or other rights hereunder.

19. WAIVER OF ATTORNEY FEES: BY EXECUTING THIS CONTRACT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST CITY REGARDING THE AWARD OR ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THIS CONTRACT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY 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, COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

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

COMPANY IS RELYING ON ITS OWN JUDGMENT. COMPANY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION. THE OBLIGATIONS CONTAINED IN THIS SECTION 18 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

20. **Governmental Immunity:** By executing this contract CITY is not waiving its right of governmental immunity. CITY is retaining its immunity from suit. CITY is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.

21. **Insurance:**

COMPANY 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
Workers' Compensation:	Statutory limits
Employers' Liability:	$500,000.00 per accident or occurrence

The Commercial General Liability shall be on a per project aggregate, including completed operations, and shall be on a claims-occurred basis. This insurance shall name CITY as an additional insured and waive subrogation in favor of CITY.

The Business Automobile Liability insurance provided by COMPANY shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-city vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of $250,000.00 covering any vehicle used for the execution of the work that is the subject of this Contract. This insurance shall name CITY as an additional insured and waive subrogation in favor of CITY.

The Workers' Compensation coverage provided by COMPANY shall inure to the benefit of employees injured during the course and scope of their employment by COMPANY pursuant to this Contract. The Workers' Compensation shall waive all rights of subrogation in favor of CITY.

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

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

subrogation in favor of the City of Midland and policies that name the City of Midland as an additional insured on a claims occurred basis (except workers' compensation).

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

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

22. **Assignment**: COMPANY 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 CITY. The issue on whether or not to grant consent to an assignment is in the sole discretion of CITY.

23. **RELEASE: NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY AND CITY'S COUNCIL MEMBERS, EMPLOYEES, AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER THAT 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. THE OBLIGATIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS CONTRACT**.

24. **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. The obligations and undertakings of each of the parties 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 contract or the performance of this contract shall be in Midland County, Texas.

25. **Independent Contractor:** COMPANY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of CITY. 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. COMPANY shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors and the doctrine of respondeat superior shall not apply as between CITY and COMPANY, its officers, agents, employees, contractors and subcontractors. Nothing in this Contract 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 CITY. Further, it is specifically understood and agreed that nothing in this contract 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 Contract and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. CITY does not have the power to direct the order in which the work is done. CITY shall not have the right to control the means, methods or details of COMPANY's work. COMPANY shall assume exclusive responsibility for the work. COMPANY is entirely free to do the work in its own way.

26. **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, COMPANY or its legal representative, shall give the City Manager, or any other reasonable official of CITY, notice in writing (consisting of one (1) original and seven (7) 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 COMPANY shall 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 (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom COMPANY relies to establish its claim; and a failure to provide such written notification within the time and manner provided herein shall exonerate, excuse and except CITY from any liability whatsoever. 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 to the contrary, COMPANY's failure to comply with the

requirements of this Section 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 Contract are reasonable. The provisions and obligations of this Section shall survive the termination of this Contract.

27. **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.

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

29. **Compliance:** COMPANY agrees that it shall comply with Texas Government Code Section 2252.908, *et seq.*, as amended. COMPANY agrees that it shall comply with Texas Local Government Code Section 176.006, *et seq.*, as amended.

30. To the extent that Sections 2271.002 and 2274.002 of the Texas Government Code (collectively, the "Anti-Boycott Statutes") apply to this Contract, Company hereby verifies:

- that Company does not boycott Israel and will not boycott Israel during the term of this Contract;
- that Company does not boycott energy companies and will not boycott energy companies during the term of this Contract; and
- that Company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this Contract against a firearm entity or firearm trade association.

To the extent that the Anti-Boycott Statutes do not apply to this Contract, such verification is not required, and Company shall be deemed to have not made such verification.

31. **Records Retention and Production of Information.** To the extent that this Contract constitutes a contract described by Section 552.371 of the Texas Government Code, COMPANY shall: (i) preserve all contracting information related to this Contract as provided by the records retention requirements

applicable to CITY for the duration of this Contract; (ii) promptly provide to CITY any contracting information related to the Contract that is in the custody or possession of COMPANY on request of CITY; and (iii) on completion of the Contract, either: (a) provide at no cost to CITY all contracting information related to the Contract that is in the custody or possession of COMPANY; or (b) preserve the contracting information related to the Contract as provided by the records retention requirements applicable to CITY.

32. **Public Information.** To the extent that this Contract is a contract described by Section 552.371 of the Texas Government Code, COMPANY agrees as follows in accordance with Section 552.372(b) of the Texas Government Code: The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract, and COMPANY agrees that the contract can be terminated if COMPANY knowingly or intentionally fails to comply with a requirement of that subchapter.

33. **Conflict of Terms.** If a conflict of terms or language exists between: (i) any of the provisions of this Contract and (ii) any of the provisions contained in any exhibit(s) attached to this Contract, precedence shall be given to the provisions of this Contract. For the avoidance of any doubt, the provisions contained in this Contract shall supersede any and all conflicting provisions contained in any exhibit(s) attached hereto. Furthermore, the parties acknowledge and agree that any provision contained in an exhibit(s) attached to this Contract that imposes an additional express or implied obligation on CITY is hereby made void and of no force or effect. CITY's sole and exclusive obligations under this Contract are contained in the provisions of this Contract that precede the signature page(s), which evidences the parties' execution.

34. Company agrees that all iron or steel products produced through a manufacturing process and used in the project that is the subject of this Contract shall be produced in the United States in accordance with Government Code § 2252.202, et seq., as amended.

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Robert Patrick, City Manager

ATTEST

_____
Amy M. Turner, City Secretary

APPROVED ONLYAS TO FORM

_____
John Ohnemiller, City Attorney

COMPANY:

By: _____

Name:_____

Title: _____

STATE OF _____ §

§

COUNTY OF_____ §

BEFORE ME, the undersigned authority, on this ____ day of _____, 20____ personally appeared, _____, an officer of Restroom Facilities LTD, known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

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

_____

Notary Public, State of _____

Restroom Facilities Ltd
A CorWorth Company

TURNKEY QUOTATION

PROJECT NAME: **SCHARBAUER R&Y AUX FIELDS RESTROOM / CONCESSION / STORAGE BLDG**
OWNER: **THE CITY OF MIDLAND, TX**
DATE: **MAY 10, 2022**

Restroom Facilities Limited (RFL), the Nation's leading specialized restroom design/build firm since 1988, offers to furnish and install, per plans and specifications, subject to our attached Scope of Work, and the Standard Terms and Conditions of Sale, which become part of our offer to sell.

BUYBOARD CONTRACT 592-19

RFL BASE MODEL #W624CN2ST (CUSTOM DESIGN)@		**$ 472,513.00**
INSTALL	**@**	**$ 12,600.00**
TOTAL WITH BUYBOARD DISCOUNT	**@**	**$ 485,113.00**
FREIGHT AND CRANE	**@**	**$ 47,100.00**
PAYMENT AND PERFORMANCE BONDS	**@**	**$ 15,966.00**
TOTAL BUYBOARD W/ FREIGHT AND CRANE	**@**	**$ 548,179.00**

Note: You must itemize your purchasing document as shown in this quote.
Payment terms: 50% installment with order; 45% in progress billings during construction; and balance of 5% upon completion of delivery and installation, no retention. Payment of 95% must be received by RFL prior to scheduling of delivery and installation. Thank you for considering RFL as your restroom specialist for this project.

HOW WE WORK

Once plans have been approved and engineer stamped, the manufacturing process begins. Typically, the manufacturing time frame is approximately 90-120 days and begins with execution of sales order and receipt of approved submittals, color selections and progress payments. It is the responsibility of the Client to respond to color selections in 1-3 days, if this condition is not met it will delay the construction process and the Client may incur additional charges. In-plant inspection reports and certifications will be provided by an independent inspection agency.

1707 Colt Circle, Marble Falls, Texas 78654 • Phone: 512.222.5454 • www.restroomfacilities.com

The client must prepare the site in accordance with the “Scope of Work by Client” attached and coordinate any required on site inspections. Client is required to provide verification that the site is ready for delivery in accordance of Client’s scope of work.

Exclusions:

A. Sidewalks beyond building slab.
B. Site issues beyond the control of RFL.
C. Damage to existing improvements.
D. Protection of existing utilities, landscaping, and improvements.
E. If required per geotech report, footing, piers, and/or select fill labor and materials to be provided by others.
F. Excavation and backfill of trenches

CLIENT'S SCOPE OF WORK
TURNKEY INSTALLATION OF RESTROOM BUILDING WITH ATTACHED SLAB

1. SURVEY STAKES:

Provide ten foot offset stakes and locate front corners of building, existing utilities, and inverts within the area of construction. Locate and mark final slab elevation.

2. SUBGRADE PAD:

Detailed instructions to prepare the building site are as follows:

2.1. Excavate down ten inches below the finish floor elevation (the slab is eight inches thick on top of a two inch sand bed).
2.2. Import six inches of ¾ - road base rock, and pour for a footing and/or piers.
2.3. Compact to 95%, or to local code requirement. If RFL installer questions 95% compaction Client will be required to sign off on approval of setting of the building.
2.4. Compact one foot over in all directions (over build).
2.5. Supply approximately five cubic yards of clean sand, on side of site, for fine grading.
2.6. Excavate and backfill trenches up to and within building pad for RFL supplied underground utility service kits.
2.7. Provide water and inspection for RFL supplied underground sewer kit.
2.8. All irrigation should be turned off prior to delivery to allow the surrounding soils to dry and bear the weight of the truck and crane. Any damage to area after verification of path in is the responsibility of the Client.
2.9. Check corner locations against plans for proper sizing.
2.10. Verify finish floor elevation for concrete slab (shipped fully attached to the building.)
2.11. Excavate one foot perimeter footing if required by local code to specified depth.
2.12. Verify that pad is level and flat and at correct elevation.

3. SITE ACCESS AND STORAGE:

Provide suitable safe clear access to allow a crane (minimum 110 tons), and the building on a semi-trailer (up to 40 tons) to reach site (14' width, 70' length, and 14' in height). If path to site is over existing utilities, sidewalks, or other damageable areas, proper marking, plating or other appropriate protection must be provided by and paid for by CLIENT. CLIENT is responsible for removing any overhead obstructions (i.e. power lines, trees). CLIENT is responsible for scheduling and paying for the de-energizing of any power lines, if powerlines are not de-energized in a timely manner any additional truck and / or crane cost will be the responsibility of the Client. CLIENT is responsible for rerouting or blocking of traffic to ensure safe and clear access, or if required by local or State jurisdiction, to delivery site and will be responsible for associated costs. Upon agreed delivery schedule client will be responsible for additional crane and trucking charges if any delays are incurred due to weather, lack of inspections, lack of pad being prepared, or any other cause for delay.. This proposal provides for a 110 ton crane with access to within 25' of the building pad. The proposal is based on four (4) hours of crane time. If access is limited a larger crane may be required. All additional crane costs shall be borne by the CLIENT. A direct route to the project site is assumed. Should routes be altered due to road closures or restrictions, additional fees may apply.

4. UTILITIES:

Bring water, sewer, and power (if applicable) utilities into point of connection Christy boxes (supplied by RFL), within six feet of the building line at the location shown on our plan.

4.1. Water: RFL will furnish a water point of connection (isolation valve), from mechanical chase to a Christy box six feet from the building line. CLIENT must have a licensed plumber install and connect service to valve.

4.2. Sewer: RFL will furnish a sewer point of connection from mechanical chase to a Christy box six feet from the building line. CLIENT must have a licensed plumber install and connect service. Depth of sewer line (below finished floor elevation) will be approximately 30" at bottom of sewer line at a distance of 6' from building. It is the responsibility of the Client to meet up with RFL's supplied sewer line at this depth. Client will be responsible for hiring of licensed plumber to acquire appropriate plumbing permit, to install prefabricated underground plumbing kit into pre dug trench, and to make connections between underground stubups and internal building plumbing located in plumbing chase within the building. RFL installer will be on site to answer any questions or give direction as to proper installation of said plumbing kit as requested by licensed plumber or client.

4.3. Electrical: (when this option is chosen) RFL will furnish and install a PVC conduit and a Christy box to the point of connection six feet from the building line. CLIENT to pull the electrical service line through the conduit and connect to the

main panel lugs inside the building. All electrical inside the building will be furnished and installed by RFL, except as noted above in exclusions.

4.4. If the utilities are not available and connected to building when we depart the site, an additional charge will be billed to the CLIENT in the amount of 1,500 per day to send an installation crew back to site to flush out plumbing lines, pressurize building plumbing, test for leaks, test all other components of the building (plumbing, sewer, electrical), and conduct a final walk through of the building.

4.5. A minimum 1½" line with 50 gpm at 60 psi pressure minimum is required to ensure that water closets will operate as designed. If this is not available an auxiliary holding tank may be required.

5. SPECIAL CONDITIONS AND COSTS:

If specifications and / or local ordinances by owner and / or local jurisdiction require any testing, work by licensed plumbers, work by licensed electricians, or special inspections, costs, if any, shall be borne by CLIENT.

6. PERMITS AND FEES:

All building permits and fees shall be borne by CLIENT.

7. INSPECTIONS:

We require that all inspections be scheduled with adequate notice to ensure that the underground plumbing and electrical work is approved prior to placement of building. We require that final inspection and acceptance by owner and building officials be performed immediately following RFL's completion of installation. If any conditions exist in which RFL cannot conduct a final walkthrough (no utilities / partial utilities available during install, or other circumstances beyond our control) there will be an additional charge of 1,500 per day to send an RFL install crew or crew member back out to site at a later date to complete the installation. We also require final inspection and acceptance immediately following RFL's conclusion of any correction items.

8. SITE CLEANUP AND DEBRIS REMOVAL:

CLIENT shall provide an on-site trash bin for disposal of one pick up load of debris. All excess spoils shall be the responsibility of the CLIENT. All rough and final grading shall be by CLIENT.

9. VERIFICATION OF PREPARED PAD:

Client must verify elevation, compaction of pad as well as the pad being flat and level prior to delivery of building(s).

STANDARD TERMS AND CONDITIONS OF SALE

1. **LINKAGE:**
   These Terms and Conditions of Sale shall apply and form a part of the Company's Offer to Sell and supersede all other expressed or implied terms and be linked to our Agreement for work whether or not signed by the Purchaser.

2. **ACCEPTANCE:**
   Unless otherwise expressly stated herein, the Company's Offer supersedes all previous quotations and expires, unless accepted by purchaser, within ten (10) days from date of Offer. None of the Terms and Conditions contained in this quotation may be added to, modified, superseded or otherwise altered except by a written instrument signed by the President of the Company. Each shipment to buyer from the Company shall be deemed to be only under these Terms and Conditions of Sale, which shall become part of our Offer to Sell, notwithstanding any Terms and Conditions that may be contained in any purchase order or other form of the buyer, notwithstanding the shipment, acceptance of payment or similar act of the Company. All Purchase Orders when accepted by the Company at 1707 Colt Circle, Marble Falls, Texas 78654, will be in accordance with the Laws of the State of Texas. All orders are subject to review by the Company in accordance with the Company's Offer to Sell before final acceptance is authorized.

3. **PRICES:**
   Initial payment is due no later than 30 days from receipt of invoice. All subsequent progress payments are due no later than 30 days from receipt of invoice. If payment is not made by client in accordance with the Contract Terms, interest will be charged at the rate of 1-1/2% (one and one/half percent) per month until paid. If an order is accepted by the Company, and a delivery date is accepted by the Client, and delivery is delayed by the Client, payment of all but 5% is due upon completion at the Point of Manufacture. A 1-1/2% (one and one/half percent) per month added fee shall be due for each month the shipment is delayed. Client shall approve Phase 1 plans and have color selections chosen and back to RFL no later than 15 days of receiving Phase 1 plans for review and color selection. If Phase 1 plans are not approved and / or color selections are not submitted to RFL within 15 days Client will incur a 1.5% fee of total project amount per month commencing at the 16 day mark. Fee shall continue on a monthly basis until Phase 1 approvals and / or color selections are received by RFL. If, during the performance of this contract, the price of construction materials increases, through no fault of RFL, the price of the contracted building shall be equitably adjusted by an amount reasonably necessary to cover any such price increase. Such price increases to the client shall be documented through change orders or invoices. Where the delivery of contracted buildings is delayed, through no fault of RFL, as a result of material shortage, material unavailability, or shipping regulation changes, RFL shall not be liable for any additional costs or damages associated with such delays.

4. **TITLE AND LIEN RIGHTS:**
All Products remain the personal property of the Company, whether or not affixed to any other real property or structure, until the total amount of the contract including any change orders has been fully paid.

5. **LACHES:**
Failure of the Company to exercise any right or remedy under this contract shall not be deemed a waiver of such right, nor shall any lien or other right of the Company be lost or impaired by laches or in any manner or by any act or failure to act.

6. **LIMITATION OF LIABILITY:**
Under no circumstances, unless stated in our Offer to Sell or bid, shall the Company have any liability for liquidated damages, for collateral, consequential special damages, loss of profits, loss of production, delay in the progress of construction, whether resulting from delays in delivery, performance, breach of warranty, due to lack of timely performance in reviewing and approving shop drawings, completing site preparation or lack of payment in accordance with the terms set forth herein. The aggregate total liability of the Company under the contract, whether for breach of warranty or otherwise shall in no event exceed the contract price.

7. **DELIVERY:**
Except as may be otherwise specified in the attached Offer, delivery will be F.O.B. point of manufacture. Time of delivery is an estimate only. The Company shall in no event be liable for delays caused by fires, acts of God, strikes, labor difficulties, acts of Government or military, delays in transportation or procurement of materials or causes of any kind beyond the Company's immediate control. If building is ready for shipment and Customer delays said shipment, Company shall store the facility at the point of manufacturing and charge 1-1/2% (one and one/half percent) per month as a storage charge. If shipment arrives and site is not ready, Owner shall pay any off-site storage fees as applicable.

8. **WARRANTY:**
All structural elements produced by the company are warranted to the purchaser to be free from defects in material, workmanship and title. The Company will replace or repair, at its option, defects in workmanship or any part which is proven defective within five years from delivery. This warranty applies only where the Company has been notified in writing of the defect within the warranty period and where any equipment has been properly operated and maintained in accordance with the Company's instructions: the Company having no responsibility for abuse, neglect, minor leaks in plumbing, or improper storage. Company shall have no responsibility for improper grading of concrete or soil around the building that does not allow for proper drainage of water

away from the building. Example: improper drainage of water could cause cracking of brick, cultured stone, natural stone, cmu, hardie materials, or other types of exterior finishes, as well as swelling, rot, mold, or mildew of any type of lumber that has prolonged exposure to water. Typically the final grade must be sloped away from the foundation by 1/2 inch per foot over a minimum distance of 10 feet (site plans, civil engineer, or others can and may override the above recommendation, as it is a typical recommendation and site conditions vary). Keeping the proper slope allows water to drain away from the foundation. Should any issues arise where additional work must be performed RFL retains the right to perform this work at the earliest opportunity. Should it be necessary to have this work performed by others due to the nature of the work or a conflict in scheduling, RFL must be notified 48 hours in advance in writing and given the opportunity to perform said work. Should it be necessary to have this work performed by others a written estimate must be approved by RFL in advance of any work being undertaken. The Company assigns any and all warranties for fixtures, appliances, and other equipment manufactured by others to said other manufacturer. Due to its nature, concrete is prone to settling and cracking. Minor cracking in the concrete is normal and is not the responsibility of RFL. Checking, warping, twisting, or splits in timbers are natural occurrences and are not the responsibility of RFL. We use high quality 304 stainless steel in our products and under certain conditions and/or improper maintenance stainless steel may rust. Minor rust spots or discoloration are not the responsibility of RFL. The foregoing shall constitute the said liability of the Company and the sole remedy to the purchaser. Company's warranties as set forth in this paragraph are exclusive and are in lieu of, and purchaser hereby waives all other warranties, expressed or implied, including without limitation, any implied warranties or merchantability and fitness. This warranty shall be void if payment in full for the project is not received by the Company in accordance with these Terms and Conditions of Sale.

9. **CREDIT:**
(Deposit and Progress Payments)

10. **MUNICIPAL AND FEDERAL GOVERNMENT AGENCIES:**
Orders may require deposits or progress payments. If buyer's financial situation justifies such action, the Company may at its election require payment in advance or cancel the order as to any unshipped item and require payment of its reasonable cancellation charges. If the buyer delays completion of manufacture or a delay in shipment, the Company shall require payment according to the percentage of completion. In the event of the default of the buyer, the Company is entitled to the full amount due including reasonable attorneys fees, costs, storage, expenses of physical recovery, and interest at 1-1/2% (one and one/half percent) per month.

11. **CLIENTS AND NON-GOVERNMENT AGENCIES:**
Orders may require deposits or advance payment as well as progress payments subject to the buyer's creditworthiness in accordance with the Company's applicable credit

policies. Breach of any payment terms shall accelerate full payment which shall be due the balance of the contract amount including change orders.

Restroom Facilities Limited

_____ _____

John Putman, President Date

Client Name

_____ _____

Name and Title Date

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, or irrevocable letter of credit issued by a bank satisfactory to the City, 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 City, 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 or irrevocable letter of credit issued by a bank satisfactory to the City 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.

PAYMENT BOND

THE STATE OF TEXAS §

COUNTY OF MIDLAND § SURETY NO _____

KNOW ALL MEN BY THESE PRESENTS, THAT _____ of the City of _____ of the County of _____ and State of Texas as Principal, and _____, as Surety, are held and firmly bound unto the City of Midland, Texas, as Obligee, in the amount of _____ DOLLARS ($ _____) for the payment whereof the said Principal and Surety bind themselves, 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__, for the furnishing of materials, equipment to perform all labor and work necessary for _____, hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, the condition of the obligation is 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.

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 there under, or the plans, specifications of 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 the contract, assignment thereof, or to the work to be performed there under.

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

THE STATE OF TEXAS §

COUNTY OF MIDLAND § SURETY NO _____

KNOW ALL MEN BY THESE PRESENTS, THAT _____ (Hereinafter called the Principal[s]), as Principal(s), 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 entered into a certain written contract with the Obligee, dated the _____day of _____ , 20___ , for the furnishing of materials and equipment to perform all labor and work necessary for the construction of _____ , 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 copies at length herein, as well as the Principal's 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 bidder, general and special conditions and other contract documents, including any addendum 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.

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 the contract, assignment thereof, or the work to be performed thereunder.

IN WITNESS WHEREOF, 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

Form Revised August 2012

EXHIBIT D – BUILDING WAGE RATES rev 01-01-21

General Decision Number: TX20210261 01/01/2021

Superseded General Decision Number: TX20200261

State: Texas

Construction Type: Building

County: Midland County in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of $10.95 for calendar year 2021 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.95 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2021. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/01/2021

BOIL0074-003 01/01/2017

	Rates	Fringes
BOILERMAKER	$ 28.00	22.35

ENGI0178-005 06/01/2020

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
(1) Tower Crane	$ 32.85	13.10
(2) Cranes with Pile Driving or Caisson Attachment and Hydraulic Crane 60 tons and above	$ 28.75	10.60
(3) Hydraulic cranes 59 Tons and under	$ 32.35	13.10

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* IRON0084-011 06/01/2020

	Rates	Fringes
IRONWORKER, ORNAMENTAL	$ 25.26	7.13

---

* PLUM0404-001 09/01/2020

	Rates	Fringes
PLUMBER	$ 26.05	8.81

SUTX2014-037 07/21/2014

	Rates	Fringes
BRICKLAYER	$ 20.00	0.00
CARPENTER	$ 13.82	0.00
CEMENT MASON/CONCRETE FINISHER	$ 13.76	0.00
ELECTRICIAN	$ 23.18	6.31
INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation)	$ 19.77	7.13
IRONWORKER, REINFORCING	$ 12.27	0.00

IRONWORKER, STRUCTURAL	$ 22.16	5.26
LABORER: Common or General	$ 11.80	0.00
LABORER: Mason Tender - Brick	$ 11.38	0.00
LABORER: Mason Tender - Cement/Concrete	$ 10.58	0.00
LABORER: Pipelayer	$ 12.49	2.13
LABORER: Roof Tearoff	$ 11.28	0.00
OPERATOR: Backhoe/Excavator/Trackhoe	$ 14.25	0.00
OPERATOR: Bobcat/Skid Steer/Skid Loader	$ 13.93	0.00
OPERATOR: Bulldozer	$ 18.29	1.31
OPERATOR: Drill	$ 16.22	0.34
OPERATOR: Forklift	$ 14.83	0.00
OPERATOR: Grader/Blade	$ 13.37	0.00
OPERATOR: Loader	$ 13.55	0.94
OPERATOR: Mechanic	$ 17.52	3.33
OPERATOR: Paver (Asphalt, Aggregate, and Concrete)	$ 16.03	0.00
OPERATOR: Roller	$ 12.70	0.00
PAINTER (Brush, Roller, and Spray)	$ 15.00	0.73
PIPEFITTER	$ 25.80	8.55
ROOFER	$ 14.75	0.00
SHEET METAL WORKER (HVAC Duct Installation Only)	$ 22.73	7.52
SHEET METAL WORKER, Excludes HVAC Duct Installation	$ 19.50	0.00

TILE FINISHER.....$ 11.22 0.00

TILE SETTER.....$ 14.74 0.00

TRUCK DRIVER: Dump Truck.....$ 12.39 1.18

TRUCK DRIVER: Flatbed Truck.....$ 19.65 8.57

TRUCK DRIVER: Semi-Trailer Truck.....$ 12.50 0.00

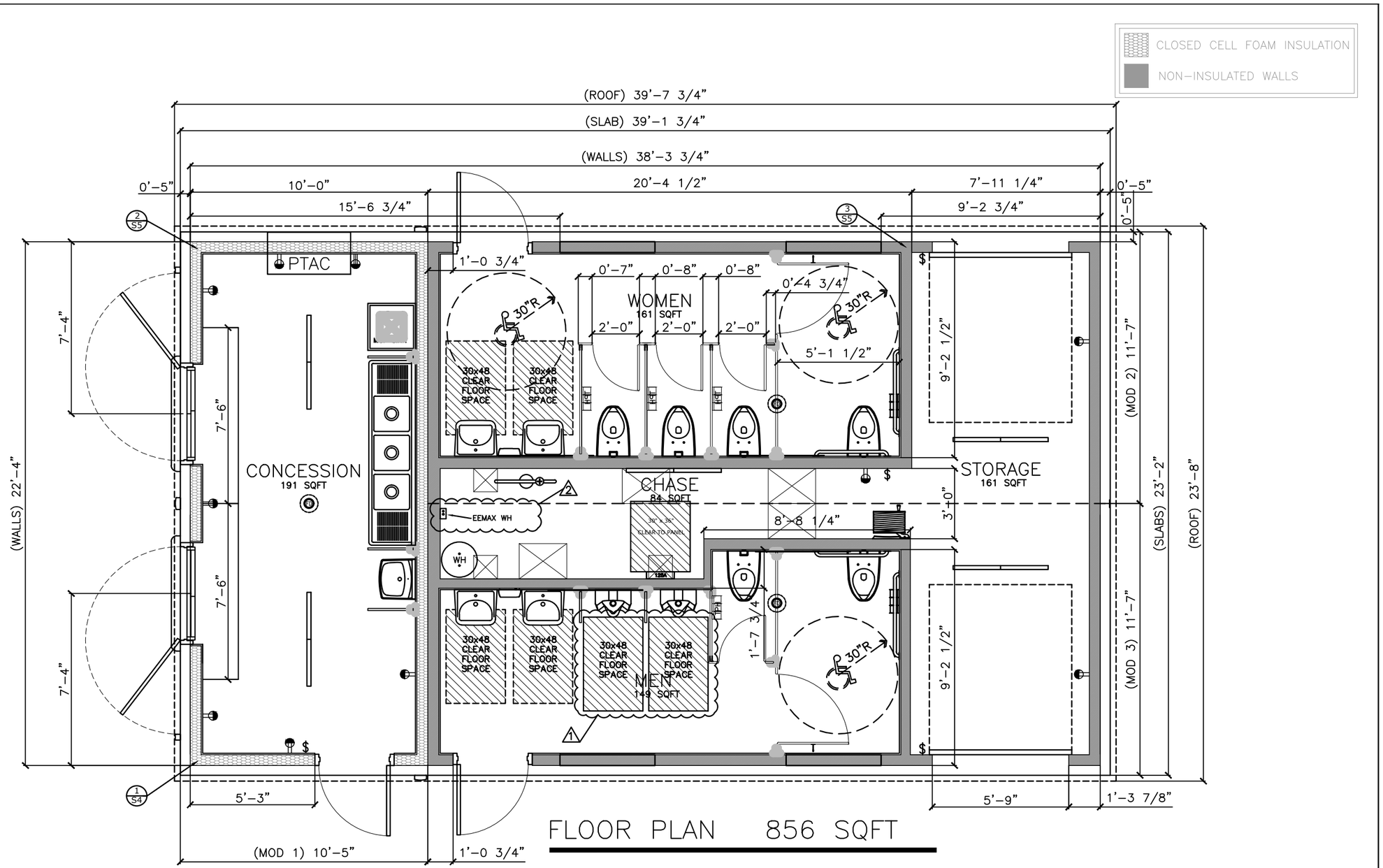
TRUCK DRIVER: Water Truck.....$ 12.00 4.11

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

==========

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts. 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

(29CFR 5.5 (a) (1) (ii)).



FLOOR PLAN 856 SQFT

DESIGN DATA PLATE TO BE OF PLAQUE GRADE METAL, PAINTED BLACK. CRITERIA TO BE ENGRAVED TO METAL. TO BE SCREWED TO WALL 6" FROM CORNER ON RIGHT SIDE OF CHASE ENTRY AT 60" AFF.

RFL Restroom Facilities Limited

1707 COLT CIRCLE
MARBLE FALLS, TX 78654
512-222-5454

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RFL MODEL #: W624CN2ST

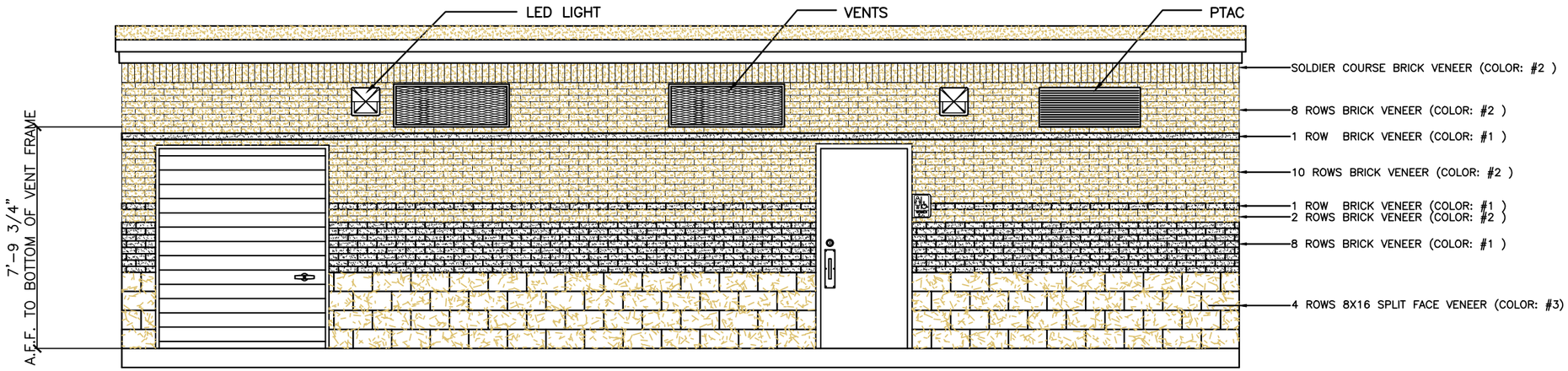
PROJECT: SCHARBAUR SPORTS COMPLEX

DRAWN BY:	RS
DATE:	05/27/22
DATE:	
REVISION:	
DATE:	
REVISION:	
DATE:	
REVISION:	
DATE:	
REVISION:	

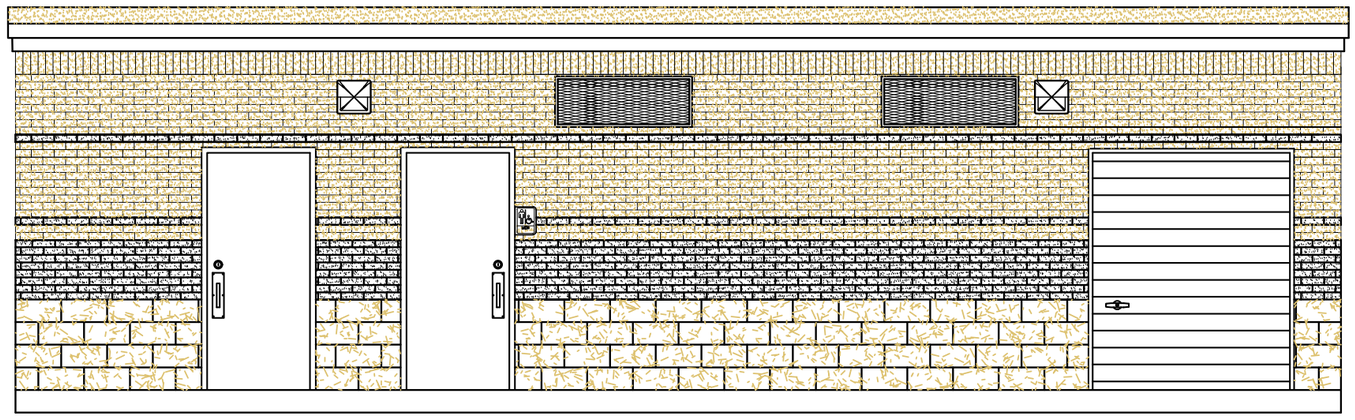
SHEET DESCRIPTION: FLOOR PLAN

SHEET A1

COLOR #1: ACME, GOLDEN SUNSET – VELOUR
COLOR #2: ACME, ALCON RED SUNSET – VELOUR
COLOR #3: SPLIT FACE CMU, TEXAS SHELL



REAR ELEVATION



FRONT ELEVATION

RFL Restroom Facilities Limited
1707 COLT CIRCLE
MARBLE FALLS, TX 78654
512-222-5454

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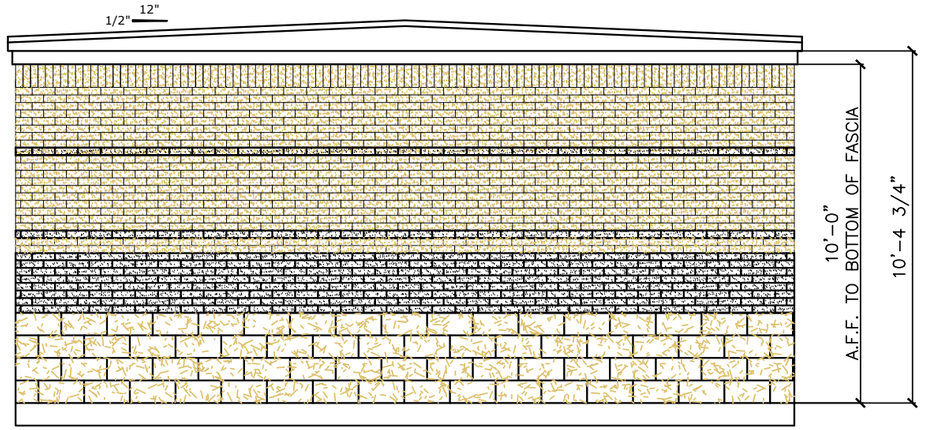
RFL MODEL #: W624CN2ST
PROJECT: SCHARBAUR SPORTS COMPLEX

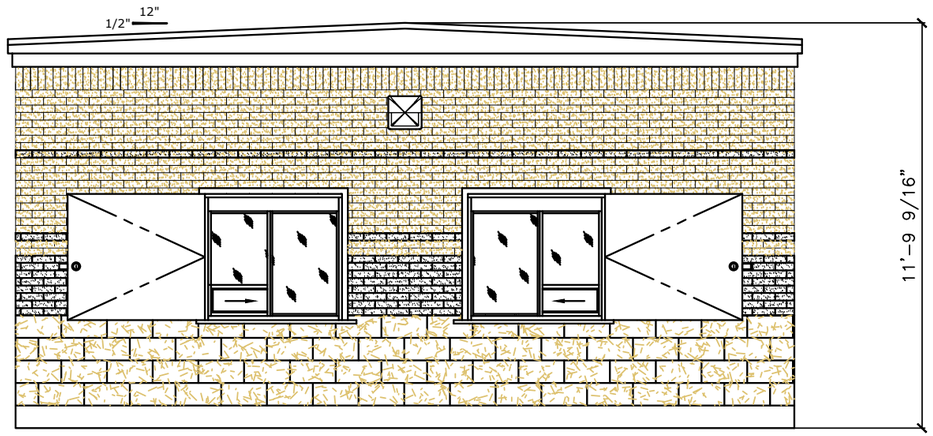
DRAWN BY: RS
DATE: 05/27/22
DATE:
REVISION:
DATE:
REVISION:
DATE:
REVISION:
DATE:
REVISION:

SHEET DESCRIPTION: ELEVATIONS

SHEET
A2



RIGHT SIDE ELEVATION



LEFT SIDE ELEVATION

RFL Restroom Facilities Limited

1707 COLT CIRCLE
MARBLE FALLS, TX 78654
512-222-5454

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RFL MODEL #: W624CN2ST
PROJECT: SCHARBAUR SPORTS COMPLEX

DRAWN BY: RS
DATE: 05/27/22
DATE:
REVISION:
DATE:
REVISION:
DATE:
REVISION:
DATE:
REVISION:

SHEET DESCRIPTION: ELEVATIONS

SHEET
A3

City Council Meeting

Item Number: 6

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Justine Ruff, Director

Subject: Motion authorizing the execution of a terminal lease agreement with the Permian Basin Apartment Association regarding certain office facilities located in the Wright Office Complex at the Midland International Air & Space Port (District 4) (Airports)

Purpose:

Motion authorizing the execution of Terminal Lease Agreement dated June 14, 2022, between the City Of Midland, Texas, and the Permian Basin Apartment Association at Midland International Air & Space Port (Wright Office Complex).

Recommended City Council Action:

Approve

Fiscal Impact:

$877.53 monthly
$10,530.36 annually

Discussion:

The Permian Basin Apartment Association has leased from the Airport since 2004. They have recently invested into this property by making renovations and have asked that the lease term be extended so they may be able to recoup their investment. Therefore, this lease is a 5-year lease with 5 one-year options. The Apartment Association will occupy 895 square feet in the Wright Office Complex located at the end of Wright Drive adjacent to the Commemorative Air Force. Both the Apartment Association and the City of Midland legal staff have reviewed the proposed lease agreement and concur with its contents.

Tina Dawg

City Manager's Office

MIDLAND INTERNATIONAL AIRPORT
TERMINAL LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into this 24th day of June, 2022, by and between the CITY OF MIDLAND, TEXAS, municipal corporation ("City"), and Permian Basin Apartment Association, a corporation organized and existing under and by virtue of the laws of the State of Texas ("Lessee");

WHEREAS, the City of Midland owns and operates the Wright Office Complex located at the Midland International Air & Space Port ("the Facility"); and

WHEREAS, the parties have agreed that certain office space at the Facility shall be leased by the City to the Lessee upon terms and conditions as set forth herein:

ARTICLE I
GRANT OF LEASE

1.01 CONVEYANCE OF LEASED PREMISES

The City hereby leases to the Lessee and the lessee does hereby accept and take EIGHT HUNDRED NINETY FIVE (895) square feet of space at the Wright Office Complex in Midland, Texas (the "Leased Premises"), as shown on **Exhibit A** attached hereto and incorporated herein for all purposes.

1.02 ACCEPTANCE OF LEASED PREMISES

The Lessee agrees to accept the Leased Premises in its present condition at the commencement of the lease term, including all defects thereon, whether concealed or otherwise, and those known or unknown to the City. **BY ACCEPTING THE LEASE PREMISES IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, THE LESSEE HEREBY RELEASES AND FOREVER DISCHARGES THE CITY AND ITS, EMPLOYEES, OFFICIALS, AND COUNCIL MEMBERS FROM ANY AND ALL DAMAGES OF EVERY KIND AND NATURE THAT MAY BE OCCASIONED BY A DEFECT ON THE LEASED PREMISES. THE OBLIGATIONS IMPOSED BY THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS LEASE.**

THE LESSEE AGREES AND ACKNOWLEDGED THAT THE LESSEE IS LEASING THE LEASED PREMISES "AS IS" WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY, EXPRESS OR IMPLIED BEING MADE BY THE CITY THAT THE BUILDING IS FIT FOR A PARTICULAR PURPOSE. THE LESSEE ACKNOWLEDGES THAT THE LESSEE IS NOT RELYING UPON ANY REPRESENTATION MADE BY THE CITY WITH RESPECT TO THE CONDITION OF THE BUILDING, BUT IS RELYING UPON THE LESSEE'S EXAMINATION OF THE BUILDING. THE LESSEE ALSO RECOGNIZES THAT THE LESSEE IS AGREEING TO LEASE THE BUILDING "AS IS", THAT THELESSEE AGREES TO MAKE THE LESSEE'S OWN APPRAISAL OF THE BUILDING AND TO ACCEPT THE RISKTHAT THE LESSEE MAY BE WRONG. THE CITY GIVES NO ASSURANCES, EXPRESS OR

IMPLIED, CONCERNING THE VALUE OR CONDITION OF THE LEASED PREMISES. IN NO EVENT SHALL THE LESSEE HAVE A RIGHT TO RECOVER CONSEQUENTIAL DAMAGES. THEREFORE, THE LESSEE SHALL TAKE THE LEASED PREMISES UNDER THE EXPRESS UNDERSTANDING THE LEASED PREMISES ARE ACCEPTED "AS IS" AND WITH ALL FAULTS, EXCLUDING EXPRESS OR IMPLIED WARRANTIES.

1.03 LEASE TERM

This Lease shall commence on June 24, 2022, and remain in effect for a period of five (5) years (the "Initial Term"), unless terminated earlier pursuant to the provisions of this Lease. This Lease shall automatically renew at the end of the Initial Term for up to five (5) additional one-year terms (collectively, the "Renewal Terms"). The Initial Term and Renewal Terms (if any) are collectively referred to herein as the "Lease Term".

1.04 HOLDOVER BY LESSEE

If the Lessee holds over or remains in possession of the Leased Premises after the termination of this Lease, such continuation beyond the date of termination, or the collection or acceptance of rent, fees and/or charges by the City, shall not be construed as a renewal or extension of this Lease, but shall be construed solely as creating a month-to-month tenancy and not for any other term whatsoever. During the term of such month-to-month tenancy, the lessee shall pay to the City the fees and charges herein reserved and each party shall be bound by and comply with all the relevant terms and provision of this Lease. The City may terminate said month-to-month tenancy by giving the Lessee at least 90 days written notice thereof.

ARTICLE II
RENT

2.01 AMOUNT OF RENT

The Lessee agrees to pay rent to the City for the use of the Leased Premises in the following amounts:

TEN THOUSAND FIVE HUNDRED THIRTY AND 36/100 DOLLARS ($10,530.36) per year during the Lease Term, payable in monthly installments of $877.53. Each monthly installment shall be due and payable in advance on or before the first (1st) day of each month during the Lease Term.

It is agreed and understood that provision must be made herein for an adjustment of rentals annually. Therefore, as of the date of Lease, it is further agreed and understood that the Minimum Annual Rent shall be $10,530.36. The Minimum Annual Rent shall be increased only in the same proportion or percentage by which the cost of living is increased as reflected by the Consumer Price Index for All Items, as maintained by the United States Government's Department of Labor, Bureau of Labor Statistics for the Dallas/Fort Worth SMA; such increase being measured by comparison with such cost-of-living indices at the end of the immediately

preceding 12-month period of this Lease, as compared with the indices at the commencement of the immediately preceding 12-month period of this Lease.

2.02 DELIVERY OF RENT

All rent payments shall be made to the Department of Airports, ATTN: Director of Airports, P. O. Box 60305, Midland, Texas 79711.

2.03 LATE RENT CHARGE

The Lessee agrees that in the event rent payments are not received by the City on or before the 15th day of the month for which such rent is due, amounts due and unpaid shall accrue interest at an annual rate of five percent (5%) or the maximum legal rate, whichever is lower. Payments due the City shall be received by the City only on normal business days. Payment by the Lessee and acceptance by the City of a delinquent charge shall not be construed as a waiver or forfeiture of any other rights or remedies of the City contained elsewhere in this Lease, or as provided by law.

For the purposes of this Section, the date payments are received by the City shall be the U.S. Postal Service cancellation date on the envelope transmitting the payment, or the date such payment is received by an authorized representative of the City if the payment is hand delivered. In the event of a dispute as to the amount to be paid, the City may accept without prejudice the sum tendered and, if a deficiency is determined, the foregoing delinquency charge shall apply only to such deficiency. The City may waive, for good cause, any delinquency charge upon written application of the Lessee.

ARTICLE III
MAINTENANCE, REPAIR AND RESTORATION OF LEASED PREMISES

3.01 MAINTENANCE OF LEASED PREMISES

The City shall furnish to the Lessee heat, water, gas air conditioning, weekday pick-up of small trash placed by Lessee in the common hallways, janitorial services in common areas, and 110 VAC electricity, but shall not be liable for any failures or interruptions in such service. All other utilities used or installed by the Lessee, including trash compactor and/or dumpster, if required by the Lessee, shall be furnished and installed at the Lessee's expense and for the Lessee's account. The Lessee shall maintain the Leased Premises, all other areas leased to the Lessee for its exclusive use, and all the furnishings and equipment included therein in a clean, neat and sanitary condition. The Lessee shall further maintain, repair and replace all or any part of the improvements on the Leased Premises, including, without limitation, the walls, partitions, lighting, floors, ceilings, columns, windows, doors, glass of every kind, fixtures, and all plumbing fixtures, any of which may be damaged or destroyed by use, the elements, wear, weather, deterioration or the acts of omissions of the Lessee, its sublessees, employees, agents, representatives, contractors, customers, guests or invitees. The Lessee is responsible for, and

shall perform at its' own cost, all such on-premise repairs and replacements. The amount and extent of the maintenance or repairs to be made by the City are in the City's sole discretion.

3.02 HEATING AND COOLING SYSTEMS

Routine maintenance and major replacement on these systems will be the responsibility of the City. If the systems are destroyed or damaged by negligent use or acts of omission by the Lessee, its sublessees, employees, agents, representatives, contractors, customers, guests or invitees, the Lessee is responsible for, and shall perform at its own cost, all such repairs and replacements.

3.03 DAMAGE TO LEASED PREMISES

A. SUBSTANTIAL DAMAGE OR TOTAL DESTRUCTION

If the Leased Premises or any building or buildings located on the Leased Premises are destroyed or substantially damaged by fire or any other cause, the City or the Lessee shall have the right to terminate this Lease effective as of the date of such damage, without liability to either party.

B. PARTIAL DAMAGE (USABLE)

If any part of the building or buildings on the Leased Premises are partially damaged by fire or other cause so as to require repair, but remain usable for the purposes permitted by this Lease, then the City may repair any such damage without cost to the Lessee. The Lessee shall remain obligated to pay rent and comply with all other provisions of this Lease. The decision on whether to repair and the amount and extent of the repairs are in the sole discretion of the City.

ARTICLE IV
NO SUBLEASING OR ASSIGNMENT

The Lessee shall not sublease or assign, or attempt to sublease or assign, any portion of this Lease or the Leased Premises, and any such sublease or assignment is void at inception.

ARTICLE V
GENERAL PROVISIONS

5.01 **RELEASE**

NOTWITHSTANDING ANY OTHER PROVISIONS, THE LESSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES THE CITY, THE CITY'S EMPLOYEES, OFFICERS, AND COUNCIL MEMBERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER THAT THE 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 CITY'S NEGLIGENCE. THIS RELEASE PROVISION SHALL SURVIVE THE TERMINATION OF THIS LEASE.

5.02 **INDEMNITY**

THE LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY AND ALL OF THE CITY'S OFFICERS, COUNCIL MEMBERS, 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 THE LESSEE, ITS AGENTS OR EMPLOYEES OR ANY SUBCONTRACTOR, ARISING OUT OF OR RESULTING FROM, THE LESSEE'S USE OF, OR ACTIVITIES ON, THE LEASE PREMISES AND THE LESSEE SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS THAT MAY BE OBTAINED AGAINST THE CITY OR ANY OF ITS OFFICERS, COUNCIL MEMBERS, AGENTS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

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

THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS LEASE.

5.03 **ATTORNEY'S FEES**

BY EXECUTING THIS AGREEMENT, THE 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 CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LEASE, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THIS LEASE. THE LESSEE SPECIFICALLY AGREES THAT IF THE LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LEASE,

THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LEASE, INCLUDING, BUT NOT LIMITED TO, ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, THE LESSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH THE LESSEE MIGHT OTHERWISE BE ENTITLED.

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

THE LESSEE AND THE CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS LEASE WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS LEASE.

5.04 INDEPENDENT CONTRACTOR

It is expressly understood and agreed that the Lessee 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 the Lessee shall have 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 the City and the Lessee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between the City and the Lessee. No person performing any of the work and services described hereunder by the Lessee shall be considered an officer, agent, servant or employee of the City. Further, it is specifically understood and agreed that nothing in this Lease is intended or shall be construed as creating a "Community or Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. The Lessee shall be an independent contractor under this Lease and shall assume all of the rights, obligations and liability applicable to it as such independent contractor hereunder and any provisions in this Lease that may appear to give the City the right to direct the Lessee as to details of doing the work herein covered or to exercise a measure of control over the work shall be deemed to mean that the Lessee shall follow the desires of the City in the results of the work only. The City shall not have the right to control the means, methods or details of the Lessee's work. The Lessee shall assume exclusive responsibility for the work. The Lessee is entirely free to do the work in its own way.

5.05 THIRD-PARTY BENEFICIARY

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

5.06 TERMINATION AT WILL

The City may terminate this Lease at will for no or any reason upon giving at least ninety (90) days' written notice to the Lessee. The parties understand and agree that it is in the City's sole discretion and absolute to terminate this Lease during the Lease Term without penalty to the City. The Lessee has no expectation and has received no guarantees that this Lease will not be terminated before the end of the Lease Term. The parties have bargained for the flexibility of terminating this Lease upon tender of the requisite notice at any time during the Lease Term. All work and services under the Lease shall be suspended upon termination of Lease becoming effective.

5.07 INSURANCE REQUIREMENTS

The Lessee shall at all times during the Lease Term 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

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

The Business Automobile Liability insurance provided by the Lessee 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 Lease.

The Worker's Compensation coverage provided by the Lessee shall inure to the benefit of employees injured during the course and scope of their employment by Lessee pursuant to this Lease.

All insurance required pursuant to this Lease shall provide for a waiver of subrogation in favor of the City. All insurance required pursuant to this Lease, except for Worker's Compensation Insurance,

shall name the City as an additional insured on a claims-occurred basis. The Lessee shall cause its insurance provider to subject a written notice to the City not later than thirty (30) days prior to any reduction or termination of such coverage.

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

The Lessee certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 o f the Texas Insurance Code.

5.08 INSURANCE NOT LIMITATION ON INDEMNITY

The amount or amounts of all required policies shall not be deemed a limitation of the Lessee's obligation to indemnify and hold harmless the City, its officers, Council members, agents, and employees in the event the Lessee or the City, its officers or employees shall become liable in an amount in excess of the amount or amounts of such policies.

5.09 CITY'S RIGHT TO PURCHASE INSURANCE

If the insurance policies prescribed by Section 5.07 shall lapse, the City reserves the right to obtain such insurance at the Lessee's expense. Upon demand from the City, the Lessee shall reimburse the City for the full amount of the premium paid on the Lessee's behalf or, at the City's option, such amounts shall be added as amounts due to the City as rent.

5.10 GOVERNING LAW AND VENUE

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

5.11 NOTICES

Any notice or other communication require or permitted to be given, rendered or made by either party to the other, pursuant to this Lease or pursuant to any applicable law or requirement of public authority, shall be in writing (whether or not so stated elsewhere in this Lease) and shall be deemed to have been properly given, rendered or made, if and when sent by Certified Mail, Return Receipt Requested, addressed to the Director of Airports of the City of Midland at his/her office at **P.O. Box 60305, Midland, Texas 79711** and to the Lessee at **PO. Box 61728, Midland, Texas 79711**. Either the City or the Lessee may, by notice as aforesaid designate a different address or addresses for notices or other communications.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed in multiple, by their fully authorized officers, and their respective seals to be hereunto affixed on this 18 day of May, 2022.

CITY OF MIDLAND, TEXAS

Patrick N. Payton, Mayor

ATTEST:

Amy Turner, City Secretary

PERMIAN BASIN APARTMENT ASSOCIATION

James Elliott, President

STATE OF TEXAS §

COUNTY OF Midland §

BEFORE ME, the undersigned authority, on this day personally appeared James Elliott 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 **Permian Basin Apartment Association.**

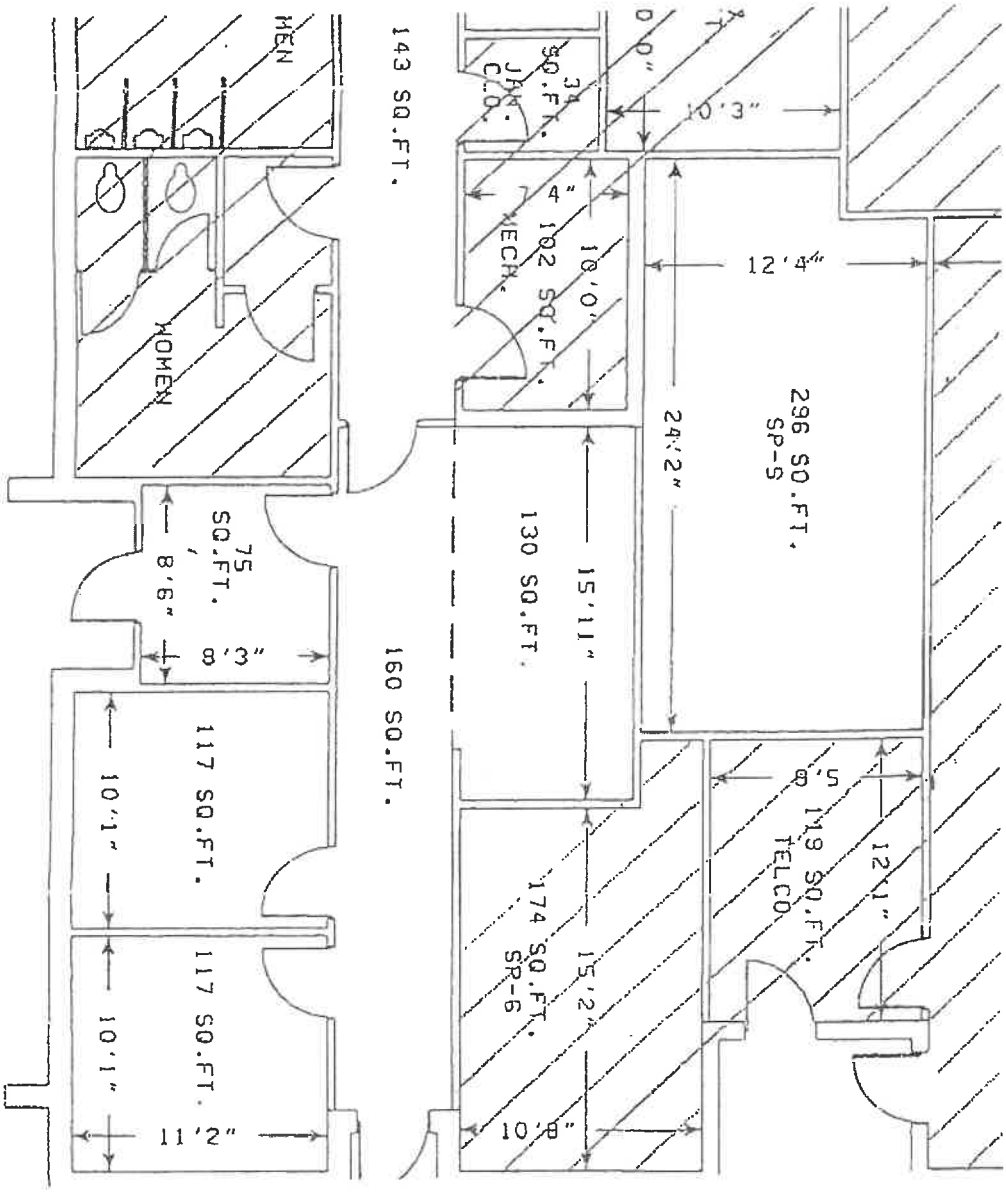
GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18 day of May, 2022.

Notary Public, State of Texas

MARISSA JACKSON
Notary Public, State of Texas
Comm. Expires 02-10-2024
Notary ID 130533163

Exhibit "A"

Permian Basin Apartment Association - Wright Office Complex



City Council Meeting

Item Number: 7

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Justine Ruff, Director

Subject: Motion authorizing the Mayor, City Manager, and City Attorney to execute Federal Aviation Administration Grant #68 in order to receive grant funds for the purchase of an Aqueous Film Forming Foam Test Cart for aircraft rescue fire fighting vehicles (District 4) (Airports)

Purpose:

Motion authorizing the Mayor, City Manager and City Attorney to execute Federal Grant #68 from the Federal Aviation Administration upon receipt.

Recommended City Council Action:

Approve

Fiscal Impact:

Estimated Grant Proceeds - $34,444.00

Discussion:

In anticipation of the receipt of Federal Grant #68 in the estimated amount of $34,444.00, the Department of Airports is requesting City Council's approval to allow the Mayor, City Manager and the City Attorney to execute this grant agreement upon receipt. These grant proceeds will be used at Midland International Air & Space Port to purchase an Aqueous Film Forming Foam (AFFF) Test Cart for testing the AFFF in the Aircraft Rescue Fire Fighting (ARFF) vehicles.

The Federal Aviation Administration (FAA) has issued a Part 139 CertAlert that states "to help ensure their operability, the FAA recommends ARFF vehicle AFFF system testing occur within the six-month period before the airport's periodic airport certification safety inspection". The mobile cart will eliminate the following: the high cost of using AFFF concentrate during the testing process, environmental damage, and the potentially harmful exposure to ARFF personnel from

the per-an polyfluoroalkyl substances (PFAS) in the AFFF concentrate. The mobile cart will help ensure the operability of the ARFF vehicles' AFFF system and that it is proportioning the AFFF and water correctly and within tolerance.

This FAA Grant will provide $34,444.00 of the $39,950.05 quote provided by NoFoam Systems or approximately 86% of the cost.

Tina Gaug

City Manager's Office

City Council Meeting

Item Number: 8

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Justine Ruff, Director

Subject: **Motion authorizing the Mayor, City Manager, and City Attorney to execute Federal Aviation Administration Grant #69 in order to receive grant funds for the following projects: (i) Reconstruct Taxiway E, West of Taxiway A; (ii) Reconstruct Runway 16R Blast Pad, Remove Runway 34L Concrete Blast Pad and Add Asphalt Shoulders to Runway 10 Blast Pad; and (iii) Reconstruct Asphalt Air Carrier Apron Pavement with Concrete (District 4) (Airports)**

Purpose:
Motion authorizing the Mayor, City Manager and City Attorney to execute Federal Grant #69 from the Federal Aviation Administration upon receipt.

Recommended City Council Action:

Approve

Fiscal Impact:

Estimated Grant Proceeds - $796,658.00

Discussion:

In anticipation of the receipt of Federal Grant #69 in the estimated amount of $796,658.00, the Department of Airports is requesting City Council's approval to allow the Mayor, City Manager, and the City Attorney to execute this grant agreement upon receipt. These grant proceeds will be used at Midland International Air & Space Port for the design phase of the following projects:

Reconstruct Taxiway E, West of Taxiway A:
The section of Taxiway E that connects Taxiway A with the Executive Apron has not been rehabilitated since 1993 and the cracks in the existing pavement surface have caused an increase of Foreign Object Debris (FOD) on the pavement. This project will design, bid and

construct improvements to reconstruct Taxiway E, West of Taxiway A full depth with new subgrade course, base course and asphalt surface.

Reconstruct Runway 16R Blast Pad, Remove Runway 34L Concrete Blast Pad and Add Asphalt Shoulders to Runway 10 Blast Pad:
The existing asphalt blast pad for Runway 16R is over 35 years old with large cracks that are creating FOD. This project will reconstruct the blast pad full depth and include the required asphalt shoulders for a blast pad in accordance with the current FAA regulations. The reconstructed blast pad will provide the erosion control from jet blast and provide pavement that is designed to meet the life expectancy of asphalt pavement of 20 years. The concrete blast pad for Runway 34L that was utilized prior to the threshold being displaced is well over 40 years old. The concrete is deteriorating and maintaining this concrete is no longer feasible. This blast pad is no longer necessary for Runway 34L since the threshold was displaced. This project will remove the concrete and seed the area to provide erosion control. The blast pad for Runway 10 does not have paved shoulders and current FAA regulations require paved shoulders. This project will add asphalt shoulders to the existing blast pad to match the width of Runway 10/28.

Reconstruct Asphalt Air Carrier Apron Pavement with Concrete:
The section of the main apron located immediately north of the Terminal Building was constructed in 1999 with an asphalt surface pavement section as part of the construction of the concrete apron to serve the newly constructed Terminal Building. At that time this area of the apron was anticipated to only serve smaller turbo prop commuter air carrier aircraft via ground loading and was thus constructed of asphalt surface course pavement. Over the last few years, the larger jet air carrier aircraft are now using the pavement and the pavement has begun to deteriorate. This project will reconstruct this section of the apron with a concrete pavement section to support the current and forecasted large air carrier aircraft.

Tina Jaeger
City Manager's Office

City Council Meeting

Item Number: 9

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Morris Williams Jr, Deputy City Manager

Subject: **RESOLUTION OF THE CITY OF MIDLAND, TEXAS, SUSPENDING THE JUNE 17, 2022 EFFECTIVE DATE OF ONCOR ELECTRIC DELIVERY COMPANY'S ("ONCOR'S") REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH ONCOR AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO SEND COPIES OF THIS RESOLUTION TO ONCOR AND LEGAL COUNSEL FOR THE STEERING COMMITTEE (DISTRICT: NONE) (CITY MANAGER)**

Purpose:

Oncor Electric Delivery Company ("Oncor" or "the Company") filed an application on or about May 13, 2022 with cities retaining original jurisdiction seeking to increase system-wide transmission and distribution rates by about $251 million or approximately 4.5% over present revenues. The Company asks the City to approve an 11.2% increase in residential rates and a 1.6% increase in street lighting rates. If approved, a residential customer using 1,300 kWh per month would see a bill increase of about $6.02 per month.

The resolution suspends the June 17, 2022 effective date of the Company's rate increase for the maximum period permitted by law to allow the City, working in conjunction with the Steering Committee of Cities Served by Oncor, to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

The law provides that a rate request made by an electric utility cannot become effective until at least 35 days following the filing of the application to change rates. The law permits the City to

suspend the rate change for 90 days after the date the rate change would otherwise be effective. If the City fails to take some action regarding the filing before the effective date, Oncor's rate request is deemed administratively approved.

Recommended City Council Action:

Approve

Fiscal Impact:

No fiscal impact to the City at this time.

Discussion:

The City of Midland is a member of a 169-city coalition known as the Steering Committee of Cities Served by Oncor ("Steering Committee"). The Steering Committee has been in existence since the late 1980s. It took on a formal structure in the early 1990s when cities served by the former TXU gave up their statutory right to rate case expense reimbursement in exchange for higher franchise fee payments. Empowered by city resolutions and funded by per capita assessments, the Steering Committee has been the primary public interest advocate before the Public Utility Commission, the Courts, and the Legislature on electric utility regulation matters for the last 30 years.

Although Oncor has increased rates many times over the past few years, this is the first comprehensive base rate case for the Company since March 2017.

Explanation of "Be It Resolved" Paragraphs:

Section 1. The City is authorized to suspend the rate change for 90 days after the date that the rate change would otherwise be effective for any legitimate purpose. Time to study and investigate the application is always a legitimate purpose. Please note that the resolution refers to the suspension period as “the maximum period allowed by law” rather than ending by a specific date. This is because the Company controls the effective date and can extend the deadline for final city action to increase the time that the City retains jurisdiction if necessary to reach settlement on the case. If the suspension period is not otherwise extended by the Company, the City must take final action on Oncor's request to raise rates by June 17, 2022.

Section 2. This provision authorizes the Steering Committee, consistent with the City's resolution approving membership in the Steering Committee, to act on behalf of the City at the local level in settlement discussions, in preparation of a rate ordinance, on appeal of the rate ordinance to the PUC, and on appeal to the Courts. Negotiating clout and efficiency are enhanced by the City cooperating with the Steering Committee in a common review and common purpose. Additionally, rate case expenses are minimized when the Steering Committee hires one set of attorneys and experts who work under the guidance and control of the Executive Committee of the Steering Committee.

Section 3. The Company will reimburse the Steering Committee for its reasonable rate case

expenses. Legal counsel and consultants approved by the Executive Committee of the Steering Committee will submit monthly invoices that will be forwarded to Oncor for reimbursement. No individual city incurs liability for payment of rate case expenses by adopting a suspension resolution.

Section 4. This section merely recites that the resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.

Section 5. This section provides that both Oncor and Steering Committee counsel will be notified of the City's action by sending a copy of the approved and signed resolution to certain designated individuals.

Mario Williams Jr.

City Manager's Office

Lloyd Gosselink
ATTORNEYS AT LAW

816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5800
Facsimile: (512) 472-0532

www.lglawfirm.com

Mr. Brocato's Direct Line: (512) 322-5857
Email: tbrocato@lglawfirm.com

M E M O R A N D U M

TO: Steering Committee of Cities Served by Oncor Members

FROM: Thomas Brocato TLB
Jamie Mauldin
Roslyn Dubberstein

DATE: May 16, 2022

RE: Oncor Electric Delivery Company's Statement of Intent to Increase Rates Suspension Packet

ACTION REQUIRED TO SUSPEND THE EFFECTIVE DATE BY JUNE 17, 2022

On Friday, May 13, 2022, Oncor filed a Statement of Intent to Increase Rates with all cities in its service area that retain original jurisdiction. The Company is seeking to increase rates by approximately $251 million over rates currently in place, or approximately 4.5% over present revenues. Residential customers would see an 11.2% increase in rates. If approved, a residential customer using 1,300 kWh per month would see a bill increase of about $6.02 per month. Additionally, the Company proposes to increase street lighting rates by 1.6%.

The rate increase requested by Oncor will become effective on June 17, 2022, unless the city takes action to suspend the effective date. By statute, cities are permitted to extend the effective date by up to 90 days in order to study the filing. **The city must take action to suspend the effective date by June 17, 2022.** If your city does not have a regular council meeting scheduled before June 17th or is otherwise unable to take action on the suspension resolution June 17th, please contact us as soon as possible.

Attached to this memo is a model suspension resolution and staff report. In the past, Oncor local managers have provided cities with a model denial resolution and may recommend that the city immediately deny the rate request. If this occurs, we do not recommend that you deny the request at this time. Suspending the effective date allows cities more time to review the application and decide on the final action, including settlement or denial of Oncor's requested rate increase.

The Steering Committee of Cities Served by Oncor will discuss Oncor's rate request at the quarterly meeting on June 2, 2022. During the call there will also be an opportunity for Steering Committee members to discuss strategy with Steering Committee consultants and attorneys.

If you have any questions, please feel free to contact us:

Thomas – tbrocato@lglawfirm.com / 512-322-5857
Jamie – jmauldin@lglawfirm.com / 512-322-5890
Roslyn – rdubberstein@lglawfirm.com / 512-322-5802

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF MIDLAND, TEXAS, SUSPENDING THE JUNE 17, 2022 EFFECTIVE DATE OF ONCOR ELECTRIC DELIVERY COMPANY'S ("ONCOR'S") REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH ONCOR AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO SEND COPIES OF THIS RESOLUTION TO ONCOR AND LEGAL COUNSEL FOR THE STEERING COMMITTEE

WHEREAS, on or about May 13, 2022, Oncor Electric Delivery Company ("Oncor"), pursuant to PURA §§ 33.001 and 36.001 filed with the City of Midland, Texas (the "City") a Statement of Intent to increase electric transmission and distribution rates in all municipalities exercising original jurisdiction within its service area effective June 17, 2022; and

WHEREAS, the City is a member of the Steering Committee of Cities Served by Oncor (the "Steering Committee") and will cooperate with the 169 similarly situated city members and other city participants in conducting a review of Oncor's application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with Oncor prior to getting reasonable rates and direct any necessary litigation; and

WHEREAS, PURA § 36.108 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days after the date the rate change would otherwise be effective; and

WHEREAS, PURA § 33.023 provides that costs incurred by cities in ratemaking proceedings are to be reimbursed by the regulated utility;

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

SECTION ONE. That the June 17, 2022 effective date of the rate request submitted by Oncor on or about May 13, 2022, shall be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

SECTION TWO. That as indicated in the City's resolution approving membership in the Steering Committee, the Executive Committee of Steering Committee is authorized to hire and direct legal counsel and consultants, negotiate with Oncor, make recommendations regarding reasonable rates, and to intervene and direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Public Utility Commission..

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

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

SECTION FIVE. That a copy of this resolution shall be sent to Oncor, care of Howard V. Fisher, Oncor Electric Delivery Company LLC, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, and to Thomas Brocato, Counsel to the Steering Committee, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2022, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Morris Williams, Jr., Deputy City Manager

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

S:\Resolutions\Administration\2022\Oncor\Suspend Rate Change.wpd

CITIES THAT HAVE CEDED ORIGINAL JURISDICTION

Abbott
Alma
Alvarado
Alvord
Angus
Anna
Annetta North
Annetta South
Annona
Appleby
Argyle
Athens
Aurora
Bangs
Barry
Bartlett
Bellevue
Blanket
Blooming Grove
Boyd
Brownsboro
Buckholts
Buffalo
Burke
Bynum
Caddo Mills
Cameron
Campbell
Caney City
Canton
Carbon
Celeste
Centerville
Chico
Chireno
Clarksville
Cockrell Hill
Collinsville
Comanche
Como
Cool
Corinth
Corsicana
Crandall
Crockett
Crowley
Cumby
Cushing
Dawson
Dean
Dorchester
Dublin
Ector
Edgecliff Village
Edgewood
Edom
Elgin
Elkhart
Emhouse
Enchanted Oaks
Eureka
Eustace
Everman
Forney
Frost
Garrett
Gholson
Godley
Golinda
Goodlow
Gorman
Grandfalls
Grandview
Granger
Grapeland
Gun Barrel City
Gunter
Hebron
Hewitt
Hickory Creek
Hideaway
Holland
Honey Grove
Hubbard
Hudson
Huntington
Hutto
Italy
Itasca
Jewett
Jolly
Josephine
Joshua
Justin
Kaufman
Keene
Kemp
Kerens
Knollwood
Krum
Ladonia
Lake Bridgeport
Lake Dallas
Lakeside City
Latexo
Lavon
Leona
Leroy
Lindsay
Lipan
Lorena
Lovelady
Lowry Crossing
Lucas
Mabank
Malakoff
Malone
Marquez
McGregor
Melissa
Melvin
Mertens
Milano
Mildred
Milford
Millsap
Mobile City
Moody
Morgan's Point Resort
Mount Calm
Murchison
Mustang

CITIES THAT HAVE CEDED ORIGINAL JURISDICTION

Nacogdoches
Navarro
Nevada
New Chapel Hill
New Fairview
Newark
Neylandville
Northlake
Oak Grove
Oak Leaf
Oak Valley
Oakwood
Oglesby
Ovilla
Payne Springs
Pecan Gap
Pecan Hill
Penelope
Pflugerville
Pleasant Valley
Ponder
Post Oak Bend
Powell
Poynor
Princeton
Pyote
Quinlan
Ranger
Reno - Lamar County
Reno - Parker County
Retreat
Rhome
Rice
Richland
Rockdale
Rogers
Rosser
Roxton
Royse City
Runaway Bay
Sadler
Savoy
Shady Shores
Southmayd
Springtown
St. Paul
Streetman
Taylor
Terrell
Thorndale
Thorntonville
Thrall
Tira
Tool
Trinidad
Valley View
Van Alstyne
Venus
Weir
Wells
West
Westbrook
Wickett
Wills Point
Windom
Wolfe City
Yantis
Zavalla

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF MIDLAND, TEXAS, SUSPENDING THE JUNE 17, 2022 EFFECTIVE DATE OF ONCOR ELECTRIC DELIVERY COMPANY'S ("ONCOR'S") REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH ONCOR AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO SEND COPIES OF THIS RESOLUTION TO ONCOR AND LEGAL COUNSEL FOR THE STEERING COMMITTEE

WHEREAS, on or about May 13, 2022, Oncor Electric Delivery Company ("Oncor"), pursuant to PURA §§ 33.001 and 36.001 filed with the City of Midland, Texas (the "City") a Statement of Intent to increase electric transmission and distribution rates in all municipalities exercising original jurisdiction within its service area effective June 17, 2022; and

WHEREAS, the City is a member of the Steering Committee of Cities Served by Oncor (the "Steering Committee") and will cooperate with the 169 similarly situated city members and other city participants in conducting a review of Oncor's application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with Oncor prior to getting reasonable rates and direct any necessary litigation; and

WHEREAS, PURA § 36.108 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days after the date the rate change would otherwise be effective; and

WHEREAS, PURA § 33.023 provides that costs incurred by cities in ratemaking proceedings are to be reimbursed by the regulated utility;

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

SECTION ONE. That the June 17, 2022 effective date of the rate request submitted by Oncor on or about May 13, 2022, shall be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

SECTION TWO. That as indicated in the City's resolution approving membership in the Steering Committee, the Executive Committee of Steering Committee is authorized to hire and direct legal counsel and consultants, negotiate with Oncor, make recommendations regarding reasonable rates, and to intervene and direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Public Utility Commission..

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

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

SECTION FIVE. That a copy of this resolution shall be sent to Oncor, care of Howard V. Fisher, Oncor Electric Delivery Company LLC, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, and to Thomas Brocato, Counsel to the Steering Committee, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2022, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Morris Williams, Jr., Deputy City Manager

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

S:\Resolutions\Administration\2022\Oncor\Suspend Rate Change.wpd

City Council Meeting

Item Number: 10

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Tina Jauz, Assistant City Manager

Subject: RESOLUTION APPROVING THE FISCAL YEAR 2022-2023 BUDGET OF THE MIDLAND DEVELOPMENT CORPORATION, A TYPE A CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE (DISTRICT: NONE) (CITY MANAGER)

Purpose:

The Board of Directors of the Midland Development Corporation approved at a regular meeting on June 6, 2022, a Resolution Approving the Budget for the Midland Development Corporation's 2022-2023 Fiscal Year.

Recommended City Council Action:

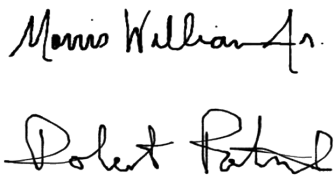
Approve

Fiscal Impact:

$22,392,777

Discussion:

Midland Development Corporation's fiscal year 2023 budget enumerates its projected revenues and expenses. Budgeted revenue is $11,976,644. $9,999,673 is budgeted for prior year economic development incentives commitments, and $5,129,123 is budgeted for new economic development incentives. $1,100,000 is budgeted for promotional projects (promotional funds are used to advertise or publicize the City of Midland for the purpose of developing new and expanded business enterprises). Other budgeted expenses are personnel services, commodities, contractual services, building maintenance, maintenance of instruments and apparatus, general fund services, and capital purchases.



City Manager's Office

RESOLUTION NO. _____

RESOLUTION APPROVING THE FISCAL YEAR 2022-2023 BUDGET OF THE MIDLAND DEVELOPMENT CORPORATION, A TYPE A CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE

WHEREAS, the Midland Development Corporation approved its budget for the Fiscal Year 2022-2023 on June 6, 2022; and

WHEREAS, Chapter 501 of the Texas Local Government Code requires that said budget be approved by the City Council;

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

SECTION ONE. That the fiscal year 2022-2023 budget of the Midland Development Corporation, which is attached hereto as Exhibit A, is hereby approved subject to the conditions set out in Section Two hereof.

SECTION TWO. That the following expenditures from the fiscal year 2022-2023 budget of the Midland Development Corporation must first be approved by the City Council:

- Any expenditure from the Economic Development Incentives (53905) budget line item.
- Any contract for services (including, but not limited to, professional, consulting, engineering, promotional, and construction services) with a total contract price of $300,000.00 or above, unless such contract is being entered into pursuant to or in accordance with an agreement that was previously approved by the City Council.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2022, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, City Manager

APPROVED AS TO FORM ONLY:

_____
John Ohnemiller, City Attorney

MIDLAND DEVELOPMENT CORPORATION
Proposed Budget for October 1, 2022 through September 30, 2023

	ACTUAL 2020-2021	BUDGET 2021-2022	BUDGET 2022-2023
REVENUE AND RECEIPTS			
Sales Tax	$ 11,608,808	$ 10,000,000	$ 11,000,000
Public Right-Of-Way Use Fees	3,858	0	0
Interest	3,574	0	0
Interest / Non-Pooled Investment	13,461	0	0
Misc. Rentals	976,647	976,644	976,644
Reimbursement of Budget Expenses	2,762	0	0
Government Contributions	0	0	0
TOTAL REVENUE AND RECEIPTS	$ 12,609,110	$ 10,976,644	$ 11,976,644
SUMMARY OF EXPENSES BY ORGANIZATION			
50150. Nondepartmental	$ 14,068,353	$ 21,110,973	$ 22,392,777
TOTAL	$ 14,068,353	$ 21,110,973	$ 22,392,777
SUMMARY OF EXPENSES BY CLASSIFICATION			
OPERATING EXPENSES			
51000. Personnel Services	$ 571,307	$ 433,650	$ 430,916
52000. Commodities	23,916	37,800	43,800
53000. Contractual Services	10,377,101	15,117,404	16,221,088
54000. Building Maintenance	95,127	80,000	80,000
55000. Maintenance of Instruments & Apparatus	2,079	1,000	1,000
56000. Miscellaneous	1,042,191	1,941,119	2,115,973
57000 / 58000. Capital Purchases	1,956,632	3,500,000	3,500,000
TOTAL OPERATING EXPENSES	$ 14,068,353	$ 21,110,973	$ 22,392,777
GRAND TOTAL	$ 14,068,353	$ 21,110,973	$ 22,392,777
CURRENT YEAR NET OPERATING PROCEEDS (LESS DEPRECIATION)	$ (1,459,243.00)	$ -	$ -

MIDLAND DEVELOPMENT CORPORATION
Proposed Budget for October 1, 2022 through September 30, 2023

	ACTUAL 2020-2021	BUDGET 2021-2022	BUDGET 2022-2023
OPERATING EXPENSES			
51000 Personnel Services			
51010. Base Salary	$ 487,496	$ 350,493	$ 350,096
51090. FICA MDC Portion	30,751	19,742	19,534
51110. Hospital Insurance MDC Portion	27,802	30,180	28,080
51135. ACOC Profit Sharing	25,258	24,535	24,507
51140. Unemployment Insurance	0	8,700	8,700
TOTAL 51000	571,307	433,650	430,916
52000. Commodities			
52010. Office Supplies	3,833	6,000	6,000
52110. Motor Vehicle Supplies	449	1,000	1,500
52115. Minor Furniture and Fixtures	0	500	1,000
52155. Minor Computer Hardware & Peripherals	0	5,000	5,000
52160. Computer Minor Software & Supplies	19,379	25,000	30,000
52620. Postage	255	300	300
TOTAL 52000	23,916	37,800	43,800
53000. Contractual Services			
53010. Communications	15,381	17,000	17,000
53030. Light & Power	105	150	150
53110. Insurance - External	55,269	110,000	150,000
53212. Equipment Rental - External	4,141	5,000	5,000
53220. Marketing and Advertising	205,064	200,000	200,000
53370. Grounds Maintenance	10,828	12,000	22,000
53405. Software Maintenance	14,927	12,000	12,000
53440. External Audit Fees	22,218	24,000	35,000
53450. Consulting Fees	406,846	250,000	500,000
53510. Travel & Entertainment	2,622	8,000	8,000
53520. Dues and Subscriptions	21,989	20,000	15,000
53530. Training, Registration Fees	2,820	8,000	10,000
53905. Economic Development Incentives	9,506,185	4,527,925	5,129,123
53907. Business Recruitment & Retention	36,746	50,000	50,000
53909. Prior Year Committed Incentives	0	9,798,329	9,999,673
53920. Rent	71,960	75,000	68,142
TOTAL 53000	$ 10,377,101	$ 15,117,404	$ 16,221,088

MIDLAND DEVELOPMENT CORPORATION
Proposed Budget for October 1, 2022 through September 30, 2023

	ACTUAL 2020-2021	BUDGET 2021-2022	BUDGET 2022-2023
OPERATING EXPENSES			
54000 Building Mantenance			
54010. Building Maintenance	$ 95,127	$ 80,000	$ 80,000
TOTAL 54000	95,127	80,000	80,000
55000 Maintenance of Equipment			
55120. Maintenance of Instruments & App	2,079	1,000	1,000
TOTAL 55000	2,079	1,000	1,000
56000. Miscellaneous			
56188. MOTRAN	137,000	142,500	142,500
56202. General Fund Services	390,685	390,619	379,813
56410. Payment of Principal	70,605	60,000	70,605
56420. Interest Expense	6,595	12,000	6,595
56910. Depreciation Expense	0	336,000	416,460
56995. Project Non Capital (Promotions)	437,306	1,000,000	1,100,000
TOTAL 56000	1,042,191	1,941,119	2,115,973
57000 / 58000. Capital Purchases			
57000. Capital Land Purchases	20,813	0	0
57001. Capital Buildings & Structures	893,182	0	3,500,000
57002. Capital Improvemnts Other Than Bldgs	176,426	3,500,000	0
57003. Capital Equipment	0	0	0
57004. Capital Vehicles	0	0	0
57070. Construction in Process	866,211	0	0
Total 7000 / 8000	1,956,632	3,500,000	3,500,000
GRAND TOTAL	$ 14,068,353	$ 21,110,973	$ 22,392,777

MIDLAND DEVELOPMENT CORPORATION
Summary of Revenues, Expenditures and Changes in Fund Balance

	ACTUAL 2020-2021	BUDGET 2021-2022	BUDGET 2022-2023
Balance October 1, 2020	$ 28,099,395		
Estimated Balance October 1		$ 26,640,152	$ 16,505,823
Revenues:			
Sales Taxes	11,608,808	10,000,000	11,000,000
Public Right-Of-Way Use Fees	3,858	0	0
Interest / Non-Pooled Investment Income	17,035	0	0
Misc. Rentals	976,647	976,644	976,644
Reimbursement of Budget Expenses	2,762	0	0
Government Contributions	0	0	0
Total Revenues	12,609,110	10,976,644	11,976,644
Expenditures:			
Personnel Services	571,307	433,650	430,916
Commodities	23,916	37,800	43,800
Contractual Services	10,377,101	15,117,404	16,221,088
Building Maintenance	95,127	80,000	80,000
Maintenance of Inst and App	2,079	1,000	1,000
Miscellaneous	1,042,191	1,941,119	2,115,973
Capital Purchases	1,956,632	3,500,000	3,500,000
Total Expenditures	14,068,353	21,110,973	22,392,777
Net Revenues (Expenditures)	(1,459,243)	(10,134,329)	(10,416,133)
Estimated Balance October 1:			
Restricted for ED Incentives	27,853,342	15,015,125	25,015,167
Restricted for Encumbrances	0	0	0
Restricted for Promotional Activities	3,325,459	1,462,133	1,876,043
Unappropriated Fund Balance	8,850,238	14,769,532	6,538,150
Total Estimated Balance October 1	$ 26,640,152	$ 16,505,823	$ 6,089,690

City Council Meeting

Item Number: 11

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Carl Craigo, Director

Subject: **MOTION AUTHORIZING THE EXECUTION OF A 7.223-ACRE SANITARY SEWER EASEMENT AGREEMENT LOCATED IN SECTION 30, BLOCK 38, TOWNSHIP 1-SOUTH, T. &P. RR. COMPANY SURVEY, MIDLAND COUNTY, TEXAS, FROM DOLORES L. MCCALL; AND ORDERING THE CITY SECRETARY TO RECORD SAID INSTRUMENT IN THE OFFICIAL REAL PROPERTY RECORDS OF MIDLAND COUNTY, TEXAS. (DISTRICT 2) (UTILITIES)**

Purpose:

THIS MOTION ACCEPTS A SANITARY SEWER EASEMENT AGREEMENT FROM DOLORES L. MCCALL FOR A 60' WIDE EASEMENT FOR THE CONSTRUCTION AND OPERATION OF THE 36" NORTHEAST SANITARY SEWER PIPELINE.

Recommended City Council Action:

Approve

Fiscal Impact:

COMPENSATION FOR THIS EASEMENT IS A ONE TIME PAYMENT OF $300,000.00 FOR THE EASEMENT PAYMENT.

Discussion:

THIS SECTION OF THE PIPELINE IS PART OF THE OVERALL 8 MILE SEWER PROJECT BEING BUILT TO SERVICE THE EAST AND NORTHEAST SIDE OF MIDLAND AND PROVIDE CAPACITY RELIEF TO THE EXISTING SERVICE SERVING THE DOWNTOWN AND SOUTHEAST AREAS. FUNDS FOR THIS PURCHASE WILL BE APPROPRIATED FOR CO BONDS SOLD FOR THIS SYSTEM.

City Manager's Office

CITY OF MIDLAND - PAYMENT ORDER
North East Sanitary Sewer Line Project

PAYMENT ORDER No.: 220519-06-1

DATE: 05.19.2022 COUNTY: Midland

PAYABLE TO: Dolores L. McCall

ADDRESS: PO Box 2206 SSN or TAX ID: 464-64-7260

CITY, ST, ZIP: Midland, TX 79702 LANDOWNER #: 06

LEGAL: Being a 152.03-acre tract of land in the West one-half of Section 30 and the North one-half of the Northwest one-quarter of Section 31, Block 38, T1S, T&P Ry. Co. Survey, Midland County, Texas, as being more particularly described in that certain Special Warranty Deed dated November 8, 2006, recorded in Volume 2771, Page 38 of the Official Public Records of Midland County, Texas

EASEMENT PAYMENT:

RODS: 321.72 PRICE PER ROD: $932.48

OWNER INTEREST: 100.000000% PAYMENT AMOUNT: **$300,000.00**

TOTAL AMOUNT OF PAYMENT ORDER: $300,000.00

LANDOWNER INITIALS: DKM^c Call

For City of Midland Use Only

Payment Handling: Mail payment to landowner at address provided above

Approved By: _____ Signature: _____

Received By: _____ Signature: _____

Check Number: _____ Dated: _____

Issued By: _____ Returned To: _____

NOTICE OF CONFIDENTIALITY RIGHTS. IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

STATE OF TEXAS §
§ UTILITY EASEMENT AND RIGHT-OF-WAY AGREEMENT
COUNTY OF MIDLAND §

KNOW ALL MEN BY THESE PRESENTS:

FOR AND IN CONSIDERATION OF THE SUM of Ten Dollars ($10.00) in hand paid and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, DOLORES L. McCALL, whose mailing address is P.O. BOX 2206, MIDLAND, TEXAS 79702 (designated herein as "GRANTOR"), does hereby grant, sell and convey to the CITY OF MIDLAND, TEXAS, whose address is 300 N. Loraine, Midland, Texas, 79701, its successors or assigns (designated herein as "GRANTEE"), an Easement and Easement and Right-of-Way for the purposes of surveying, laying, constructing, installing, maintaining, operating, repairing, replacing, inspecting, altering, reconstructing, changing the size, removing and/or abandoning in place one (1) pipeline, together with all fittings, tie-overs, valves, metering facilities, pipeline markers, cathodic protection equipment, and all other equipment and appurtenances used or useful in connection with the transportation of refuse or waste liquids (sewage) or the products thereof (collectively the "Facilities") in, to, on, under, across and/or through the following described tract of land (the "Property") situated in MIDLAND County, TEXAS, to-wit:

Being a 152.03-acre tract of land in the West one-half of Section 30 and the North one-half of the Northwest one-quarter of Section 31, Block 38, T1S, T&P Ry. Co. Survey, Midland County, Texas, as being more particularly described in that certain Special Warranty Deed dated November 8, 2006, recorded in Volume 2771, Page 38 of the Official Public Records of Midland County, Texas

said Utility Easement and Right-of-Way to be sixty (60) feet in width as more particularly described in Exhibit A attached hereto and made a part hereof (the "Easement" or "Easement Area"). The Easement Area shall temporarily be expanded during any period of construction by two hundred (200) feet, for a total width of two hundred sixty (260) feet. The temporary workspace area shall be along and parallel to the Easement Area and may be in varying widths on either side of the Easement Area, but the total width shall never be more than two hundred sixty (260) feet and shall expire one-year after completion of construction of said pipeline, at which time the Easement Area will revert to sixty (60) feet. The Utility Easement and Right-of-Way Agreement (this "Agreement") is subject to the following terms and conditions:

TERMS AND CONDITIONS

1. GRANTEE shall have all privileges necessary or convenient for the full use of the rights herein granted, together with ingress and egress along said Easement Area as well as over and across said Property and GRANTOR'S adjacent lands to and from said Easement Area, which includes the right to use existing roads over and across the Property and said lands. GRANTEE shall bury the top of its pipeline at least thirty-six (36) inches below the surface of the ground except in areas of consolidated rock where the minimum depth will be eighteen (18) inches. GRANTEE shall have the right hereafter to cut and keep clear all trees, shrubs, brush and other obstructions that GRANTEE determines may injure, endanger or interfere with the Facilities or the exercise by GRANTEE of its rights, privileges and Easement granted herein. GRANTOR agrees not to build, create or construct or allow to be built, created or constructed, any obstructions, including without limitation impounded water, buildings, barns, workshops, engineering works, or other structures or improvements within the Easement Area nor shall GRANTOR change, or permit the change of, the grade of the surface of the ground, or remove drift from, within the Easement Area. The consideration paid herein by GRANTEE includes payment for actual damages to the surface as well as to crops, pasture, fences and timber, which arise from surveying, laying, installing and/or constructing said Facilities.

2. GRANTEE agrees to comply at all times and at its sole cost with all federal, state, and local laws, rules, and regulations and safety standards applicable to the exercise of GRANTEE'S rights under this Agreement including, without limitation, the construction, use, operation, maintenance, repair, and service of GRANTEE'S pipelines and appurtenances.

3. GRANTEE is solely responsible for all safety, legal, and other considerations posed by the presence of other pre-existing petroleum pipelines, electric lines, and other utilities in the area including locating the Easement and Right-of-Way and pipeline at an appropriate distance from such other preexisting pipelines and utilities.

4. During construction GRANTEE (and GRANTEE'S contractors and subcontractors) shall prevent the spread of toxic, invader, and other harmful plants. If such plants should appear on or adjacent to the Easement and Right-of-Way and it is reasonably evident that such intrusion was caused by GRANTEE'S operations, GRANTEE shall eradicate these plants in accordance with the reasonable specifications of GRANTOR.

5. During initial construction, GRANTEE shall clear, in a good and workmanlike manner, all trees, brush and woody plants within the Easement and Right-of-Way and (where necessary) the temporary workspace. Mesquite, tarbrush, prickly pear, and other woody plants shall be cleared by grubbing or excavating such that the root crowns of the plants are removed (versus blading the plants). Any trees, brush, woody plants and debris so removed shall be removed from. at the Property. In no event will hydro-axe or like method be used.

6. GRANTEE shall insofar as is reasonably practicable, but consistent with the exercise of its rights hereunder, restore the surface of the land to substantially the condition as it existed prior to GRANTEE's installation of the Facilities, such restoration to include the repair of

any cut fences, leveling of the ground, and cleaning up all debris, and removing all rocks four (4) inches in diameter or larger unearthed, in each case, as a result of its Facilities installation. Notwithstanding the foregoing, GRANTEE shall be entitled to install, maintain, and use gates in all fences that now or hereafter cross the Easement Area, including any such fences at the boundaries of the Property. GRANTEE, at its election, shall further be entitled to install its own lock on any such gates.

7. GRANTEE shall use a high degree of care and take all precautions to prevent livestock from escaping from individual pastures and from escaping onto any public road. GRANTEE shall use temporary wire gaps and otherwise conduct its construction and other operations in a manner to prevent livestock from passing through a cut fence, gate, or other opening resulting from GRANTEE'S operations on the Property. Before any fence on the Property is cut, GRANTEE shall brace the fence on both sides of the cut by constructing H-braces on each side of the cut and reattaching the existing fence firmly and tautly so as to prevent any sagging or loosening. The H-braces shall be constructed to the specifications as described and illustrated in Exhibit B, attached hereto and made a part hereof.

8. Where the Easement and Right-of-Way intersects any fence, GRANTEE shall -- at GRANTOR'S option -- replace the fence or construct a new sixteen (16) foot gate in accordance with the following specifications: Any gate must be of heavy tubing or pipe and full paneled. H-braces for gates shall meet the H-brace specifications per Exhibit B. GRANTEE shall use new wire -- 12-1/2 gauge, 6-inch, 1047 -- to replace any fencing needed in building or rebuilding fence gaps or gates on the Easement and Right-of-Way. GRANTOR reserves the right to require that any gate be locked; GRANTOR may determine the method of locking the gate so long as it is reasonable, and GRANTEE has the ability to unlock and open such gate. If any gates are left in any fence by GRANTEE, then GRANTEE shall cause the same to be locked, if requested by GRANTOR, and a duplicate key/combination to the lock will be furnished to GRANTOR. Said gate or gates shall at all times be kept in a good state of repair by GRANTEE, at GRANTEE'S sole cost and expense.

9. In the event a gate, temporary fence gap. or other opening is improperly left open by GRANTEE, then GRANTEE shall pay to GRANTOR the following liquidated damages (in addition to all other available remedies): (1) for the first violation--$1,000.00; (2) for the second violation--$2,500.00; and (3) for the third and all subsequent violations--$3.000.00. GRANTEE will provide 2 locks at each gate (1) being the GRANTEE'S lock of choosing and (2) being the GRANTOR'S lock which will be, at minimum, a resettable combination padlock designed for commercia/industria1 applications. The locks will be positioned in a manner that allows any violations to be identified if GRANTEE or anyone on GRANTEE'S behalf violates this provision. The payment shall be paid within 30 days of written request by GRANTOR.

10. As to ditching, the topsoil will be placed on one side of the ditch and the subsoil on the opposite side. In backfilling the ditch, the subsoil will be replaced first and the topsoil last and then in pasture areas, the land reseeded. If there is excess topsoil remaining. after the

ditch has been backfilled, GRANTEE shall stockpile the topsoil on or near the Easement and Right-of-Way.

11. The digging of the ditch or trench for the pipeline shall be done by what is known as the double ditching method, that is, placing up to twelve inches (12") of the topsoil removed on one side of the line and placing the sub-soil on the other side of the line, and when the line is refilled, first placing the sub-soil in the trench and then placing the topsoil in the trench. GRANTEE shall pack the fill of its excavation or backfill and crown the trench sufficiently in such a manner as to make the fill substantially firm upon the filling of the excavation, and further, again fill and pack any portion of the fill which has settled to any appreciable extent.

12. During construction of the pipeline, GRANTEE shall construct soft plugs and crossovers at reasonable locations including livestock trails and road crossings to allow vehicles. livestock and wildlife to cross all open ditches and pipe laid on top of the surface. In livestock pasture(s). GRANTEE shall taper the ends of open ditches to allow for the escape of livestock and the tapered ends shall not be obstructed by pipe or other obstruction. No portion of any ditch shall be left open more than 60 days and no pipe will be left on top of the surface more than 90 days. If a ditch is open more than 60 days or if pipe is on the surface more than 90 days, GRANTEE shall pay GRANTOR the sum of $1000.00 for such open ditch and/or pipe on the surface per week or portion of any week during which the same is open or the pipe is on the surface past such permitted period. GRANTEE shall regularly patrol uncovered areas for any livestock or wildlife, which may become entrapped, and, if so, remove the same and pay damages for injuries to or loss of same.

13. Promptly (in no event later than 60 days weather permitting) upon completion of initial construction of the pipeline. GRANTEE shall restore the surface of the Easement Area, temporary workspace and additional workspace. as near as reasonably practicable, to their natural grade and prior condition including leveling and reseeding. GRANTOR reserves the right to reasonably control and designate the areas and manner of disposal of all rock and other material displaced by construction. All rock greater than 3" in diameter will be removed from the Property. GRANTOR may direct GRANTEE to spread the rock, pile (or stockpile) the rock, place the rock in sloped areas selected by GRANTOR so as to construct water diversion berms and spreader dams to divert the flow of water to minimize soil erosion on and near the Easement and Right-of-Way area, or utilize any other reasonable manner of disposal.

14. Where, in this Agreement, reseeding is required, the seed mixture shall be as follows: Grass Species (Pounds Pure Live Seed [PLS]): Sideoats Grama (4.5 PLS), Plains Bristlegrass (3.0 PLS), Green Sprangletop (1.5 PLS), Sand Dropseed (1.0 PLS), WW Spar Bluestem (1.7 PLS), Sorghum Alum (0.5 PLS). The seeding rate shall be at 12.2 PLS pounds per acre. The obligation to reseed the affected portion of the Property will continue until successful growth has been established.

15. Throughout the term of this Agreement, if subsidence of the pipeline ditch (or part thereof) occurs, GRANTEE must add additional clean. locally sourced and GRANTOR approved

topsoil similar to that originally removed until the surface of the ditch area has settled uniformly with the surface of adjacent land.

16. Throughout this Agreement, GRANTEE shall be obligated for the reasonable maintenance of the Easement and Right-of-Way. All gates and H-braces must be painted with rust-resistant paint in a color approved by GRANTOR and be maintained in good repair and in a neat, clean, and well-painted condition.

17. During initial construction of the pipeline and throughout the term of this Agreement, GRANTEE shall be obligated for the reasonable cleanliness of the Easement and Right-of-Way and adjacent areas. GRANTEE must use reasonable diligence to keep such areas free and clear of litter, trash, debris, discarded materials and the like. Due to the risk of injury to livestock, GRANTEE must pay particular attention to and immediately remove all thread protectors and all discarded pieces of plastic or poly (including pipeline shavings. other shavings, packing materials, and the like).

18. GRANTEE shall have an obligation to construct or implement reasonable erosion treatments (such as berms, diversion terraces and the like) so that erosion of the Easement and Right-of-Way area and immediately adjacent areas is prevented, or halted, or reasonably minimized if it is evident that such erosion is caused by the placement of the pipeline on the Property or otherwise caused by GRANTEE'S operations on the Property.

19. After the initial construction of the pipeline, GRANTEE shall notify GRANTOR at least 48 hours prior to construction or repair activities that require portions of the Easement and Right-of-Way to bc cxcavated. This shall not apply to any situation that GRANTEE deems to be an emergency. GRANTOR shall be notified as soon as practical in an emergency.

20. No employee, contractor. or other person entering the Property under the authority of GRANTEE shall be permitted to engage in any recreational activities on the Property, including but not limited to hunting, fishing. swimming, camping, picnicking, searching for Indian relics, or sightseeing. No dogs (other than contraband search dogs or trained leak detection dogs) or other animals, guns, firearms, or fishing equipment or other type of sport paraphernalia will be permitted on the Property. Nothing will be brought on or removed from the Property nor any activity engaged in on the Property nor will anyone go anywhere on the Property except as directly and necessarily required in carrying on GRANTEE'S operations. Anyone found on the Property in violation of this clause may be immediately ejected and thereafter excluded from the Property. No employee, contractor, or other person entering the Property under the authority of GRANTEE shall bring alcohol, illegal drugs, illegal controlled substances, weapons of any kind including firearms, air guns, bows, crossbows, spear guns, and blow guns (but excluding pocketknives and belt-carried sheath knives). Anyone found on the Property in possession of these items may be immediately ejected and thereafter excluded from the Property and (if applicable) prosecuted.

21. GRANTEE shall take reasonable safeguards to prevent the occurrence and spread of range fires. During all times when a county burn ban is in effect or when the risk of range fire is

likely, GRANTEE shall provide water trucks and other prudent fire-prevention equipment for welding, dozing, ditching or other higher risk-of-fire operations. GRANTEE shall comply with all requirements of a county burn ban applicable to Grantee's operations.

22. GRANTEE has no right to dispose of any water generated or produced in connection with hydrostatic testing of the pipeline upon the Easement and Right-of-Way or GRANTOR'S adjoining lands unless GRANTOR consents in advance and in writing.

23. GRANTEE shall have the right to adjust the location of the Easement Area within the Property as a result of various engineering factors or to correct the legal description of the Easement Area to conform to the actual location of the Easement Area based on the actual location of the Facilities. In the event such a modification is required by GRANTEE, GRANTEE may adjust the location of the Easement Area by recording a "Revised Exhibit A" referring to this instrument and setting forth the modified legal description of the Easement Area, which description may be set forth as a map on the Revised Exhibit A. A copy of said Revised Exhibit A shall be delivered to the GRANTOR. Without limiting GRANTEE'S right to modify the location of the Easement Area by recording a "Revised Exhibit A" as aforesaid, GRANTOR agrees to execute and deliver to GRANTEE any additional documents GRANTEE may request to modify or correct the legal description of the Easement Area to conform with the actual location of the Easement Area based on the actual location of the Facilities. If such documents are required, they will be prepared by GRANTEE at its expense. GRANTOR shall receive additional reasonable compensation only if the area within the Easement Area increases as a result of the changed location. Adjustment of the Easement Area beyond that set out in Exhibit A shall be upon GRANTOR approval.

24. GRANTEE and GRANTOR agree that this Agreement, together with the Payment Agreement for the North East Sanitary Sewer Line Project entered into concurrent herewith, constitute the entire agreement between the parties and that no other agreements have been made modifying, adding to or changing the terms of the same. Except as provided in the immediately preceding paragraph, this Agreement shall not be abrogated, modified, rescinded or amended in whole or in part without the consent of GRANTEE and GRANTOR, in writing and executed by each of them, and duly recorded in the appropriate real property records.

25. GRANTEE shall reasonably compensate GRANTOR or its tenants on the Property (if any), as applicable, for any actual loss or damage to their respective property, or injury or death to them, caused by GRANTEE, or any of its employees, agents, contractors, subcontractors or invitees, in connection with the exercise of GRANTEE's rights hereunder, except for any losses or damages to their property which are included within the initial consideration paid GRANTEE hereunder. In addition, GRANTEE does hereby covenant and agree to defend, indemnify and hold GRANTOR and its tenants on the Property (if any) harmless from and against any and all claims, suits and causes of action of persons or entities for loss of or injury to the property of, and injuries to or death of any such persons or entities caused by GRANTEE, its employees, contractors, subcontractors or invitees in connection with the exercise of GRANTEE's rights hereunder. In no event, however, will GRANTEE

be responsible for any of the foregoing to the extent caused by the negligence or willful acts or omissions of GRANTOR or its tenants (if any), or its or their employees, agents, contractors, subcontractors or invitees.

26. At GRANTEE'S sole cost, risk and expense, GRANTEE shall observe, comply with and conform to all present and future municipal, parish, state and federal laws, ordinances, regulations, rules, orders and directives applicable to (1) the construction, maintenance, operation, use, repair, replacement and removal of the pipeline and associated appurtenances, (ii) corrective actions required to address the release of hazardous substances arising from GRANTEE'S operations ("corrective actions"), and/or (iii) the commodities or products transported in the pipeline (collectively, "applicable laws"). GRANTEE shall indemnify and hold harmless GRANTOR against third-party claims and related losses, including reasonable attorneys' fees, caused by (a) the violation of applicable laws by GRANTEE, its contractors, subcontractors, agents or employees occurring after GRANTEE'S acquisition of the Easement, (b) the release of hazardous substances on the property to the extent caused by GRANTEE or arising from GRANTEE'S operations or GRANTEE'S use of the Easement property (an "environmental release"), or (c) GRANTEE'S corrective actions applicable to the property in response to an environmental release.

27. GRANTEE shall defend with counsel of GRANTEE'S choice, indemnify, protect and hold harmless GRANTOR, GRANTOR'S heirs, successors, assigns and related or affiliated entities (the "indemnified parties"), from any and all liens, claims, demands, costs (including but not limited to reasonable attorneys' fees), expenses, damages, losses and causes of action for damages asserted by persons or entities unaffiliated with the indemnified parties because of injury to persons (including death) and injury or damage to or loss of any property or improvements to the extent caused by GRANTEE'S negligence, gross negligence, willful misconduct or strict liability.

28. GRANTOR hereby warrants the title to the Property, subject only to outstanding mortgages and rights of way, if any, now of record in the land records of the above specified county, and in the event of default by GRANTOR, GRANTEE shall have the right to discharge or redeem for GRANTOR, in whole or in part, any mortgage, tax or other lien on the Property and thereupon be subrogated to such lien and rights incident thereto. This Utility Easement and Right-of-Way Agreement shall create a covenant and burden on the Property and running therewith.

29. GRANTOR shall, subject to the other provisions hereof, have the use of the Property except for any use which hinders, conflicts or interferes with the purposes for which this Utility Easement and Right-of-Way is granted, or which disturbs or otherwise creates any actual or potential hazard to the Facilities.

30. Term: The Utility Easement and Right-of-Way granted hereby shall continue in effect unless and at any time after five (5) years from the date hereof, GRANTEE should abandon all of the rights and permitted uses granted herein for said pipeline and appurtenances constructed upon said land and if such abandonment should continue for a continuous

twenty-four (24) month period, this Utility Easement and Right-of-Way shall terminate and revert to GRANTOR, his heirs, legal representatives, and assigns, provided, however, that any period of time that GRANTEE is unable to exercise its rights granted hereunder because of Force Majeure shall not be considered part of the period of abandonment. Force Majeure shall be any event beyond the reasonable control of GRANTEE. GRANTEE shall have the right for two (2) years following a final determination of the termination of this Agreement to remove its pipe, valves and all other property or to abandon same in place. Following the expiration of such period, any such property remaining on said land shall be and become the property of GRANTOR in its "AS-IS" "WHERE-IS" condition. GRANTEE shall ensure that the pipeline is abandoned in an environmentally safe manner in accordance with applicable laws, rules and regulations.

TO HAVE AND TO HOLD said Utility Easement and Right-of-Way unto said GRANTEE, its successors and assigns (with such assignment permitted in whole or in part), until such Facilities are constructed and so long thereafter as any of the Facilities are maintained thereon or thereunder. In the event none of the Facilities are maintained as set forth in the preceding sentence, GRANTEE may abandon the Facilities in place in accordance with applicable laws.

The undersigned hereby bind themselves, their heirs, executors, administrators, successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof. The undersigned hereby covenant and agree to account to any other persons legally due any portion of the monies hereto paid for damages.

It is hereby understood that the party(ies) securing this Utility Easement and Right-of-Way Agreement on behalf of the GRANTEE are without authority to make any covenant or agreement not herein expressed.

This Utility Easement and Right-of-Way Agreement may be executed in multiple counterparts, each of which shall be considered an original for all purposes and all of which taken together shall constitute one and the same agreement and be binding upon the parties who executed any counterpart, regardless of whether it is executed by all parties named herein.

IN WITNESS WHEREOF, GRANTOR has caused these premises to be signed, executed and delivered this 31st day of May, 2022.

The rest of this page intentionally left blank

GRANTOR:

Dolores L. McCall

Dolores L. McCall

Grantor's Address:
P.O. Box 2206
Midland, TX 79702

ACKNOWLEDGEMENTS

STATE OF TEXAS §
§
COUNTY OF Midland §

The foregoing instrument was acknowledged before me on the 31st day of May, 2022, by Dolores L. McCall.

BARBARA FRENCH
My Notary ID # 8777399
Expires October 20, 2022

Barbara French
Notary Public, State of Texas
Printed Name: BARBARA FRENCH
My Commission Expires: 10/20/2022

GRANTEE:

The City of Midland, Texas

By: _____

Name: Robert Patrick

Title: City Manager

ATTEST:

_____

Amy M. Turner, City Secretary

EXHIBIT A

PARKHILLSMITH&COOPER

4222 85th Street
Lubbock, Texas 79423
806.473.2200

A SANITARY SEWER EASEMENT IN SECTION 30, BLOCK 38, T-1-S, MIDLAND COUNTY, TEXAS

A sanitary sewer easement in Section 30, Block 38, Township 1-South, T. & P. RR. Company Survey, Midland County, Texas, situated in that certain tract of land conveyed to Dolores McCall, described in a special warranty deed recorded in Volume 2771, Page 38 of the Official Public Records of Midland County, Texas, said sanitary sewer easement contains 7.223 acres (314,633 square feet) being further described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron rod with a plastic cap marked "PSC RPLS 6453" set in the south right-of-way line of East Loop 250 North, in the north line of said parent tract for the northwest corner of this easement, said beginning point having coordinates of NORTHING: 10,713,870.89 and EASTING: 1,763,141.57, Texas Coordinate System, Central Zone 4203, North American Datum of 1983, whence the northeast corner of said Section 30 bears *North 14 degrees 24 minutes 21 seconds West* a distance of 30.00 feet and *North 75 degrees 35 minutes 39 seconds East* a distance of 2745.78 feet;

(1) THENCE *North 75 degrees 35 minutes 39 seconds East*, along the south right-of-way line of said East Loop 250 North, a distance of 24.89 feet to a 1/2-inch iron rod with a plastic cap marked "PSC RPLS 6453" set at a point of intersection for the most northerly northeast corner of said parent tract and of this easement;

(2) THENCE *South 59 degrees 24 minutes 32 seconds East* a distance of 49.50 feet to a concrete right-of-way monument found at a point of intersection in the west right-of-way line of Cynthia Drive, as dedicated with the plat of Skyview Development, according to the map, plat and/or dedication deed thereof recorded in Plat Cabinet "C", Page 175 of the Plat Records of Midland County, Texas, for the most easterly northeast corner of said parent tract and of this easement;

(3) THENCE *South 14 degrees 24 minutes 45 seconds East*, along the east line of said parent tract, a distance of 5223.93 feet to a 1/2-inch iron rod with a plastic cap marked "PSC RPLS 6453" in the south line of said Section 30 for the southeast corner of this easement;

(4) THENCE *South 75 degrees 35 minutes 50 seconds West* a distance of 60.00 feet to a 1/2-inch iron rod with a plastic cap marked "PSC RPLS 6453" set for the southwest corner of this easement, said point having coordinates of NORTHING: 10,708,777.44 and EASTING: 1,764,450.42, Texas Coordinate System, Central Zone 4203, North American Datum of 1983;

Texas Registered Surveying Firm # 10194091

(5) THENCE *North 14 degrees 24 minutes 41 seconds West* a distance of 5258.92 feet to the **POINT OF BEGINNING**. Bearings, coordinates, distance and areas called in this description are based on the Texas Coordinate System, Central Zone 4203, North American Datum of 1983. This survey is subject to any facts which may be disclosed by a full and accurate title search. Record documents other than those shown may affect these tracts. A plat of this survey is included on page 3 of this document.

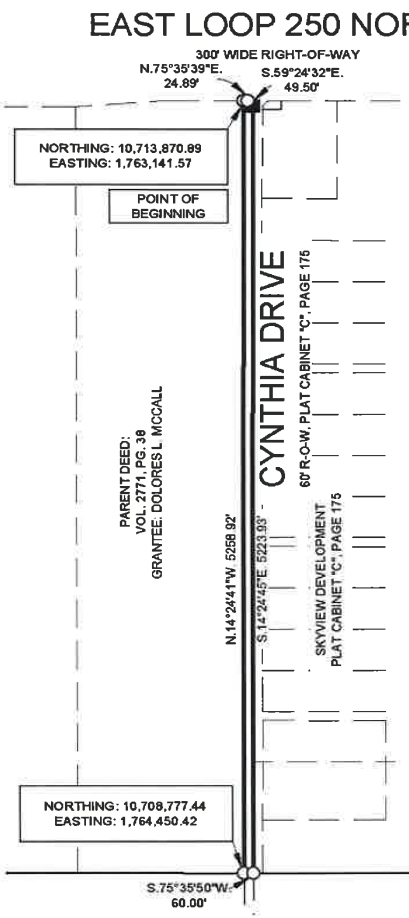
This description was prepared from an actual survey of the property and the information hereon represents the findings of this survey to the best of my knowledge and belief.

Surveyed: July 01, 2020

Samuel Wyatt, R.P.L.S. 6453

A SANITARY SEWER EASEMENT IN SECTION 30, BLOCK 38, T-1-S, T. & P. RR. CO. SURVEY, MIDLAND COUNTY, TEXAS

PARENT TRACT: VOLUME 2771, PAGE 38,
OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY, TEXAS



○ = SET 1/2" IRON ROD WITH CAP "PSC RPLS 6453".

SURVEYOR'S REPORT:

BEARINGS, COORDINATES, DISTANCES AND AREAS SHOWN ON THIS SURVEY ARE BASED ON THE TEXAS COORDINATE SYSTEM, TXC ZONE 4203, NAD'83.

THIS SURVEY IS SUBJECT TO ANY FACTS WHICH MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH. RECORD DOCUMENTS OTHER THAN THOSE SHOWN MAY AFFECT THIS TRACT.

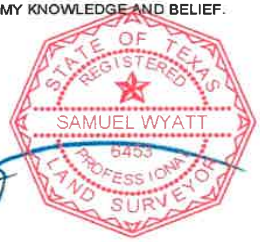
MONUMENTS INDICATED AS FOUND BY THIS SURVEY ARE NOT "PHYSICAL MONUMENTS OF RECORD DIGNITY" UNLESS SO NOTED.

FOUND MONUMENTS ARE ACCEPTED BY THIS SURVEYOR AS CONTROLLING EVIDENCE DUE TO SUBSTANTIAL AGREEMENT WITH RECORD DOCUMENTS.

THIS PLAT IS INVALID UNLESS IT BEARS THE SURVEYOR'S ORIGINAL SEAL AND SIGNATURE.

THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY AND THE INFORMATION HEREON REPRESENTS THE FINDINGS OF THIS SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF.

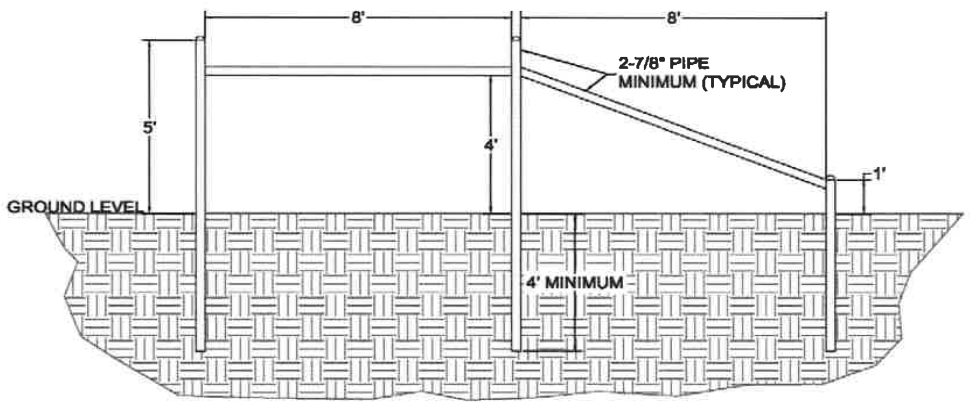
SURVEYED:
JULY 01, 2020



SAMUEL WYATT
R.P.L.S. 6453

PAGE 3 OF 3 (SEE PAGES 1 & 2 FOR A FULL METES AND BOUNDS DESCRIPTIONS)

PSC
PARKHILL SMITH & COOPER
TBPELS FIRM REGISTRATION NO. 10194091
4222 85TH STREET
LUBBOCK, TX. 79423
806.473.2200



H-Brace Detail

H-Brace Specifications

H-Braces shall be constructed and installed according to the following specifications and photos.

Dimensions, Materials, Construction, and Installation:

1. All pipe used for verticals, horizontals, and diagonals shall be a minimum of 2 7/8 inch pipe and all joints shall be welded.
2. Three holes shall be dug with a minimum hole diameter of 12 inches and 4 feet deep. The center of the holes shall be 8 feet apart in line with the existing fence or new fence to be built.
3. All vertical pipe shall be buried with concrete a minimum of 4 feet below ground level and capped at the top.
4. The vertical pipe shall be 9 feet in total length (4 feet buried with 5 feet sticking above ground level) with a 5 foot pipe for the stob/kicker (4 feet buried with 1 foot sticking above ground level).
5. One horizontal brace shall be welded, parallel to the ground, between the two 9 foot vertical pipes at a distance of 4 feet (48 inches) from ground level.
6. The diagonal brace shall be welded at this height angling down to the top of the stob/kicker.
7. Painting of the pipe is not required although it is recommended.

H-Brace Specifications and Detail

March 4, 2021

City Council Meeting

Item Number: 12

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Cole Furqueron,

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 20.719-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO SF-3 SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF MIDLAND DRIVE, APPROXIMATELY 475 FEET SOUTH OF GREENTREE BOULEVARD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)

Purpose:

The Applicant, Newton Engineering, is requesting to rezone a 20.719-acre tract of land out of a 331.25-acre tract of land all out of Section 8, Block X, H.P. Hilliard survey, City and County of Midland Texas for the purpose of building a single-family housing development.

Recommended City Council Action:

☒ **Approve** ☐ **Deny** ☐ **Direction/Informational**

Fiscal Impact:

This proposal does not have a significant financial impact to the City.

Discussion:

Current Zoning:

AE, Agricultural Estates District.

Surrounding Zoning and Land Use:

The Property to the North is currently undergoing a zone change from an AE, Agricultural Estates zoning to an O-1, Office District zoning and is currently vacant. The property to the East is zoned AE, Agricultural Estates District and is currently vacant. The properties to the South and West are zoned PD, Planned Development District and are the locations of single-family homes.

Analysis:

The property is currently vacant is in the process of re-platting. The applicant is requesting a zone change to allow for the development of a housing development. The current zoning will not allow for the lot sizing that is proposed on the Site Plan (Exhibit A). If approved the development will have to conform to section 5.04, Residential Zoning District Dimensional Regulations and sections 6.01 through 6.05, Zoning Development Regulations of the Zoning Ordinance.

The proposed Zone Change has been circulated to the respective City departments for internal review with no objections noted.

Fire: (Approved)

No Objections.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2020 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary. Code versions are subject to change depending on time of new code edition adoption in the City of Midland and date of permit application.

Engineering: (Approved)

No objection to zone change. [For the Applicant's information only.]

Code: (Approved)

Mockingbird Heights, Section 16

The plat identifies the 500 ft. radius around the permitted Diamondback E&P well – D Evans #1 along with the requested variance of 250 ft. and minimum 135 ft. radius. This addition received building variances to the permitted well on April 12, 2022. If the variances will need to be added to the plat.

Transportation: (Approved)

Access spacing will be required to adhere to the TxDOT Access Management Standards along the state highway. [Reference City Code Section 9-4-5(D).]

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

No objection to zone change. [For the Applicant's information only.]

GIS: (Approved)

This survey is also 1.5 feet off to the existing subdivision line on the southeast corner**.**

Planning:

The request is compliant with the *Tall City Tomorrow Comprehensive Plan, Chapter 3-An Integrated Land Use Vision.* This area has been designated UR-L Urban Residential-Low. This is a restrictive land use emphasizing neighborhoods with single-family detached homes, with smaller lots permitted under special circumstances. Additionally, this development will continue the existing characteristics of the surrounding housing developments.

Staff recommends approval of this request from AE, Agricultural Estates District to SF-3, Single-Family Dwelling District, subject to condition A.

Conditions:

A. That the use and development of this property shall conform to the regulations of the SF-3, Single-Family Dwelling District, except as stated below.

Letters of Objection:

Staff has received two letters of objection as of June 8, 2022.

Attachments:

Application
Maps
Site Plan

Morris Williams Jr.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 20.719-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO SF-3 SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF MIDLAND DRIVE, APPROXIMATELY 475 FEET SOUTH OF GREENTREE BOULEVARD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning a 20.719-acre tract of land out of Section 8, 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 (the "Property") to SF-3 Single-Family Dwelling District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from AE, Agricultural Estate District to SF-3 Single-Family Dwelling District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2022; 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., 2022, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2022.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT "A"

PROPOSED SF-3 ZONING

LEGAL DESCRIPTION OF A 20.719 ACRE TRACT LOCATED IN SECTION 8, BLOCK X, H.P. HILLIARD SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

Boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,714,499.93' E= 1,732,848.54') a 1/2" iron rod with plastic cap marked "PLS 1977" previously found at the Northwest corner of Mockingbird Heights, Section 9 as recorded in Cabinet I, Page 18, Plat Records of Midland County and the Southwest corner of this tract, from whence the Northwest corner of said Section 8, bears S75°34'43"W, a distance of 59.23 feet and N14°25'17"W, a distance of 2470.11 feet;

THENCE N14°24'16"W with the East line of said N. Midland Drive dedicated in Cabinet C, Page 38, Plat Records of Midland County, a distance of 1727.15 feet to the Northwest corner of this tract;

THENCE N75°35'44"E with the centerline of Proposed Anguish Drive, a distance of 105.91 feet to a point of curvature of this tract;

THENCE around a curve to the left in an Easterly direction with the centerline of Proposed Anguish Drive with a radius of 1030.00 feet, a delta angle of 21°54'01", an arc length of 393.70 feet and a chord distance of 391.31 feet which bears N64°38'43"E to a point of reverse curvature of this tract;

THENCE around a curve to the right in an Easterly direction with the centerline of Proposed Anguish Drive with a radius of 1470.00 feet, a delta angle of 1°32'04", an arc length of 39.37 feet and a chord distance of 39.36 feet which bears N54°27'44"E to a point of tangency of this tract;

THENCE S34°46'14"E, a distance of 30.00 feet to a 1/2" iron rod with plastic cap marked "PLS 1977" previously found at an exterior corner of this tract;

THENCE S54°39'41"W with South line of said Proposed Anguish Drive, a distance of 28.56 feet to an interior corner of this tract;

THENCE S17°42'08"W with a cutback line of said Ruth Lane, a distance of 16.14 feet to an interior corner of this tract;

THENCE S14°24'16"E with an East line of Proposed Ruth Lane, a distance of 1503.06 feet to an interior corner of this tract;

THENCE S63°17'47"E with a cutback line of said Proposed Ruth Lane, a distance of 13.15 feet to an interior corner of this tract;

THENCE around a curve to the right in an Easterly direction along the North R.O.W. line of Proposed Gloria Drive with a radius of 1689.85 feet, a delta angle of 11°30'34", an arc length of 339.45 feet and a chord distance of 338.88 feet which bears N73°44'09"E to a point of reverse curvature of this tract;

THENCE around a curve to the left in an Easterly direction along the North R.O.W. line of Proposed Gloria Drive with a radius of 1000.00 feet, a delta angle of 7°16'30", an arc length of 126.97 feet and a chord distance of 126.89 feet which bears N75°51'11"E to an exterior corner of this tract;

THENCE S18°42'20"E with the East line of Proposed Valwood Drive, a distance of 164.84 feet to the Northeast corner of said Mockingbird Heights, Section 9 and the Southeast corner of this tract;

THENCE around a curve to the right in an Westerly direction across Valwood Drive and the a North line of said Mockingbird Heights, Section 9 with a radius of 3552.55 feet, a delta angle of 0°58'04", an arc length of 60.01 feet and a chord distance of 60.01 feet which bears S70°12'20"W to an exterior corner of this tract;

THENCE N18°42'20"W with the West line of Proposed Valwood Drive, a distance of 98.59 feet to an interior corner of this tract;

THENCE N61°30'46"W with a cutback line of Proposed Valwood Drive and Gloria Drive, a distance of 14.67 feet to an interior corner of this tract;

THENCE around a curve to the right in an Westerly direction with a South line of Proposed Gloria Drive with a radius of 1060.00 feet, a delta angle of 3°32'24", an arc length of 65.49 feet and a chord distance of 65.48 feet which bears S77°43'14"W to a reverse curve of this tract;

THENCE around a curve to the left in an Westerly direction with a South line of Proposed Gloria Drive with a radius of 1630.09 feet, a delta angle of 12°26'50", an arc length of 354.13 feet and a chord distance of 353.43 feet which bears S73°15'58"W to interior corner of this tract;

THENCE S25°50'43"E, a distance of 120.16 feet to an exterior corner of this tract;

THENCE around a curve to the left in an Westerly direction with a North line of a 20 foot alley with a radius of 1509.85 feet, a delta angle of 6°56'30", an arc length of 182.93 feet and a chord distance of 182.81 feet which bears S63°48'01"W to a point of reverse curvature of this tract;

THENCE around a curve to the right in an Westerly direction with a North line of a 20 foot alley with a radius of 949.84 feet, a delta angle of 15°13'16", an arc length of 252.33 feet and a chord distance of 251.59 feet which bears S67°56'24"W to a point of tangency of this tract;

THENCE S75°33'02"W with a North line of a 20 foot alley, a distance of 88.92 feet the **PLACE OF BEGINNING**. Tract consists of 20.719 acres of land.

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86 Central Zone, with a combined grid factor of 0.999920208, and a theta angle equal to -0°56'08.806" at City of Midland GPS Point "MBIRD" with values of N= 10,711,761.47' and E= 1,733,698.85' in U.S. Survey Feet based on City of Midland GPS Control Survey. To obtain horizontal surface distances multiply the grid distance above by 1.000052379.

I, J. Stan Piper, Professional Land Surveyor, do hereby certify that this description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and belief as surveyed on the ground various dates thru March 6, 2022.

J. Stan Piper
Registered Professional Land Surveyor #1974
Revised: 3/16/22

STATE OF TEXAS
REGISTERED
J. S PER
PROFESSIONAL
LAND SURVEYOR

Prepared for:
Newton Engineering.
Attn.: Chase Dunnam, EIT
4501A Santa Rosa Drive
Midland, Texas 79707

MIDLAND
Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: Z-22-0287

Case Number:

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Evans 1, LTD.		Phone ( ) Email evansoneltd@gmail.com	
Address P.O. Box 7962	City Midland	State TX	Zip 79708

Property Owner Printed Name: Evans 1, LTD.		Phone ( ) Email	
Address P.O. Box 7962	City Midland	State TX	Zip 79708

Representative *(if different from Applicant or Property Owner)* Firm: Newton Engineering, PC Printed Name: Evans 1, LTD.		Phone ( ) Email chase@newtoncivil.com	
Address 4501A Santa Rosa Dr.	City Midland	State TX	Zip 79707

Street Address: None assigned. See attached metes and bounds description.

Legal Description
Lot: Block: Subdivision:

Current Zoning: AE	**Proposed Zone:** SF-3 *(List by tracts if more than one district is requested)*

Reason for Zone Change Request: To conform to the development of the site.

Present Use of Property: Vacant undeveloped pasture land

Proposed Use of Property: Single Family Residential

How would this zone change affect the public health, safety and welfare? No adverse impact to the public.

Describe how conditions affecting the property have changed since present zoning designation: The development of the site has now been planned.

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature): Jonathan Evans	Date: 3/8/22
Applicant (printed):	
Property Owner (signature): Jonathan Evans	Date: 3/8/22
Property Owner (printed) :	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

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

_____
Authorized Agent (*signature*)

Subscribed and sworn to before me, this_____day of_____, 20____, to certify which witness my hand and seal of office.

_____

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☐ Property Owner Authorization ☐ Dimensioned Site Plan

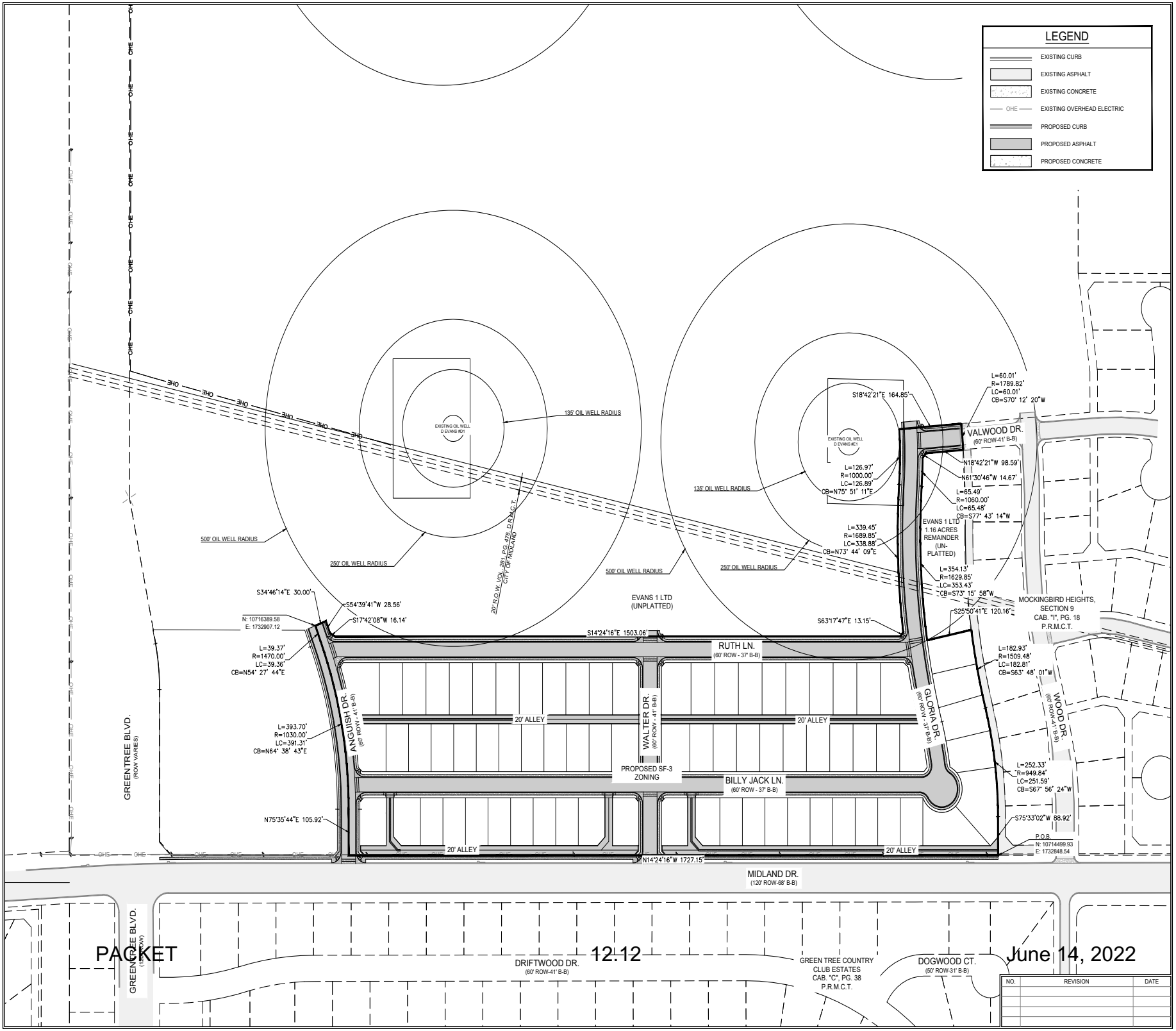
☐ Application Fee ☐ Plans in Digital Format (PDF/JPEG)

Check #_____

Received By: _____ Date: MAR 17 2022

BY: 03

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



NEWTON ENGINEERING, PC
4604 N. Santa Rosa Dr.
Midland, Texas 79707
(432) 770-0469
2906 E. 8th St.
Odessa, Texas 79761
F-13895
(432) 935-0707

MOCKINGBIRD HEIGHTS, SECTION 16
MIDLAND, TX

ZONE CHANGE SITE PLAN

PACKET 12.12 June 14, 2022

NO.	REVISION	DATE

Project No.	22-ME02251
Date:	MAR 2022
Drawn By:	CBD
Checked By:	JMN
Scale:	

Sheet: 04

PROPOSED SF-3 ZONING

LEGAL DESCRIPTION OF A 20.719 ACRE TRACT LOCATED IN SECTION 8, BLOCK X, H.P. HILLIARD SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

Boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,714,499.93' E= 1,732,848.54') a 1/2" iron rod with plastic cap marked "PLS 1977" previously found at the Northwest corner of Mockingbird Heights, Section 9 as recorded in Cabinet I, Page 18, Plat Records of Midland County and the Southwest corner of this tract, from whence the Northwest corner of said Section 8, bears S75°34'43"W, a distance of 59.23 feet and N14°25'17"W, a distance of 2470.11 feet;

THENCE N14°24'16"W with the East line of said N. Midland Drive dedicated in Cabinet C, Page 38, Plat Records of Midland County, a distance of 1727.15 feet to the Northwest corner of this tract;

THENCE N75°35'44"E with the centerline of Proposed Anguish Drive, a distance of 105.91 feet to a point of curvature of this tract;

THENCE around a curve to the left in an Easterly direction with the centerline of Proposed Anguish Drive with a radius of 1030.00 feet, a delta angle of 21°54'01", an arc length of 393.70 feet and a chord distance of 391.31 feet which bears N64°38'43"E to a point of reverse curvature of this tract;

THENCE around a curve to the right in an Easterly direction with the centerline of Proposed Anguish Drive with a radius of 1470.00 feet, a delta angle of 1°32'04", an arc length of 39.37 feet and a chord distance of 39.36 feet which bears N54°27'44"E to a point of tangency of this tract;

THENCE S34°46'14"E, a distance of 30.00 feet to a 1/2" iron rod with plastic cap marked "PLS 1977" previously found at an exterior corner of this tract;

THENCE S54°39'41"W with South line of said Proposed Anguish Drive, a distance of 28.56 feet to an interior corner of this tract;

THENCE S17°42'08"W with a cutback line of said Ruth Lane, a distance of 16.14 feet to an interior corner of this tract;

THENCE S14°24'16"E with an East line of Proposed Ruth Lane, a distance of 1503.06 feet to an interior corner of this tract;

THENCE S63°17'47"E with a cutback line of said Proposed Ruth Lane, a distance of 13.15 feet to an interior corner of this tract;

THENCE around a curve to the right in an Easterly direction along the North R.O.W. line of Proposed Gloria Drive with a radius of 1689.85 feet, a delta angle of 11°30'34", an arc length of 339.45 feet and a chord distance of 338.88 feet which bears N73°44'09"E to a point of reverse curvature of this tract;

THENCE around a curve to the left in an Easterly direction along the North R.O.W. line of Proposed Gloria Drive with a radius of 1000.00 feet, a delta angle of 7°16'30", an arc length of 126.97 feet and a chord distance of 126.89 feet which bears N75°51'11"E to an exterior corner of this tract;

THENCE S18°42'20"E with the East line of Proposed Valwood Drive, a distance of 164.84 feet to the Northeast corner of said Mockingbird Heights, Section 9 and the Southeast corner of this tract;

THENCE around a curve to the right in an Westerly direction across Valwood Drive and the a North line of said Mockingbird Heights, Section 9 with a radius of 3552.55 feet, a delta angle of 0°58'04", an arc length of 60.01 feet and a chord distance of 60.01 feet which bears S70°12'20"W to an exterior corner of this tract;

THENCE N18°42'20"W with the West line of Proposed Valwood Drive, a distance of 98.59 feet to an interior corner of this tract;

THENCE N61°30'46"W with a cutback line of Proposed Valwood Drive and Gloria Drive, a distance of 14.67 feet to an interior corner of this tract;

THENCE around a curve to the right in an Westerly direction with a South line of Proposed Gloria Drive with a radius of 1060.00 feet, a delta angle of 3°32'24", an arc length of 65.49 feet and a chord distance of 65.48 feet which bears S77°43'14"W to a reverse curve of this tract;

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THENCE S25°50'43"E, a distance of 120.16 feet to an exterior corner of this tract;

THENCE around a curve to the left in an Westerly direction with a North line of a 20 foot alley with a radius of 1509.85 feet, a delta angle of 6°56'30", an arc length of 182.93 feet and a chord distance of 182.81 feet which bears S63°48'01"W to a point of reverse curvature of this tract;

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I, J. Stan Piper, Professional Land Surveyor, do hereby certify that this description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and belief as surveyed on the ground various dates thru March 6, 2022.

J. Stan Piper
Registered Professional Land Surveyor #1974
Revised: 3/16/22

STATE OF TEXAS
REGISTERED
J. S. PIPER
PROFESSIONAL
LAND SURVEYOR

Prepared for:
Newton Engineering.
Attn.: Chase Dunnam, EIT
4501A Santa Rosa Drive
Midland, Texas 79707

DIAMONDBACK
Energy

June 7, 2022

To the Members of Midland's City Council,

Diamondback E&P LLC ("**Diamondback**") opposes the re-zoning proposal submitted for your consideration at the June 14, 2022 City Council Meeting by Evans I, Ltd ("**Evans**") for commercial and residential development in Section 16 of Mockingbird Heights. Newton Engineering, PC's Preliminary Plat (the"**Plat**"), raises two immediately obvious concerns with the re-zoning proposal.

First, the southern part of the Plat partially depicts an extension of a public road connecting Gloria Dr. and Valwood Dr., although Diamondback's concern is not clearly illustrated in the documents submitted by Evans. A more detailed visual of the area, with the boundary of the Evans development depicted in a red line, is attached as Exhibit "A". Notably, the boundary line for the proposed public road extends over an existing service road that Diamondback uses to access its D Evans #E1 well. The service road was approved by Evans prior to construction, and it has been used by the operator of that well for years. In addition to blocking Diamondback's access to its well, approving a public road so close to an existing oil and gas well would also create various safety concerns.

Second, the Plat submitted by Evans is incomplete. Diamondback has four additional wells (the 802LS, the 801WA, the 801WB and the 801LS) on its Whitefish pad, which is directly to the north of the Evans proposed development. The Plat as submitted neglects to illustrate this well pad and demonstrate the proximity of the proposed commercial development to the Whitefish pad.

Diamondback is available to elaborate on its concerns with the Evans re-zoning proposal, but respectfully requests the City Council deny the Evans' request today for the reasons set out above.

Sincerely,

Travis H. Langdon
Senior Counsel
Diamondback E&P LLC

500 WEST TEXAS AVENUE, SUITE 1200 • MIDLAND, TX • 79701
PHONE: (432)221-7400
NASDAQ: FANG

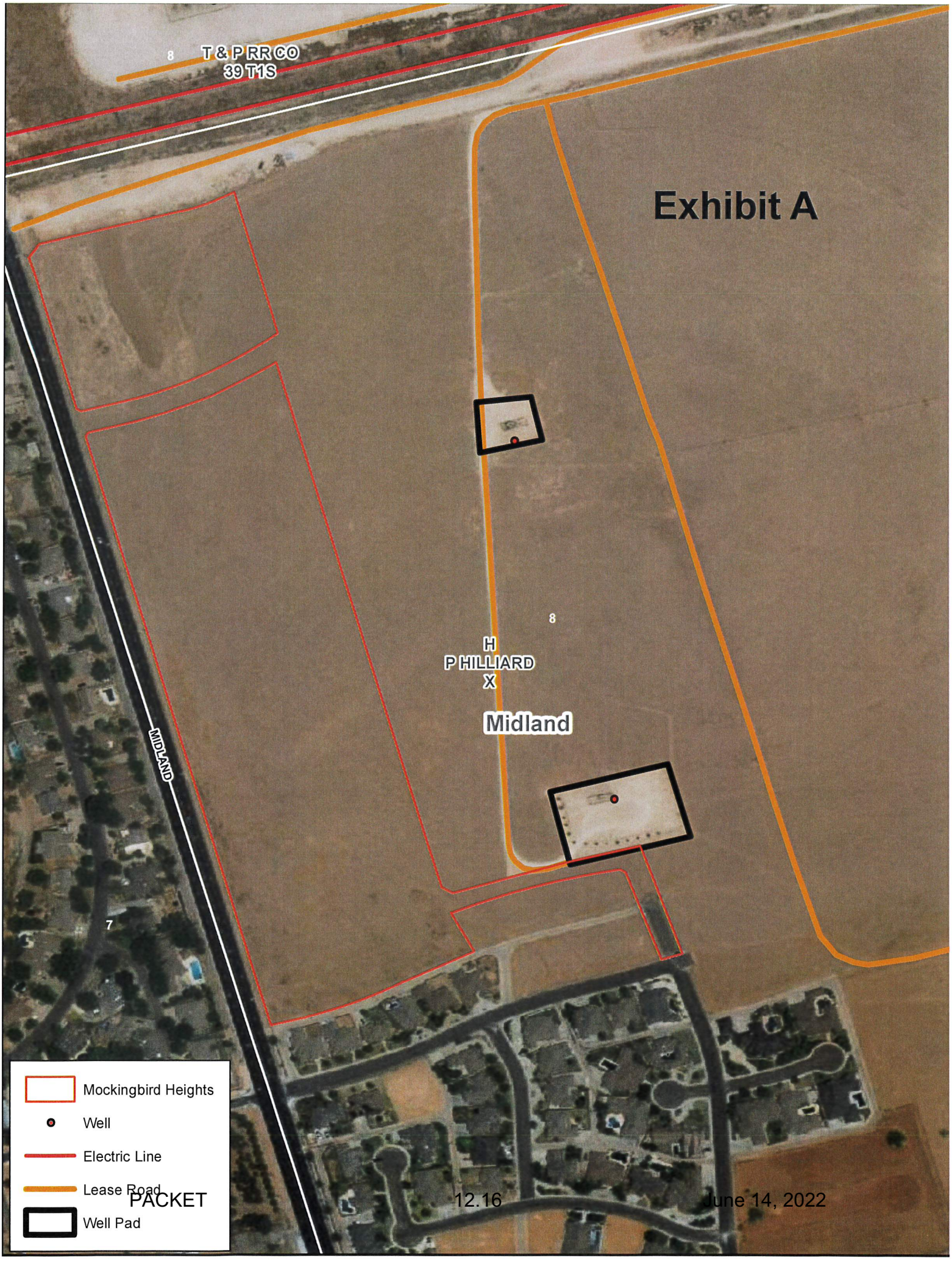
T & P RR CO
39 T1S
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Exhibit A
8
H
P HILLIARD
X
Midland
MIDLAND
7
Mockingbird Heights
Well
Electric Line
Lease Road
Well Pad

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APR 2 8 2021
BY: .....

MIDLAND
Planning Divis

JANCHA AMANDA
4446 DOGWOOD CT
MIDLAND TX 79707

PUBLIC NOTICE

The **City Council** of the City of Midland, Texas will hold a public hearing at **10:00 a.m.** on **Tuesday, May 10, 2022**, in the Council Chambers, City Hall, 300 N. Loraine, Midland, TX 79701, on a request by **Newton Engineering,** for approval of a **Zone Change** on the following described property:

LEGAL DESCRIPTION: A 20.719-acre tract of land out of a 331.25-acre tract of land all out of Section 8, Block X, H.P. Hilliard Survey, City and County of Midland, Texas.

LOCATION: Generally located on the east side of Midland Drive, approximately 475 feet south of Greentree Boulevard - (Council District 1)

PROPOSED ZONING: **From: AE, Agricultural Estate District**
To: SF-3, Single-Family Dwelling District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request X

Comments: _____

Required Information:

Property Owner's Signature

NICHOLAS JANCHA
Printed Name

[redacted] 4446 DOGWOOD CT, MIDLAND, TX 79707
Property Address (**No P. O. Boxes**)

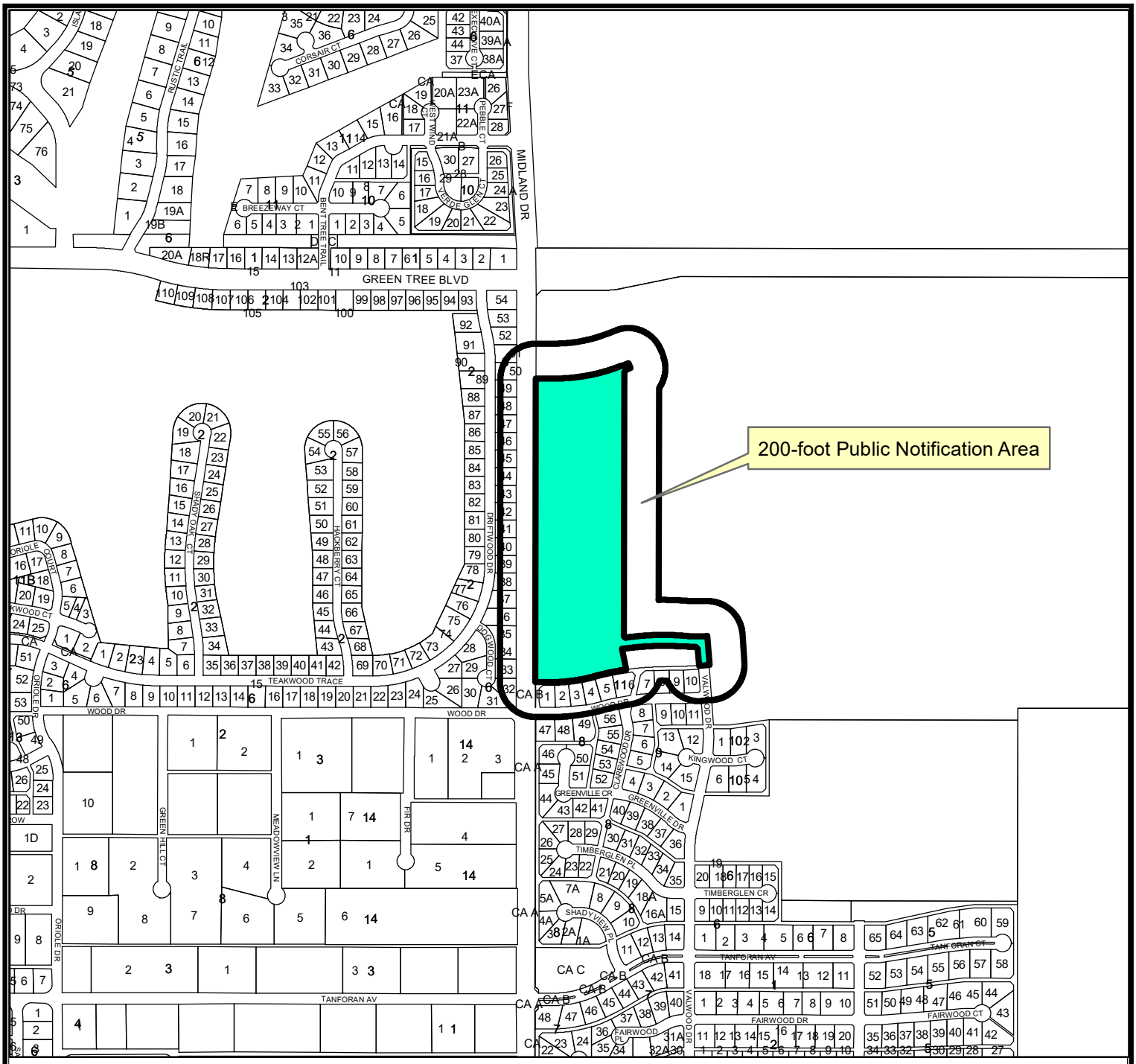
If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 28
Date Mailed: April 22, 2022
Case Number: Z-22-0287
Case Name: Mockingbird Heights, Section 16A
CF Planner's Initials

Elizabeth Shaughnessy
Director of Development Services
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

www.MidlandTexas.gov



LOCATION MAP

Z-22-0287 **Scale: 1" = 200'**

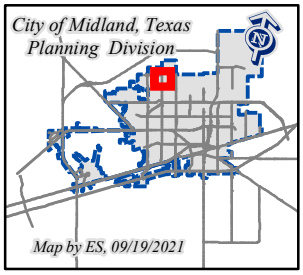
Request by Newton Engineering, for a zone change from AE, Agricultural Estates District to SF-3, Single-Family Dwelling District on a 20.719-acre tract of land out of a 331.25-acre tract of land, all out of Section 8, Block X, H.P. Hilliard Survey, City and County of Midland, Texas.

Generally located on the east side of Midland Drive, approximately 475 feet south of Greentree Boulevard - (Council District 1)

PACKET 12.18

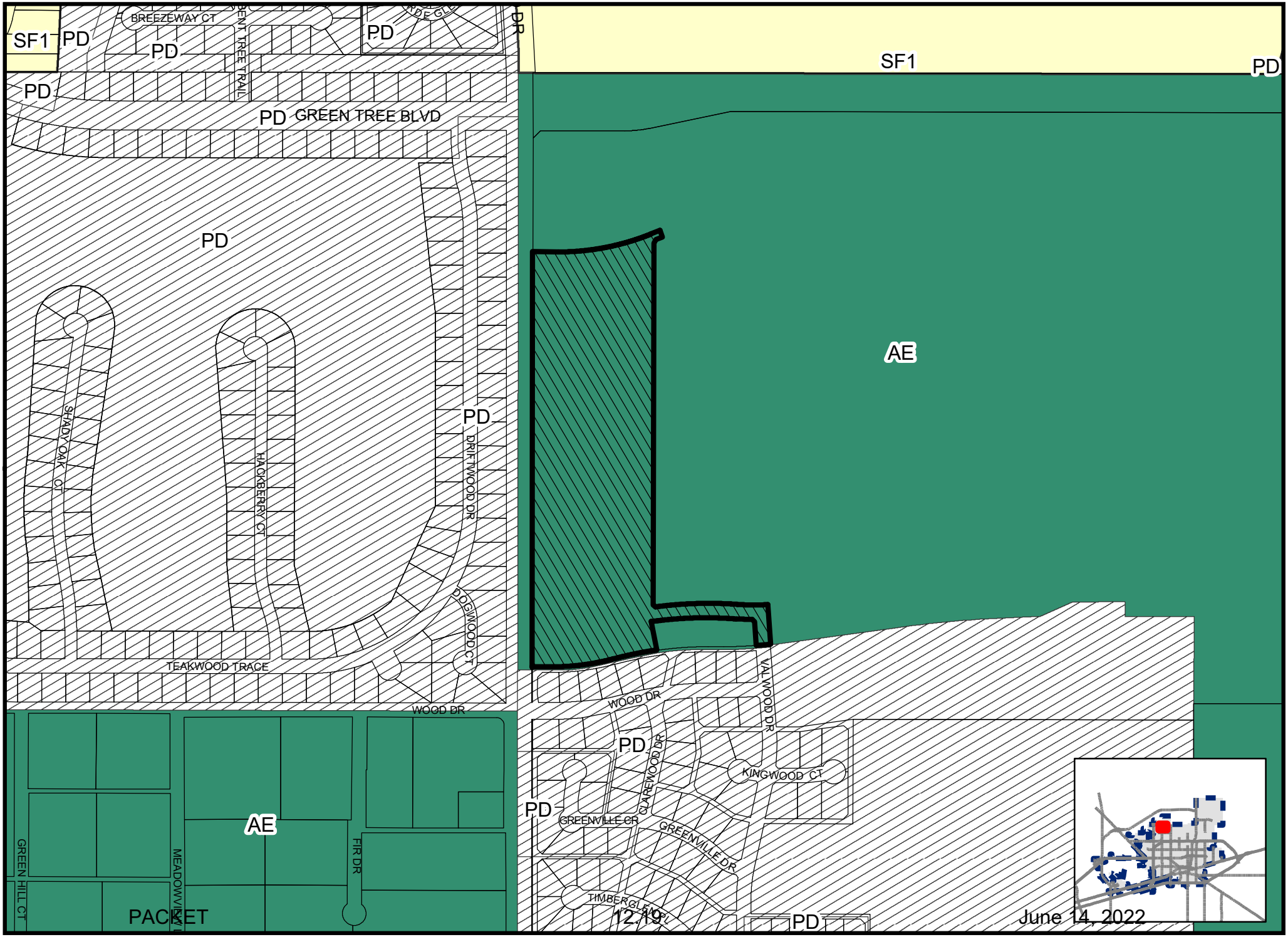
LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



June 14, 2022

©THE CITY OF MIDLAND - 2021
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map By ES, 7/8/2021

Z-22-0287

Scale: 1" = 200'

ZONING MAP

© THE CITY OF MIDLAND - 2021: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

City Council Meeting

Item Number: 13

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Cole Furqueron, Senior Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 5.720-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO O-1, OFFICE DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF MIDLAND DRIVE AND GREENTREE BOULEVARD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)

Purpose:

The Applicant, Newton Engineering, is requesting a zone change from AE, Agricultural Estates District to O-1 Office District on a 5.720-acre tract of land out of a 331.25-acre tract of land all out of Section 8, Block X, H.P. Hilliard survey, City and County of Midland Texas for the purpose of building an Office Center.

Recommended City Council Action:

☒ **Approve** ☐ **Deny** ☐ **Direction/Informational**

Fiscal Impact:

This proposal does not have a significant financial impact to the City.

Discussion:

Current Zoning:

AE, Agricultural Estates District.

Surrounding Zoning and Land Use:

The property to the north is zoned SF-1, Single-Family Dwelling District and is currently vacant. The property to the east is zoned AE, Agricultural Estates District and is currently vacant. The properties to the south and west and zoned PD, Planned Development District, and the locations of single-family homes.

Analysis:

The property to the north is zoned SF-1, Single-Family Dwelling District and is currently vacant. The property to the east is zoned AE, Agricultural Estates District and is currently vacant. The properties to the south and west and zoned PD, Planned Development District, and the locations of single-family homes.

The proposed Zone Change has been circulated to the respective City departments for internal review with no Objections noted.

Fire: (Approved)

No Objections.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2020 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary. Code versions are subject to change depending on time of new code edition adoption in the City of Midland and date of permit application.

Engineering: (Approved)

No objection to zone change. [For the Applicant's information only.]

Code: (Approved)

No Oil and Gas Issues. The plat identifies the 500 ft. radius around the permitted Diamondback E&P well – D Evans #1. Informational: No Oil or Gas wells identified within 500 ft. permitted well radius or in the 135 ft. non-permitted well radius of location on plat. Please note if oil & gas wells are not identified or left off of plat, this could prevent receiving city permits for structures. Any plugged and abandoned well would need to be identified.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering

and Traffic Operations. [For the Applicant's information only.]

No objection to zone change. [For the Applicant's information only.]

GIS: (Approved)

No comments**.**

Planning:

This request is not in compliance with the *Tall City Tomorrow Comprehensive Plan, Chapter 3-An Integrated Land Use Vision.* This area has been designated UR-L Urban Residential-Low. This is a restrictive land use emphasizing neighborhoods with single-family detached homes, with smaller lots permitted under special circumstances. Accordingly, this zone change does not reflect the characteristics of the surrounding neighborhood. However, since Midland Drive and Greentree Boulevard are major thoroughfares, an office center at this site would be advantageous as Midland continues to grow northward. This will eventually be a part of the commercial corridor along Midland Drive. This office development will serve as a buffer between the arterial road and the residential communities. This proposed land use will generate less traffic than single-family residential developments would. Additionally, it will provide services to the surrounding communities and any future communities in the area.

Staff recommends approval of this request from AE, Agricultural Estates District to O-1, Office District, subject to condition A.

Conditions:

A. That the use and development of this property shall conform to the regulations of the O-1, Office District.

Letters of Objection:

Staff has not received any letters of objection as of May 4, 2022.

Attachments:

Application
Maps
Plat
Meets and Bounds

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 5.720-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO O-1, OFFICE DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF MIDLAND DRIVE AND GREENTREE BOULEVARD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning a 5.720-acre tract of land out of Section 8, 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 (the "Property") to O-1, Office District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from AE, Agricultural Estate District to O-1, Office District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2022; 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., 2022, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2022.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT "A"

PROPOSED O-1

LEGAL DESCRIPTION OF A 5.720 ACRE TRACT LOCATED IN SECTION 8, BLOCK X, H.P. HILLIARD SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

Boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,716,631.16', E= 1,732,301.15') 1/2" iron rod found at the West cutback corner of a 25.281 Acre Tract as described in Volume 1493, Page 602, Official Public Records of Midland County and this tract, from whence the Northwest corner of said Section 8, bears S75°34'43"W, a distance of 59.88 feet and N14°25'17"W, a distance of 269.71 feet;

THENCE N30°35'03"E with the cutback line of said 25.281 Acre Tract and Green Tree Boulevard, a distance of 42.42 feet to a 1/2" iron rod found at the North cutback corner of said 25.281 Acre Tract and this tract;

THENCE N75°35'33"E with common line of said 25.281 Acre Tract and Green Tree Boulevard, a distance of 350.10 feet to a 1/2" iron rod found at a point of curvature of this tract;

THENCE around a curve to the left in an Easterly direction with common line of said 25.281 Acre Tract and Greentree Boulevard, with a radius of 519.95 feet, a delta angle of 11°42'35", an arc length of 106.26 feet and a chord distance of 106.08 feet which bears N69°44'16"E to a point of tangency of this tract;

THENCE N63°52'58"E with common line of said 25.281 Acre Tract and Green Tree Boulevard, a distance of 32.56 feet to a 1/2" iron rod found at the Northeast corner of this tract;

THENCE S14°14'41"E, a distance of 404.06 feet to an interior corner of this tract;

THENCE S34°46'14"E, a distance of 30.00 feet to the Southeast corner of this tract;

THENCE around a curve to the left in an Westerly direction with the centerline of Proposed Anguish Drive with a radius of 1470.00 feet, a delta angle of 1°32'04", an arc length of 39.37 feet and a chord distance of 39.36 feet which bears S54°27'44"W to a point of reverse curvature of this tract;

THENCE around a curve to the right in an Westerly direction with the centerline of Proposed Anguish Drive with a radius of 1030.02 feet, a delta angle of 21°54'00", an arc length of 393.70 feet and a chord distance of 391.31 feet which bears S64°38'43"W to a point of tangency of this tract;

THENCE S75°35'44"W with the centerline of Proposed Anguish Drive, a distance of 105.91 feet to a point on the East R.O.W. line of N. Midland Drive as dedicated in Cabinet C, Page 38, Plat Records of Midland County for the Southwest corner of this tract;

THENCE N14°24'16"W with said N. Midland Drive R.O.W., a distance of 473.26 feet to the **PLACE OF BEGINNING**. Tract consists of 5.720 acres of land.

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86 Central Zone, with a combined grid factor of 0.999920208, and a theta angle equal to -0°56'08.806" at City of Midland GPS Point "MBIRD" with values of N= 10,711,761.47' and E= 1,733,698.85' in U.S. Survey Feet based on City of Midland GPS Control Survey. To obtain horizontal surface distances multiply the grid distance above by 1.000052379.

I, J. Stan Piper, Professional Land Surveyor, do hereby certify that this description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and belief as surveyed on the ground various dates thru March 6, 2022.

J. Stan Piper
Registered Professional Land Surveyor #1974
Revised: 3/16/22

Prepared for:
Newton Engineering.
Attn.: Chase Dunnam, EIT
4501A Santa Rosa Drive
Midland, Texas 79707

MIDLAND
Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: 2-22-0288

Case Number:

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Evans 1, LTD.		Phone ( ) Email evansoneltd@gmail.com	
Address P.O. Box 7962	City Midland	State TX	Zip 79708

Property Owner Printed Name: Evans 1, LTD.		Phone ( ) Email	
Address P.O. Box 7962	City Midland	State TX	Zip 79708

Representative *(if different from Applicant or Property Owner)* Firm: Newton Engineering, PC Printed Name: Evans 1, LTD.		Phone ( ) Email chase@newtoncivil.com	
Address 4501A Santa Rosa Dr.	City Midland	State TX	Zip 79707

Street Address: None assigned. See attached metes and bounds description.

Legal Description
Lot: Block: Subdivision:

Current Zoning: AE	**Proposed Zone:** O-1 *(List by tracts if more than one district is requested)*

Reason for Zone Change Request: To conform to the development of the site.

Present Use of Property: Vacant undeveloped pasture land

Proposed Use of Property: Office use

How would this zone change affect the public health, safety and welfare? No adverse impact to the public.

Describe how conditions affecting the property have changed since present zoning designation: The development of the site has now been planned.

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature): Jonathan Evans	Date: 3/8/22
Applicant (printed):	
Property Owner (signature): Jonathan Evans	Date: 3/8/22
Property Owner (printed) :	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

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

_____
Authorized Agent (*signature*)

Subscribed and sworn to before me, this_____day of_____, 20____, to certify which witness my hand and seal of office.

_____

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☐ Property Owner Authorization	☐ Dimensioned Site Plan
☐ Application Fee	☐ Plans in Digital Format (PDF/JPEG)
Check #_____	
Received By: _____	Date: MAR 17 2022 JS

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

PROPOSED O-1

LEGAL DESCRIPTION OF A 5.720 ACRE TRACT LOCATED IN SECTION 8, BLOCK X, H.P. HILLIARD SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

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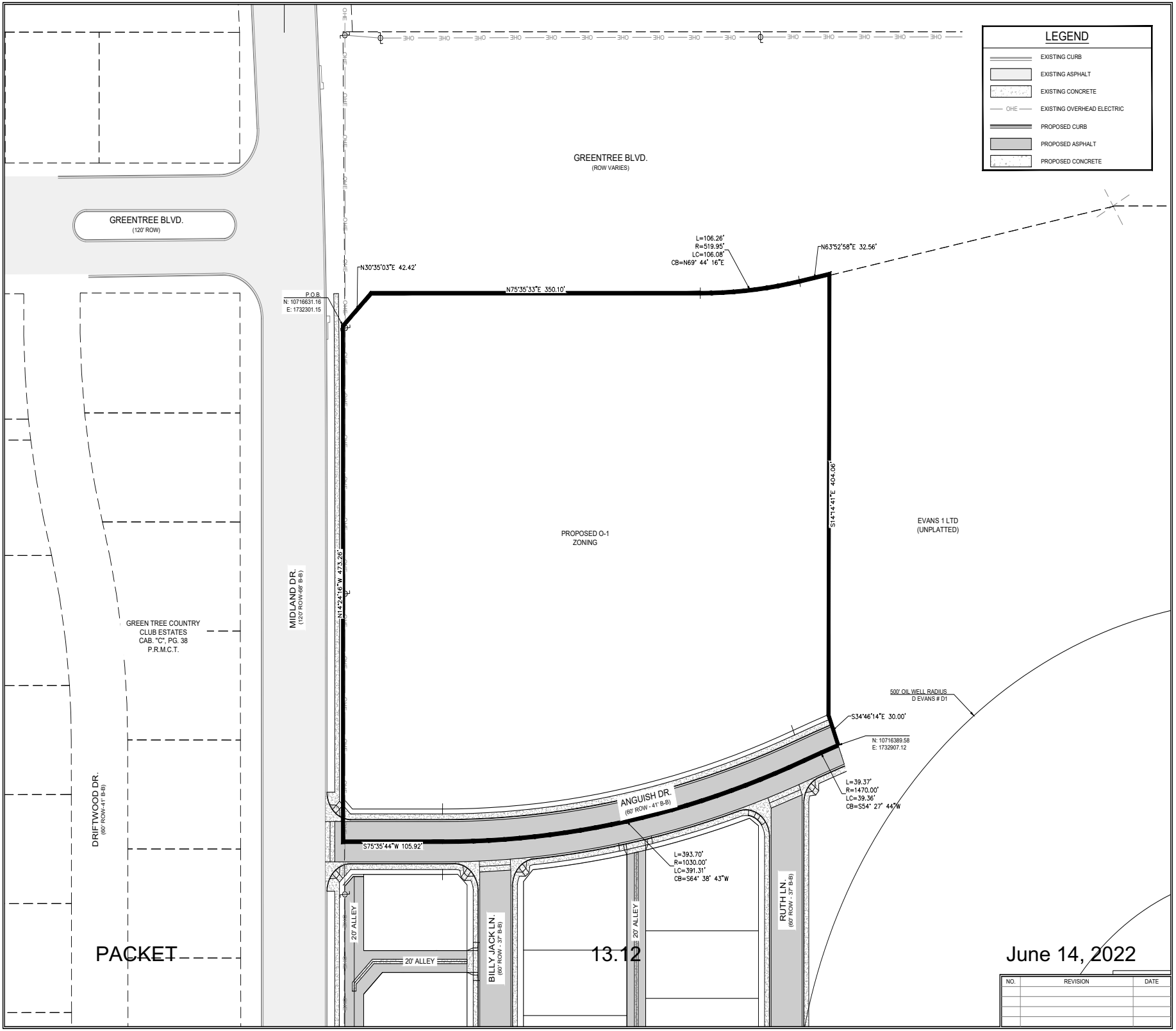
I, J. Stan Piper, Professional Land Surveyor, do hereby certify that this description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and belief as surveyed on the ground various dates thru March 6, 2022.

J. Stan Piper
Registered Professional Land Surveyor #1974
Revised: 3/16/22

Prepared for:
Newton Engineering.
Attn.: Chase Dunnam, EIT
4501A Santa Rosa Drive
Midland, Texas 79707



NEWTON ENGINEERING, PC
2500 E. 8th St.
Odessa, Texas 79761
(432) 935-0707
F-13895
4001A Santa Rosa Dr.
Midland, Texas 79707
(432) 770-0469

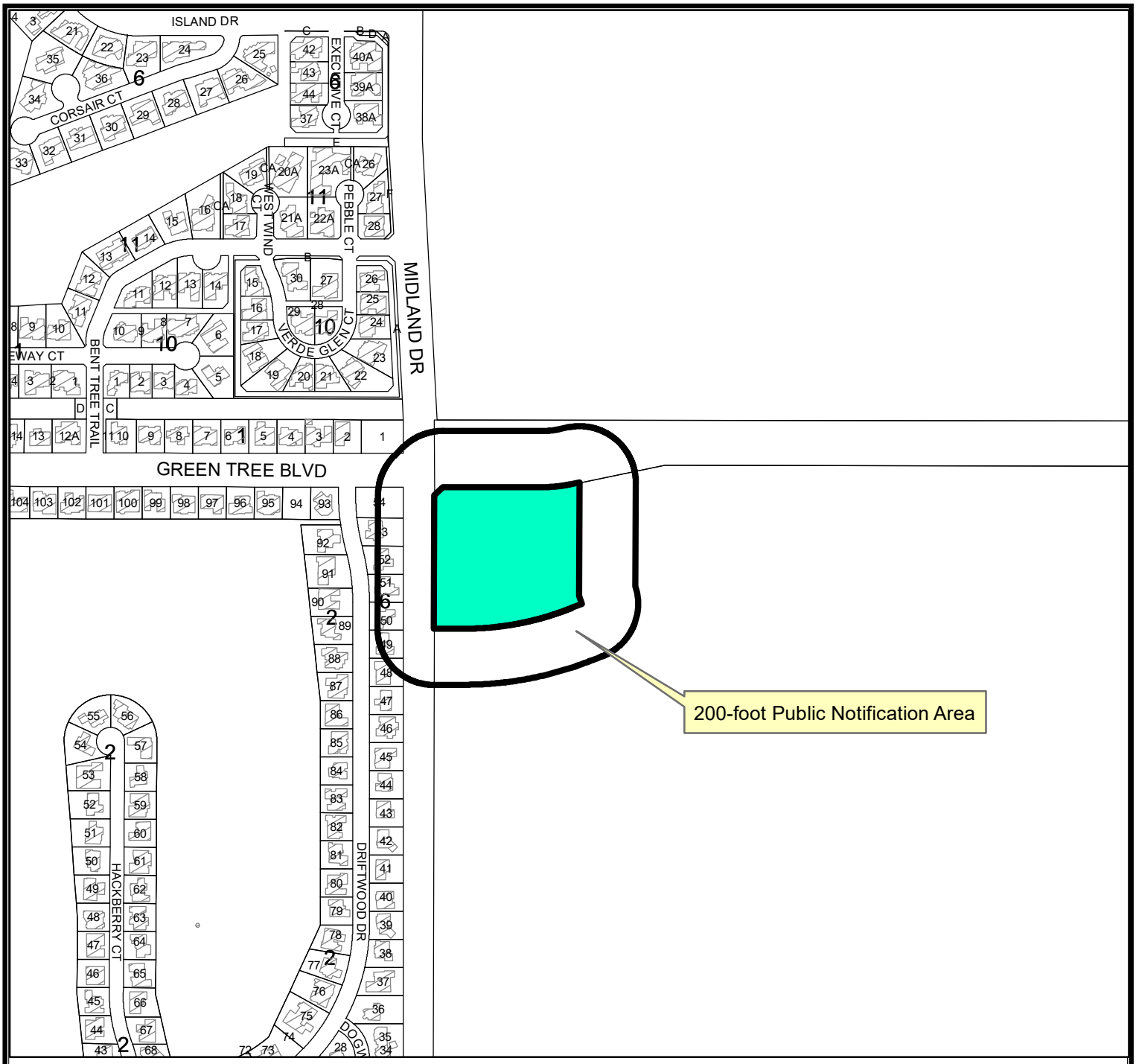
MOCKINGBIRD HEIGHTS, SECTION 16
MIDLAND, TX

ZONE CHANGE SITE PLAN

NO.	REVISION	DATE

Project No.	22-ME02251
Date:	MAR 2022
Drawn By:	CBD
Checked By:	JMN
Scale:	
Sheet:	04

PACKET 13.12 June 14, 2022



LOCATION MAP

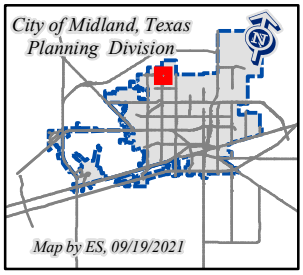
Z-22-0288 **Scale: 1" = 200'**

Request by Newton Engineering, for a zone change from AE, Agricultural Estates District to O-1, Office District on a 5.720-acre tract of land out of Section 8, Block X, H.P. Hilliard Survey, City and County of Midland, Texas.

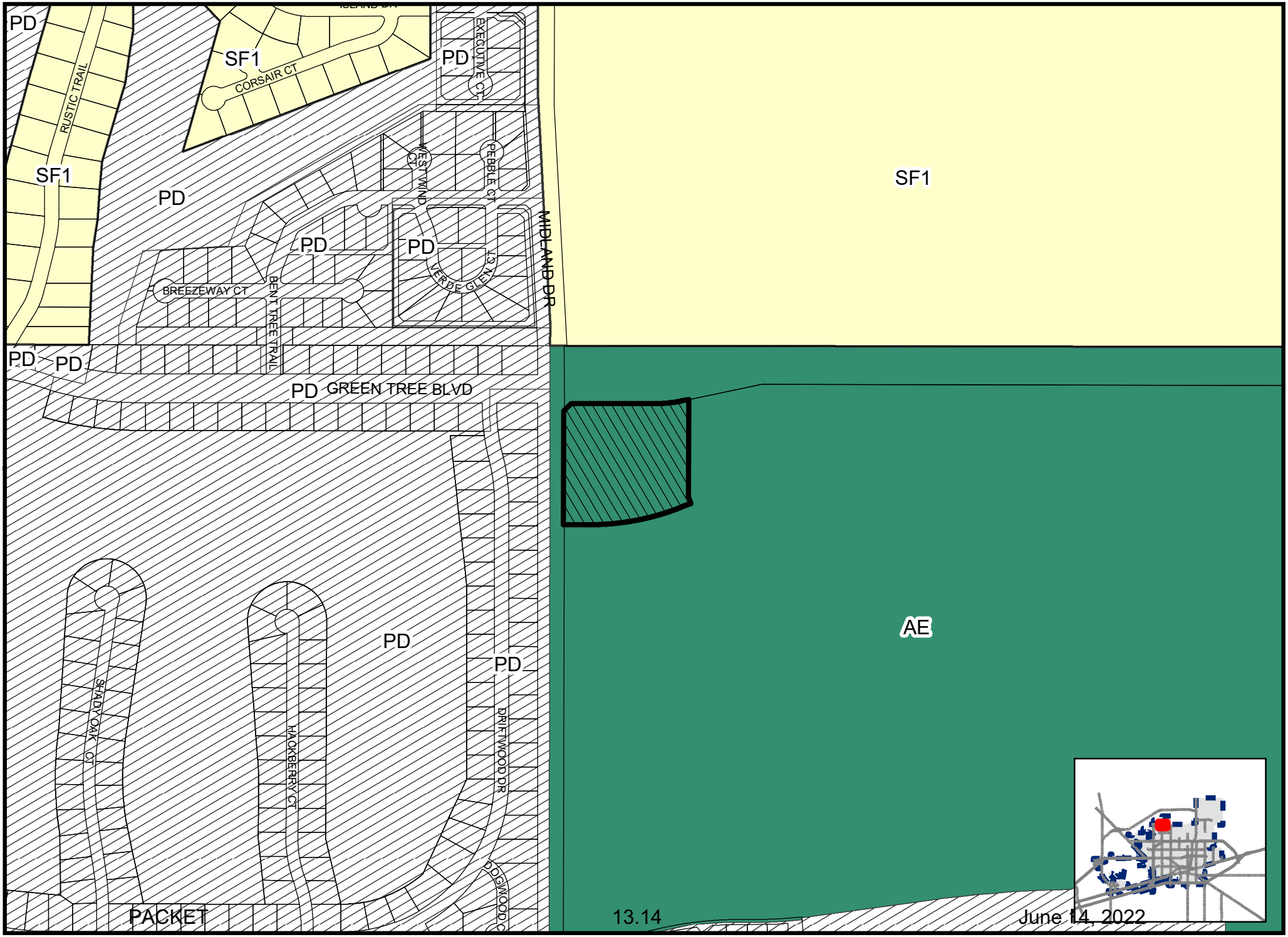
Generally located on the souteast corner of the intersection of Midland Drive and Greentree Boulevard - (Council District1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2021
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map By ES, 7/8/2021

Z-22-0288

Scale: 1" = 200'

ZONING MAP

© THE CITY OF MIDLAND - 2021: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

City Council Meeting

Item Number: 14

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Ron Jenkins, Oil and Gas Coordinator

Subject: **The proposed granting of oil and gas well permits to Permian Deep Rock Oil Co., LLC ("Operator") for the drilling of the following oil and gas wells: Charger 110 MIPA Unit #H110SS and Charger 120 MIPA Unit #H120MS; said wells being generally located between 1,750 feet and 2,320 feet west of Rankin Highway and 520 feet south of West I-20. (DISTRICT 2) (DEVELOPMENT SERVICES)**

Purpose:

The proposed granting of oil and gas well permits to Permian Deep Rock Oil Co., LLC ("Operator") for the drilling of the following oil and gas wells: Charger 110 MIPA Unit #H110SS and Charger 120 MIPA Unit #H120MS; said wells being generally located between 1,750 feet and 2,320 feet west of Rankin Highway and 520 feet south of West I-20. Council may consider these permits following a 30-day public comment period and at a regularly scheduled meeting. No notices of objection received.

Recommended City Council Action:

Directional / Informational

Fiscal Impact:

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

Discussion:

The Oil and Gas Advisory Committee has reviewed the well site in detail and recommends approval with updated exhibit. A 16 ft. sound wall will be used during drilling and completion operations being located on the south side of location. There have been previous permitted applications near this well pad requiring the same variances. The operator has a surface

agreement with the surface owner. Receiving support of the Oil & Gas Advisory Committee,

Permian Deep Rock Oil is requesting the following variances:

(1) Permian Deep Rock Oil Company requests variance to residence or commercial structure:
Charger 110 MIPA Unit #H110SS of 271 feet.
Charger 120 MIPA Unit #H120MS of 269 feet.
(2) Permian Deep Rock Oil Company requests to allow for twenty-four-hour fracing operations.
(3) Permian Deep Rock Oil Company requests variance for fence of the drill pad instead of individual well
(4) Permian Deep Rock Oil Company requests a variance to the requirement of landscaping and irrigation due to no city water is available.
(5) Permian Deep Rock Oil Company requests variance to the Road Repair Agreement due to no city streets will be used.

Attachments: Applications; Location maps; Exhibit - Drill site maps, Exhibit – Flow Line Location.

Morris William Jr.

City Manager's Office

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
04/01/2022	Permian Deep Rock Oil Co., LLC	P.O. Box 11405 Midland, TX 79702

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele.
Kyle M. Hammond	500 W. Wall St. Ste 300 Midland, TX 79701	432-682-6685 Rep. Fax 432-684-4519
Fee: $4,000.00 Rec'd Yes ✓ No___	**NOTE: All attachments need to bound and put in a binder before submitting.**	**Pages 1-4**

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (Tele.): **No. 2 (Tele.):**

Option B:

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):*** See Exhibit "A"

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

See Exhibit "A"

Other Permitted Wells in City ***(ATTACH EXHIBIT B*** **[see § J(26)]).** See Exhibit "B"

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1.

2.

3.

ATTACHED AS EXHIBIT C **is** List of subdivisions within Charger Unit

See Exhibit "C"

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location): Surface use: Undeveloped Rangeland, service company yards
Surface ownership: Service company yards, hotel

See Exhibit "D"

ATTACHED AS EXHIBIT D **is** ,

Current Tax Roll from Midland Central Appraisal District), **which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].**

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

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

IV. Well & Operations Information

Proposed Well Name: Charger 110 MIPA Unit #H110SS

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

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 240' FNL & 1750' FEL, Section 10
Block 39, T-2-S, T&PRR Co. Survey, Midland County, Texas

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

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

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

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

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

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

***ATTACHED AS EXHIBIT M*: No city roads will be used**

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

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

(1) Drilling: None

(2) Operations: Oncor

Description of water source to be used during Drilling: Water is to be piped in from our water wells, drill additional water wells or truck fresh water in. All brine water will be trucked in.

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

See Exhibit "N"

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Trench and encapsulate per TXRRC Rule 27(c)(10)(v)

See Exhibit "O"

V. Additional Required Exhibits

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

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

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

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

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

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

Attached as Exhibit V: Applicants variances

Permian Deep Rock Oil Company
[NAME OF COMPANY]

By _____
Its General Manager

State of Texas)

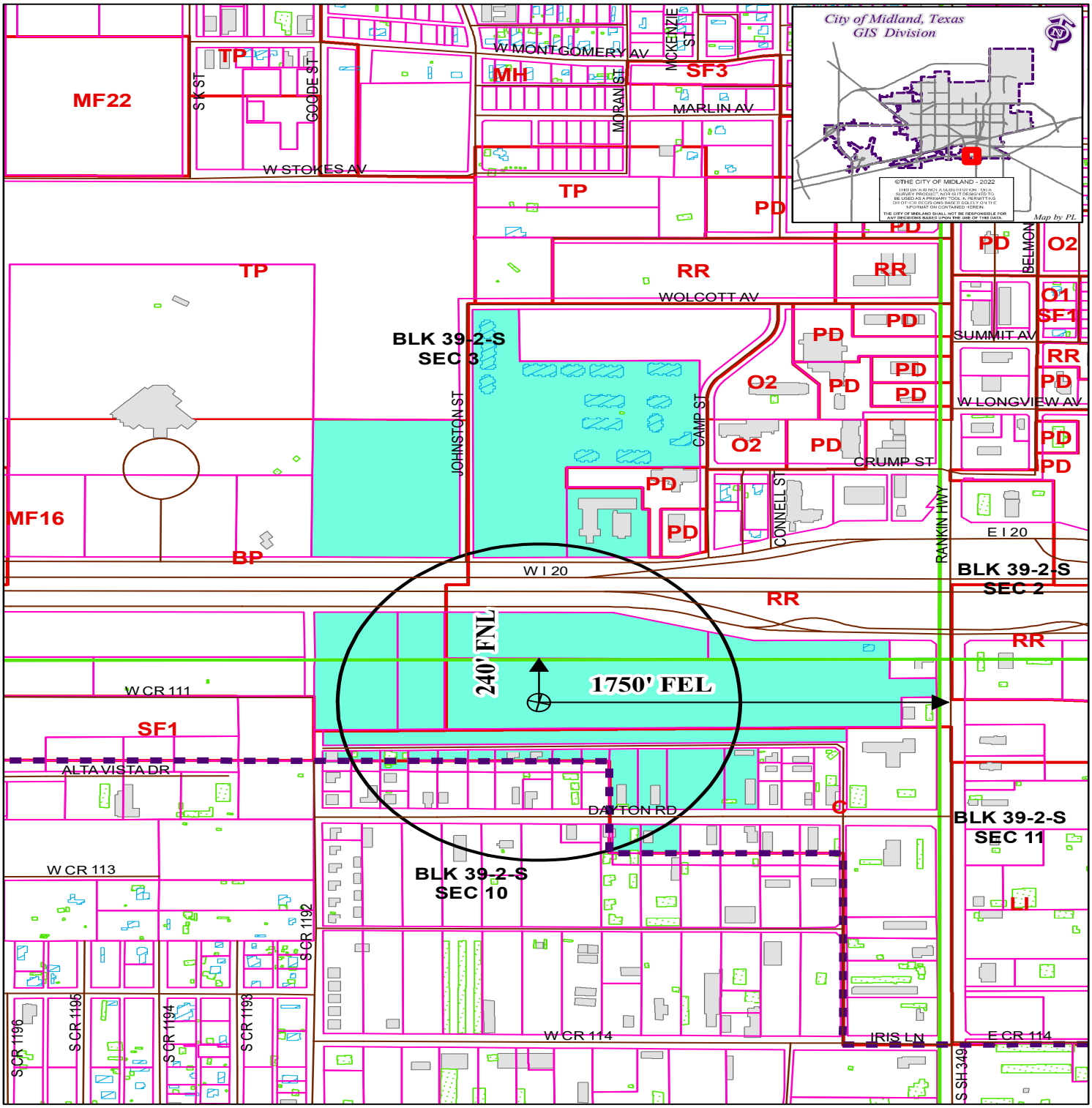
County of Midland)

Kyle Hammond , 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.

Estella Pena
Notary Public, State of Texas

[S E A L]

ESTELLA PENA
Notary Public, State of Texas
My Commission Expires
August 03, 2025
NOTARY ID 13123361-8



LOCATION AND ZONING MAP

Oil - 042881 - 2022 **Scale: 1" = 600'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 240' FNL and 1,750' FEL, Section 10, Block 39, T-2-S, T&P RR CO Survey, Midland County, Texas.

Generally located 1,750 feet west of Rankin Highway and 320 feet south of West I-20.

Charger 110 MIPA Unit #H110SS

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOW 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

SCALE: 1" = 300'

0' 150' 300'

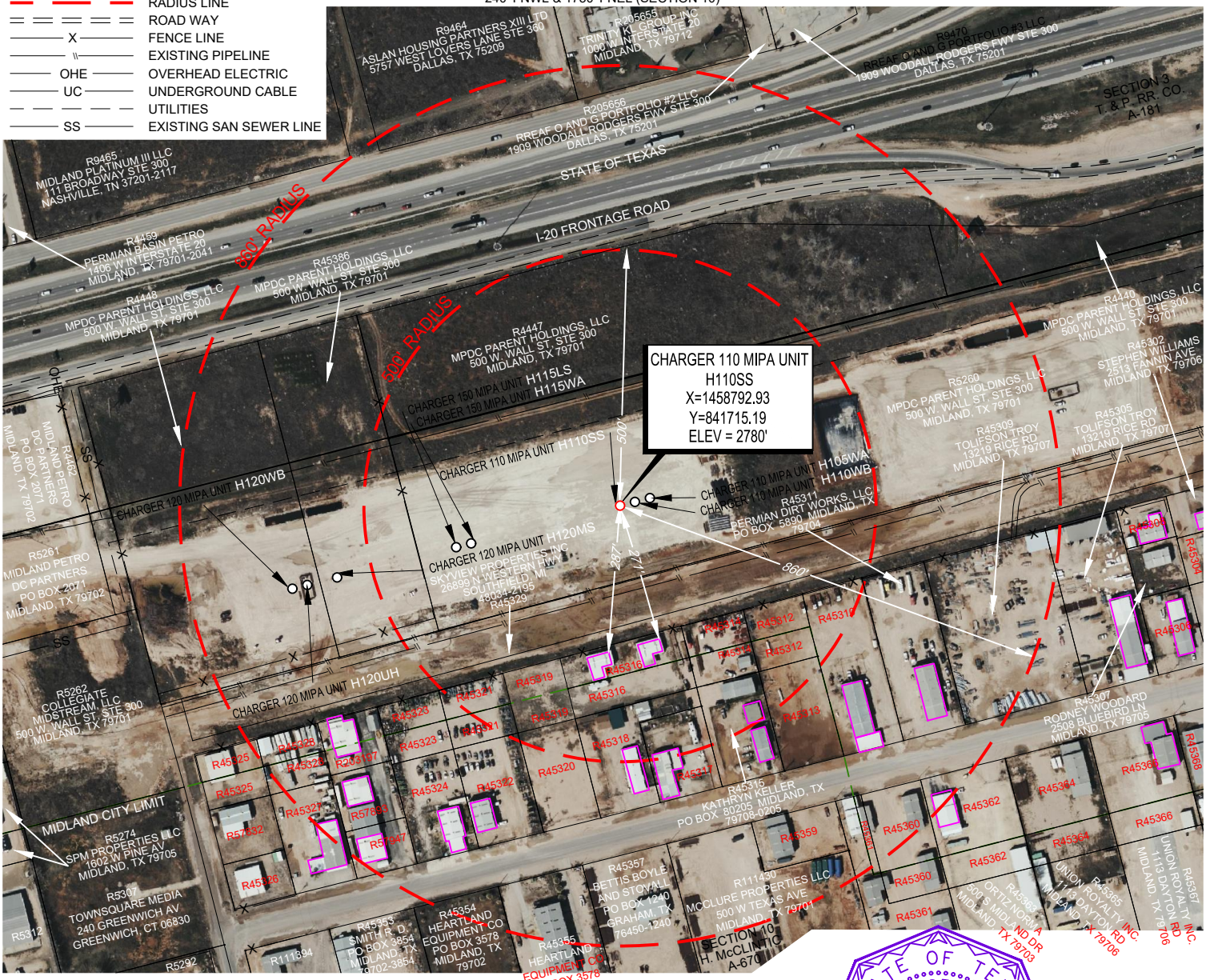
LEGEND

- SURVEY/SECTION LINE
- RADIUS LINE
- ROAD WAY
- X — FENCE LINE
- EXISTING PIPELINE
- OHE — OVERHEAD ELECTRIC
- UC — UNDERGROUND CABLE
- UTILITIES
- SS — EXISTING SAN SEWER LINE

SECTION 10, T. & P. RR. CO. SURVEY, A-670
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

SHOWING STRUCTURES WITHIN 500' RADIUS
AND PROPERTY OWNERS WITHIN 860' RADIUS
FOR PROPOSED **CHARGER 110 MIPA UNIT H110SS**
240' FNWL & 1750' FNEL (SECTION 10)

PERMIAN DEEP ROCK OIL CO., L.L.C.



STATE OF TEXAS
REGISTERED
JEFFREY N. LUEDERS
6512
PROFESSIONAL
LAND SURVEYOR

Jeffrey N. Lueders, R.P.L.S. No. 6512
APRIL 23, 2021

TOPOGRAPHIC
LOYALTY INNOVATION LEGACY
1400 EVERMAN PARKWAY, Ste. 146 • FT. WORTH, TEXAS 76140
TELEPHONE: (817) 744-7512 • FAX (817) 744-7554
TEXAS FIRM REGISTRATION NO. 10042504
WWW.TOPOGRAPHIC.COM

CHARGER 110 MIPA UNIT H110SS	REVISION:	
	D.R.H.	05/12/2021
	D.R.H.	05/25/2021
DATE: 02/16/2018	D.R.H.	03/16/2022
FILE: CD_CHARGER_H110SS_REV3		
DRAWN BY: RAC		
SHEET : 1 OF 2		

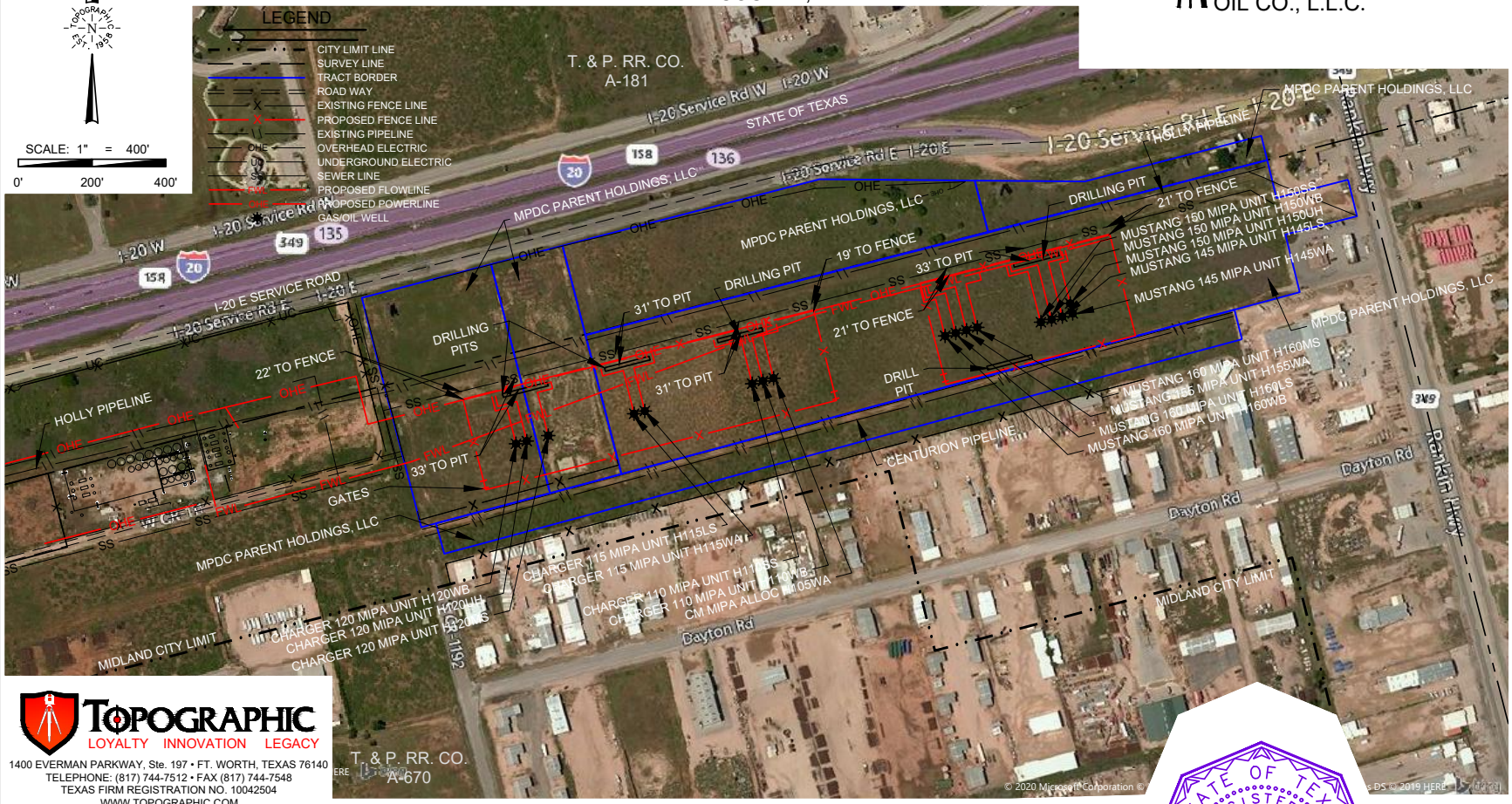
NOTES:
1. ORIGINAL DOCUMENT SIZE: 8.5" X 11"
2. ALL BEARINGS, DISTANCES, AND COORDINATE VALUES CONTAINED HEREIN ARE GRID BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, U.S. SURVEY FEET, NORTH AMERICAN DATUM 1927.
3. THIS PROPOSED LOCATION HAS BEEN CAREFULLY SURVEYED ON THE GROUND UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE ACCORDING TO THE EVIDENCE, OFFICIAL SURVEY RECORDS, MAPS, AND OTHER DATA PROVIDED PERMIAN DEEP ROCK OIL CO., LLC. THIS PLAT WAS CREATED FOR THE SOLE PURPOSE OF FILING A PERMIT WITH THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS AND SHOULD NOT BE CONSTRUED AS A "BOUNDARY SURVEY" IN COMPLIANCE WITH T.B.P.L.S. MINIMUM STANDARDS OF PROCEDURES FOR BOUNDARY SURVEYS. THIS CERTIFICATION IS MADE AND LIMITED TO THOSE PERSONS OR ENTITIES SHOWN ON THE FACE OF THIS PLAT AND IS NON-TRANSFERABLE.
4. OWNERSHIP INFORMATION SHOWN HEREON WAS TAKEN FROM THE CITY OF MIDLAND, TEXAS GIS SITE.
5. DISTANCES SHOWN HEREON TO EXISTING STRUCTURES ARE SCALED PER AERIAL MAP.

PACKET 14.8 June 14, 2022

EXHIBIT "G"

SECTION 3, BLOCK 39, T2S, T. & P. RR. CO. SURVEY, A-181 &
SECTION 10, BLOCK 39, T2S, H. MCCLINTIC SURVEY, A-670
MIDLAND COUNTY, TEXAS

PERMIAN DEEP ROCK OIL CO., L.L.C.



TOPOGRAPHIC
LOYALTY INNOVATION LEGACY
1400 EVERMAN PARKWAY, Ste. 197 • FT. WORTH, TEXAS 76140
TELEPHONE: (817) 744-7512 • FAX (817) 744-7548
TEXAS FIRM REGISTRATION NO. 10042504
WWW.TOPOGRAPHIC.COM

CHARGER UNIT CITY PERMIT		REVISION:	
		DRH	06/04/21
		DRH	06/15/21
		DRH	06/16/21
DATE:	03/28/2018	DRH	07/21/21
FILE:	SK_MUSTANG_UNIT_A_CHARGER_UNIT_A_PERMIT_REV19	DRH	08/09/21
DRAWN BY:	GJU	DRH	10/13/21
SHEET :	3 OF 12	DRH	12/10/21

NOTES:
1. ORIGINAL DOCUMENT SIZE: 11" X 8.5"
2. ALL BEARINGS, DISTANCES, AND COORDINATE VALUES CONTAINED HEREIN ARE GRID BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, U.S. SURVEY FEET, NORTH AMERICAN DATUM 1927.
3. CERTIFICATION IS MADE ONLY FOR PROPOSED UTILITIES AND SITES, IN RELATION TO THE EVIDENCE FOUND DURING A FIELD SURVEY, MADE ON THE GROUND, UNDER MY SUPERVISION, AND USING DOCUMENTATION PROVIDED BY PERMIAN DEEP ROCK OIL CO., L.L.C. ONLY UTILITIES/EASEMENTS THAT WERE VISIBLE ON THE DATE OF THIS SURVEY, WITHIN/ADJOINING THIS EASEMENT, HAVE BEEN LOCATED AS SHOWN HEREON OF WHICH I HAVE KNOWLEDGE. THIS CERTIFICATION IS LIMITED TO THOSE PERSONS OR ENTITIES SHOWN ON THE FACE OF THIS PLAT AND IS NON-TRANSFERABLE, AND MADE FOR THIS TRANSACTION ONLY.
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5. ADJOINER INFORMATION SHOWN FOR INFORMATIONAL PURPOSES ONLY.
6. D.R.M.C.T. = DEED RECORDS MIDLAND COUNTY, TEXAS
7. C.C.O.R.M.C.T. = C. C. OFFICIAL RECORDS MIDLAND COUNTY, TEXAS

STATE OF TEXAS
REGISTERED
JEFFREY N. LUEDERS
6512
PROFESSIONAL
LAND SURVEYOR

JEFFREY N LUEDERS, R.P.L.S. No. 6512
SURVEYED ON THE GROUND: JUNE 11, 2021

S:\SURVEY\ARRINGTON\MUSTANG_UNIT\FINAL_PRODUCTS\SKETCH\SK_MUSTANG_UNIT_A_CHARGER_UNIT_A_PERMIT_REV19.DWG 12/10/2021 10:42:30 AM dharris

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
04/01/2022	Permian Deep Rock Oil Co., LLC	P.O. Box 11405 Midland, TX 79702

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele.
Kyle M. Hammond	500 W. Wall St. Ste 300 Midland, TX 79701	432-682-6685 Rep. Fax 432-684-4519
Fee: $4,000.00 Rec'd Yes ✓ No___	**NOTE: All attachments need to bound and put in a binder before submitting.**	**Pages 1-4**

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (Tele.): **No. 2 (Tele.):**

Option B:

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):*** See Exhibit "A"

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

See Exhibit "A"

Other Permitted Wells in City ***(ATTACH EXHIBIT B*** **[see § J(26)]).** See Exhibit "B"

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1.

2.

3.

ATTACHED AS EXHIBIT C **is** List of subdivisions within Charger Unit

See Exhibit "C"

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location): Surface use: Undeveloped Rangeland, service company yards
Surface ownership: Service company yards, hotel

See Exhibit "D"

ATTACHED AS EXHIBIT D **is** ,

Current Tax Roll from Midland Central Appraisal District), **which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].**

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

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

IV. Well & Operations Information

Proposed Well Name: Charger 120 MIPA Unit #H120MS

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

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 240' FNL & 2320' FEL, Section 10
Block 39, T-2-S, T&PRR Co. Survey, Midland County, Texas

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

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

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

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

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

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

***ATTACHED AS EXHIBIT M*: No city roads will be used**

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

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

(1) Drilling: None

(2) Operations: Oncor

Description of water source to be used during Drilling: Water is to be piped in from our water wells, drill additional water wells or truck fresh water in. All brine water will be trucked in.

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

See Exhibit "N"

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Trench and encapsulate per TXRRC Rule 27(c)(10)(v)

See Exhibit "O"

V. Additional Required Exhibits

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

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

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

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

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

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

Attached as Exhibit V: Applicants variances

Permian Deep Rock Oil Company
[NAME OF COMPANY]

By _____
Its General Manager

State of Texas)

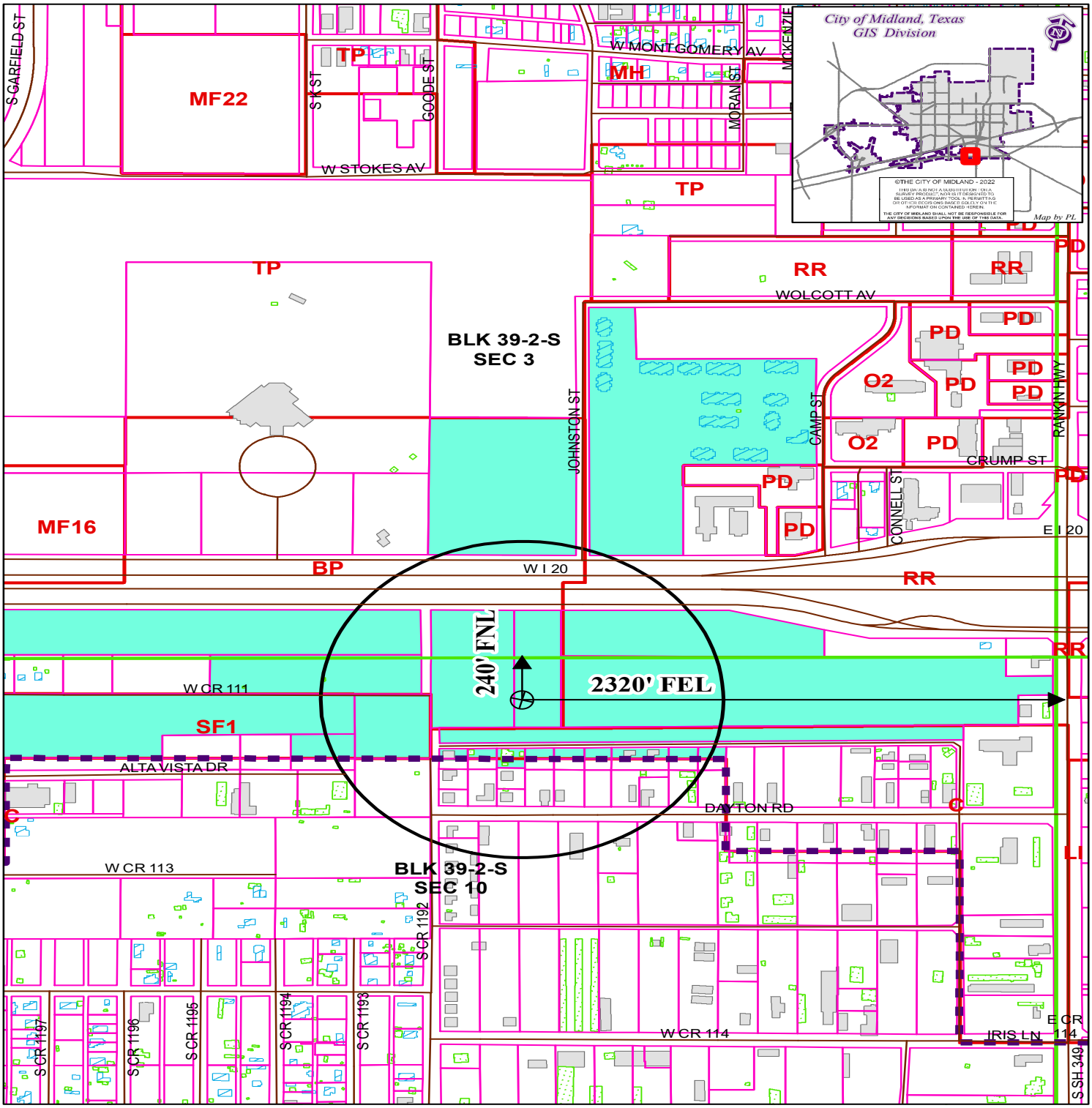
County of Midland)

Kyle Hammond , 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.

Estella Pena
Notary Public, State of Texas

[S E A L]

ESTELLA PENA
Notary Public, State of Texas
My Commission Expires
August 03, 2025
NOTARY ID 13123361-8



LOCATION AND ZONING MAP

Oil - 042882 - 2022 **Scale: 1" = 600'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 240' FNL and 2,320' FEL, Section 10, Block 39, T-2-S, T&P RR CO Survey, Midland County, Texas.

Generally located 2,320 feet west of Rankin Highway and 320 feet south of West I-20.

Charger 120 MIPA Unit #H120MS

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR, MR, HR	LOW 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

SCALE: 1" = 300'

0' 150' 300'

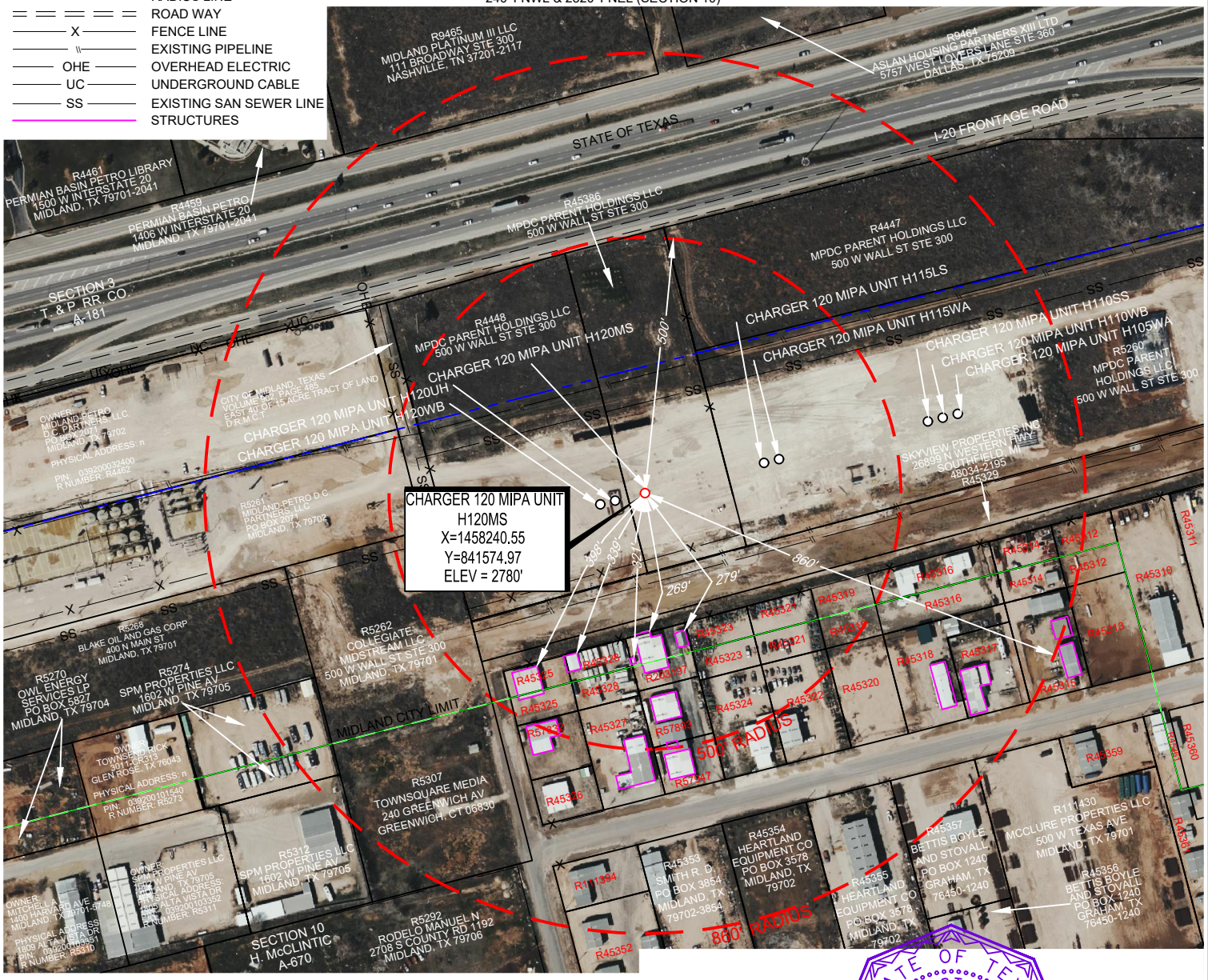
LEGEND

- SURVEY/SECTION LINE
- RADIUS LINE
- ROAD WAY
- X FENCE LINE
- EXISTING PIPELINE
- OHE OVERHEAD ELECTRIC
- UC UNDERGROUND CABLE
- SS EXISTING SAN SEWER LINE
- STRUCTURES

SECTION 10, T. & P. RR. CO. SURVEY, A-670
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

SHOWING STRUCTURES WITHIN 500' RADIUS
AND PROPERTY OWNERS WITHIN 860' RADIUS
FOR PROPOSED **CHARGER 120 MIPA UNIT H120MS**
240' FNWL & 2320' FNEL (SECTION 10)

PERMIAN DEEP ROCK OIL CO., L.L.C.



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TEXAS FIRM REGISTRATION NO. 10042504
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STATE OF TEXAS
REGISTERED
JEFFREY N. LUEDERS
6512
LAND SURVEYOR

Jeffrey N. Lueders, R.P.L.S. No. 6512
APRIL 23, 2021

CHARGER 120 MIPA UNITH120MS	REVISION: INT	DATE
	JRH	11/12/2018
DATE: 02/15/2018	D.R.H.	05/03/2021
FILE: CD_CHARGER_A_H120MS_REV4	D.R.H.	10/25/2021
DRAWN BY: RAC	D.R.H.	03/16/2022
SHEET : 1 OF 4		

NOTES:
1. ORIGINAL DOCUMENT SIZE: 8.5" X 11"
2. ALL BEARINGS, DISTANCES, AND COORDINATE VALUES CONTAINED HEREIN ARE GRID BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, U.S. SURVEY FEET, NORTH AMERICAN DATUM 1927.
3. THIS PROPOSED LOCATION HAS BEEN CAREFULLY SURVEYED ON THE GROUND UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE ACCORDING TO THE EVIDENCE, OFFICIAL SURVEY RECORDS, MAPS, AND OTHER DATA PROVIDED PERMIAN DEEP ROCK OIL CO., LLC. THIS PLAT WAS CREATED FOR THE SOLE PURPOSE OF FILING A PERMIT WITH THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS AND SHOULD NOT BE CONSTRUED AS A "BOUNDARY SURVEY" IN COMPLIANCE WITH T.B.P.L.S. MINIMUM STANDARDS OF PROCEDURES FOR BOUNDARY SURVEYS. THIS CERTIFICATION IS MADE AND LIMITED TO THOSE PERSONS OR ENTITIES SHOWN ON THE FACE OF THIS PLAT AND IS NON-TRANSFERABLE.
4. OWNERSHIP INFORMATION SHOWN HEREON WAS TAKEN FROM THE CITY OF MIDLAND, TEXAS GIS SITE.
5. DISTANCES SHOWN HEREON TO EXISTING STRUCTURES ARE SCALED PER AERIAL MAP.

S:\SURVEY\ARRINGTON\CHARGER_UNIT\FINAL_PRODUCTS\CITY_PERMITS\NAD_27\CD_CHARGER_A_H120MS_REV4.DWG 3/16/2022 2:35:38 PM dharris

City Council Meeting

Item Number: 15

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Ron Jenkins, Oil and Gas Coordinator

Subject: The proposed granting of an oil and gas well permit to Permian Deep Rock Oil Co., LLC ("Operator") for the drilling of the oil and gas well Mustang 110 MIPA Unit #H110SS; said well being generally located 2,335 feet east of Rankin Highway and 170 feet south of I-20 (DISTRICT 2) (DEVELOPMENT SERVICES)

Purpose:

The proposed granting of an oil and gas well permit to Permian Deep Rock Oil Co., LLC ("Operator") for the drilling of the oil and gas well Mustang 110 MIPA Unit #H110SS; said well being generally located 2,335 feet east of Rankin Highway and 170 feet south of I-20. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting. No notices of objection received.

Recommended City Council Action:

Directional / Informational

Fiscal Impact:

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

Discussion:

The Oil and Gas Advisory Committee has reviewed the well site in detail and recommends approval with updated exhibits. This pad was approved for previous permit February 22, 2022. A 16 ft. tall and 160 ft. long sound wall will be used during drilling and completion operations being located on the North perimeter of location. The tank battery is located in the county. The operator has a surface agreement with the surface owner. Receiving support of the Oil & Gas Advisory Committee, Permian Deep Rock Oil is requesting the following variances:

(1) Permian Deep Rock Oil Company requests to allow for twenty-four-hour fracing operations.
(2) Permian Deep Rock Oil Company requests variance for fence of the drill pad instead of individual well
(3) Permian Deep Rock Oil Company requests a variance to the requirement of landscaping and irrigation due to no city water is available.
(4) Permian Deep Rock Oil Company requests variance to the Road Repair Agreement due to no city streets will be used.

Attachments: Applications; Location maps; Exhibit - Drill site maps, Exhibit – Flow Line Location.

Robert Patrick

Morris William Jr.

City Manager's Office

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
04/01/2022	Permian Deep Rock Oil Co., LLC	P.O. Box 11405 Midland, TX 79702

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele.
Kyle M. Hammond	500 W. Wall St. Ste 300 Midland, TX 79701	432-682-6685 Rep. Fax 432-684-4519
Fee: $4,000.00 Rec'd Yes ✓ No___	**NOTE: All attachments need to bound and put in a binder before submitting.**	**Pages 1-4**

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (Tele.): **No. 2 (Tele.):**

Option B:

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):*** See Exhibit "A"

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

See Exhibit "A"

Other Permitted Wells in City ***(ATTACH EXHIBIT B*** **[see § J(26)]).** See Exhibit "B"

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1.

2.

3.

ATTACHED AS EXHIBIT C **is** List of subdivisions

See Exhibit "C"

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location): Surface use: Undeveloped Rangeland, hotels, service company yards
Surface ownership: Hotels and service company yards:

See Exhibit "D"

ATTACHED AS EXHIBIT D **is** ,

Current Tax Roll from Midland Central Appraisal District), **which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].**

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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)].**

IV. Well & Operations Information

Proposed Well Name: Mustang 110 MIPA Unit #H110SS

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

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 110' FSL & 2,335' FWL, Section 2
Block 39, T-2-S, T&PRR Co. Survey, Midland County, Texas

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

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

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

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

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

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

***ATTACHED AS EXHIBIT M*: No city roads will be used**

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

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

(1) Drilling: None

(2) Operations: Oncor

Description of water source to be used during Drilling: Water is to be piped in from our water wells, drill additional water wells or truck fresh water in. All brine water will be trucked in.

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

See Exhibit "N"

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Trench and encapsulate per TXRRC Rule 27(c)(10)(v)

See Exhibit "O"

V. Additional Required Exhibits

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

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

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

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

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

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

ATTACHED AS EXHIBIT V: Applicants variances

Permian Deep Rock Oil Company
[NAME OF COMPANY]

By _____
Its General Manager

State of Texas)

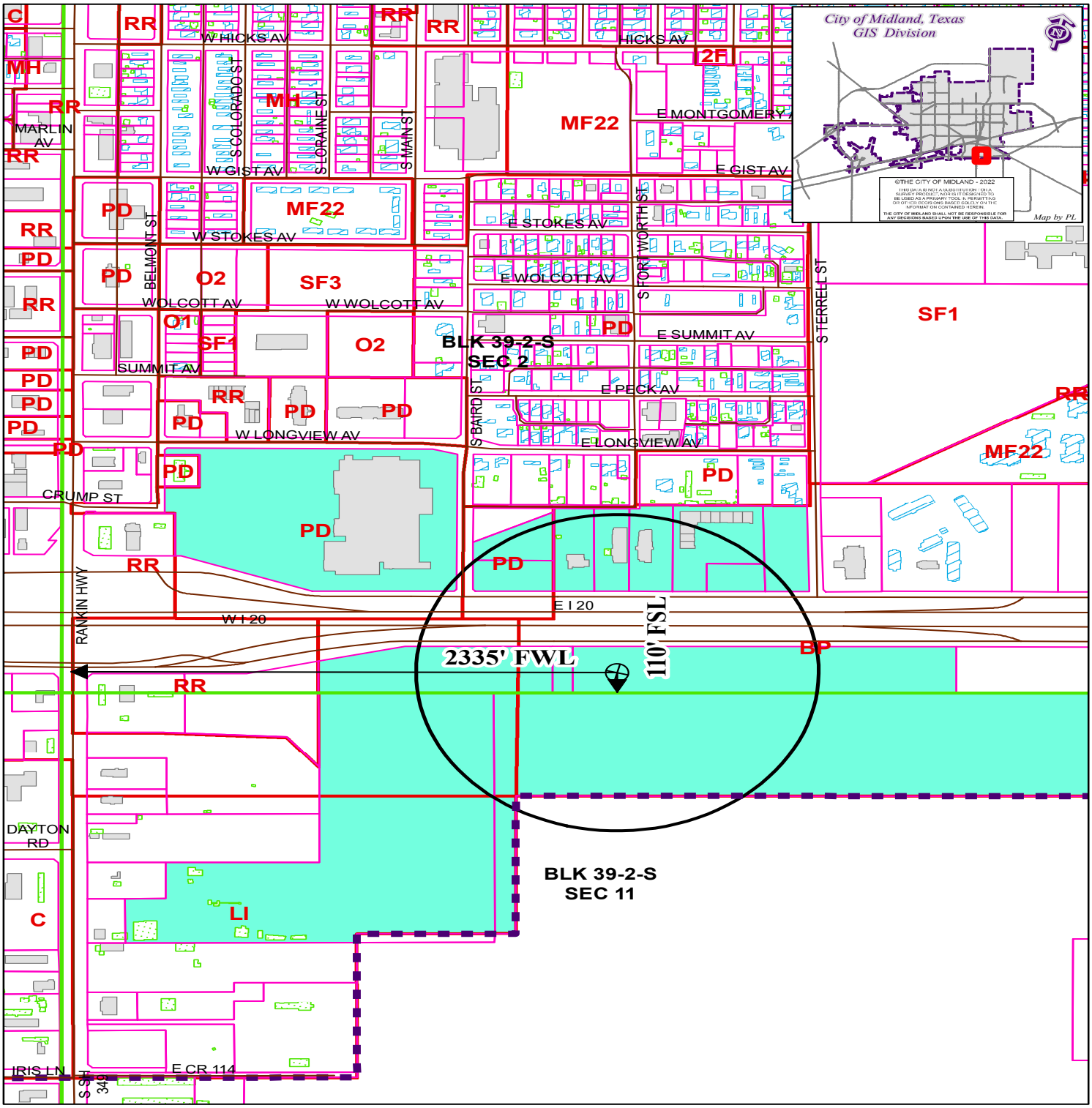
County of Midland)

Kyle Hammond , 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.

Estella Pena
Notary Public, State of Texas

[S E A L]

ESTELLA PENA
Notary Public, State of Texas
My Commission Expires
August 03, 2025
NOTARY ID 13123361-8



LOCATION AND ZONING MAP

Oil - 042883 - 2022 **Scale: 1" = 600'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 110' FSL and 2,335' FWL, Section 2, Block 39, T-2-S, T&P RR CO Survey, Midland County, Texas.

Generally located 2,335 feet east of Rankin Highway and 1,770 feet south of I-20.

Mustang 110 MIPA Unit #H110SS

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOW 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 "G"

SECTION 2, BLOCK 39, T2S, T. & P. RR. CO. SURVEY, A-688 &
SECTION 11, BLOCK 39, T2S, H. MCCLINTIC SURVEY, A-63
MIDLAND COUNTY, TEXAS

PERMIAN DEEP ROCK OIL CO., L.L.C.

TOPOGRAPHIC
LOYALTY INNOVATION LEGACY
1400 EVERMAN PARKWAY, Ste. 146 • FT. WORTH, TEXAS 76140
TELEPHONE: (817) 744-7512 • FAX (817) 744-7554
TEXAS FIRM REGISTRATION NO. 10042504
WWW.TOPOGRAPHIC.COM

MUSTANG CITY PERMIT	REVISION:	
	JRH	10/30/18
	DRH	09/23/21
	DRH	09/28/21
DATE: 06/13/2018	DRH	09/29/21
FILE: SK_MUSTANG_CITY_PERMIT_REV9	DRH	10/29/21
DRAWN BY: AMD	DRH	11/30/21
SHEET : 3 OF 8	DRH	12/10/21

NOTES:
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5. ADJOINER INFORMATION SHOWN FOR INFORMATIONAL PURPOSES ONLY.
6. D.R.M.C.T. = DEED RECORDS MIDLAND COUNTY, TEXAS
7. C.C.O.R.M.C.T. = C. C. OFFICIAL RECORDS MIDLAND COUNTY, TEXAS

STATE OF TEXAS REGISTERED
JEFFREY N. LUEDERS
6512
LICENSED PROFESSIONAL LAND SURVEYOR

JEFFREY N LUEDERS, R.P.L.S. No. 6512
SURVEYED ON THE GROUND: SEPTEMBER 20, 2020

S:\SURVEY\ARRINGTON\MUSTANG_UNIT\FINAL_PRODUCTS\SKETCH\SK_MUSTANG_CITY_PERMIT_REV9.DWG 12/10/2021 10:22:09 AM dharris

SCALE: 1" = 300'

0' 150' 300'

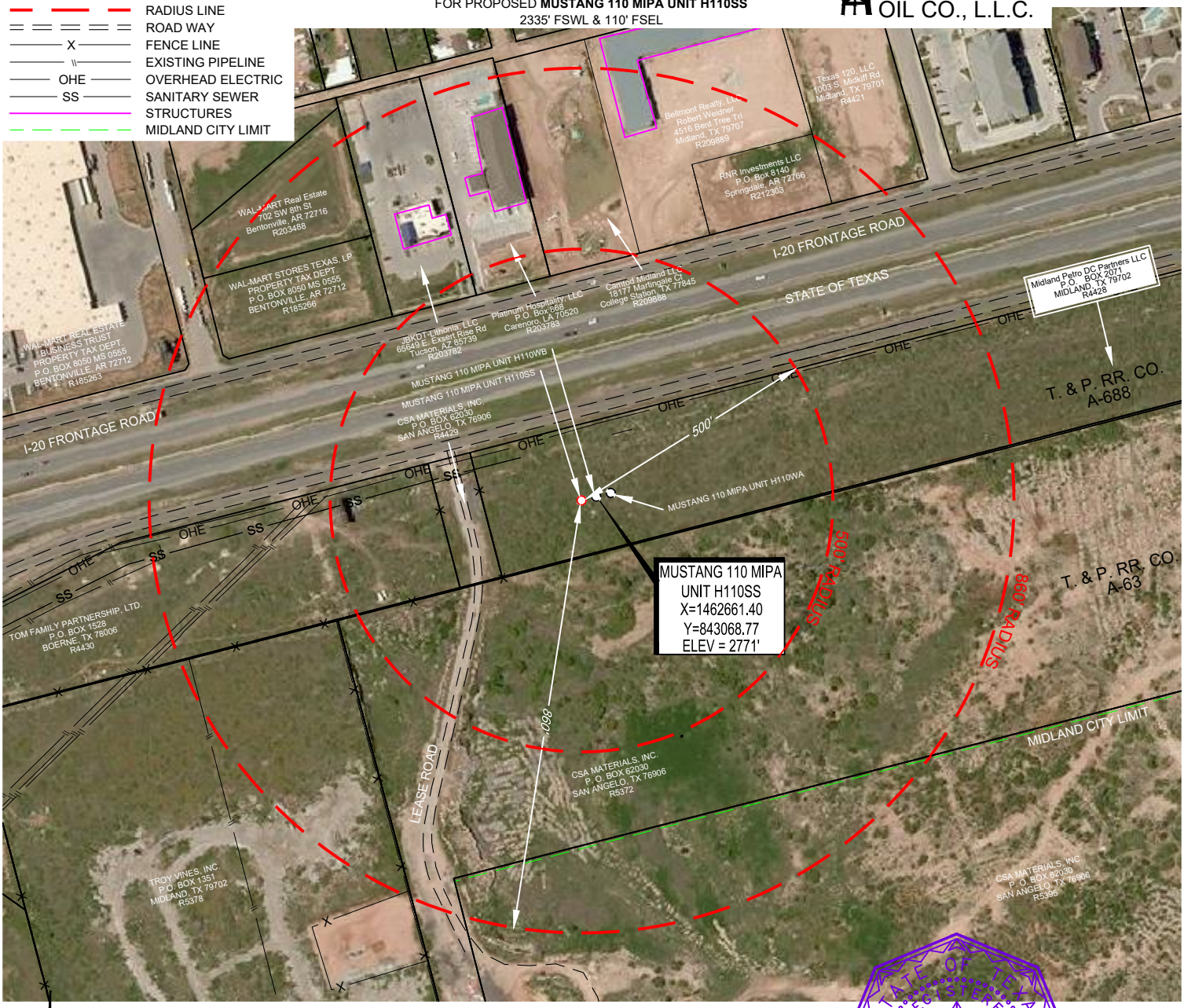
LEGEND

- SURVEY/SECTION LINE
- RADIUS LINE
- ROAD WAY
- FENCE LINE
- EXISTING PIPELINE
- OVERHEAD ELECTRIC
- SANITARY SEWER
- STRUCTURES
- MIDLAND CITY LIMIT

T. & P. RR. CO. SURVEY, A-688
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

SHOWING STRUCTURES WITHIN 500' RADIUS
AND PROPERTY OWNERS WITHIN 860' RADIUS
FOR PROPOSED **MUSTANG 110 MIPA UNIT H110SS**
2335' FSWL & 110' FSEL

PERMIAN DEEP ROCK OIL CO., L.L.C.



N

TOPOGRAPHIC
LOYALTY INNOVATION LEGACY
1400 EVERMAN PARKWAY, Ste. 146 • FT. WORTH, TEXAS 76140
TELEPHONE: (817) 744-7512 • FAX (817) 744-7554
TEXAS FIRM REGISTRATION NO. 10042504
WWW.TOPOGRAPHIC.COM

STATE OF TEXAS
REGISTERED
JEFFREY N. LUEDERS
6512
PROFESSIONAL
LAND SURVEYOR

Jeffrey N. Lueders, R.P.L.S. No. 6512
SEPTEMBER 20, 2021

MUSTANG 110 MIPA UNIT H110SS	REVISION: INT	DATE
DATE: 03/16/2022		
FILE: CD_MUSTANG_H110SS		
DRAWN BY: DAA		
SHEET : 1 OF 2		

NOTES:
1. ORIGINAL DOCUMENT SIZE: 8.5" X 11"
2. ALL BEARINGS, DISTANCES, AND COORDINATE VALUES CONTAINED HEREIN ARE GRID BASED UPON THE TEXAS COORDINATE SYSTEM OF 1927, CENTRAL ZONE, U.S. SURVEY FEET.
3. THIS PROPOSED LOCATION HAS BEEN CAREFULLY SURVEYED ON THE GROUND UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE ACCORDING TO THE EVIDENCE, OFFICIAL SURVEY RECORDS, MAPS, AND OTHER DATA PROVIDED PERMIAN DEEP ROCK OIL CO., LLC. THIS PLAT WAS CREATED FOR THE SOLE PURPOSE OF FILING A PERMIT WITH THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS AND SHOULD NOT BE CONSTRUED AS A "BOUNDARY SURVEY" IN COMPLIANCE WITH T.B.P.L.S. MINIMUM STANDARDS OF PROCEDURES FOR BOUNDARY SURVEYS. THIS CERTIFICATION IS MADE AND LIMITED TO THOSE PERSONS OR ENTITIES SHOWN ON THE FACE OF THIS PLAT AND IS NON-TRANSFERABLE.
4. OWNERSHIP INFORMATION SHOWN HEREON WAS TAKEN FROM THE CITY OF MIDLAND, TEXAS GIS SITE.
5. DISTANCES SHOWN HEREON TO EXISTING STRUCTURES ARE SCALED PER AERIAL MAP.

PACKET 15.9 June 14, 2022

City Council Meeting

Item Number: 16

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Kelly Martinez, Senior Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,399-SQUARE FOOT PORTION OF LOT 1, BLOCK 8, POLO PARK ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH GARFIELD STREET AND WEST LOOP 250 NORTH), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Joshua Hernandez, is requesting a Specific Use Designation (SUD) for the sale of all alcoholic beverages, for on-premises consumption, in a bar, located at 4610 N. Garfield Street, Suite C3.

Recommended City Council Action:

Approve

Fiscal Impact:

This proposal does not have a significant financial impact to the City.

Current Zoning:

PD, Planned Development District for a Shopping Center (Ordinance No. 7771)

Surrounding Zoning and Land Use:

The properties to north are zoned O-1, Office District, and PD, Planned District for a Housing Development, and are the locations of Quality Suites and Polo Park Retirement Center. The properties to the east are zoned SF-2, Single- Family Dwelling District, and PD, Planned District for a Shopping Center, and the location of single-family houses and Extra Space Storage. The property to the south is zoned SF-1, Single Family Dwelling District, and the location of the Midland Airpark. The properties to the west across Garfield Street are zoned LR, Local Retail District and PD, Planned District for a Shopping Center, and the locations of Fairfield Inn & Suites by Marriot Midland and Talbots.

Discussion:

The property is located at 4610 N. Garfield Street, Suite C3, in a PD, Planned District for a Shopping Center, which is regulated by Ordinance No. 7771. This zoning district permits the sale of all alcoholic beverages, for on-premises consumption, in a bar with the approval of a Specific Use Designation with Term.

The bar is currently not in operation and does not have a specific use designation for the sale of all alcoholic beverages. The floor plan attached hereto as “Exhibit A” illustrates that the establishment, will have a total square footage of 4,399 square feet, with an alcohol serviceable area of 3,200 square feet. The site currently has adequate parking, access and internal circulation.

The proposed days and hours of operation and alcohol sales are the following:

Monday through Sunday from 11:00 a.m. to 2:00 a.m. (the following day)

Per Midland City Code, Section 5-4-4, Prohibited Places of Business:

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public-school, public-school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

There are no schools or churches within 300 feet of the property.

This project has been circulated to all City departments for review. Below are the department comments.

Fire: (Approved)

No objections.

Engineering: (Approved)

No objections.

Transportation: (Approved)

No objections.

Building Code: (Approved)

The SUD for Element 14 is acceptable. The property must adhere to the maximum occupant load of 78 for the alcohol serviceable area. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Planning:

The request is in compliance with the *Tall City Tomorrow Comprehensive Plan, Chapter 6-Character Plan Goal 4, which is to* "Encourage the development of places where Midland residents can gather and socialize to build connections." (Tall City Tomorrow page 137) Element 14 is an establishment that will provide Midland residents with a unique social gathering experience.

This request is set to be heard at the June 6, 2022, Planning and Zoning Commission meeting.

Staff recommends approval of this Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, subject to conditions A through G.

Conditions:

A. That the alcohol serviceable area of the Bar shall be limited to approximately 3,200 square feet as shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.

B. That the days and hours of alcoholic beverages sales and consumption shall be limited to:

Monday through Sunday from 11:00 a.m. to 2:00 a.m. (the following day)

C. That the occupancy of the establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

D. That the establishment shall meet all requirements of the Fire Department and Code Administration.

E. That the sale and on-premises consumption of alcoholic beverages shall conform to applicable state and local laws.

F. That the applicant shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on premises consumption to ensure that the conditions of this permit are satisfied.

G. That in accordance with Section 9.07.E.3 of the zoning ordinance, the bar shall be in operation within 120 days from the final adoption date of this ordinance.

Letters of Objection:

As of June 1, 2022, staff has not received any letters of objections.

Attachments:

Application
Floor Plan (Exhibit A)
Site Plan (Exhibit B)
Maps
Ordinance No. 7771

Morris William Jr.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,399-SQUARE FOOT PORTION OF LOT 1, BLOCK 8, POLO PARK ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH GARFIELD STREET AND WEST LOOP 250 NORTH), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for a 4,399-square foot portion of Lot 1, Block 8, Polo Park Addition, Section 3, City and County of Midland, Texas (the "Property"), as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of all alcoholic beverages in a bar (the "Establishment") for on-premises consumption, together with the uses permitted in the present PD, Planned Development District for a Shopping

Center.

SECTION TWO. That the Property shall be subject to the following conditions and restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 3,200 square feet as shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to Monday through Sunday from 11:00 a.m. to 2:00 a.m. of the following day.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more

sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2022; 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., 2022, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2022.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

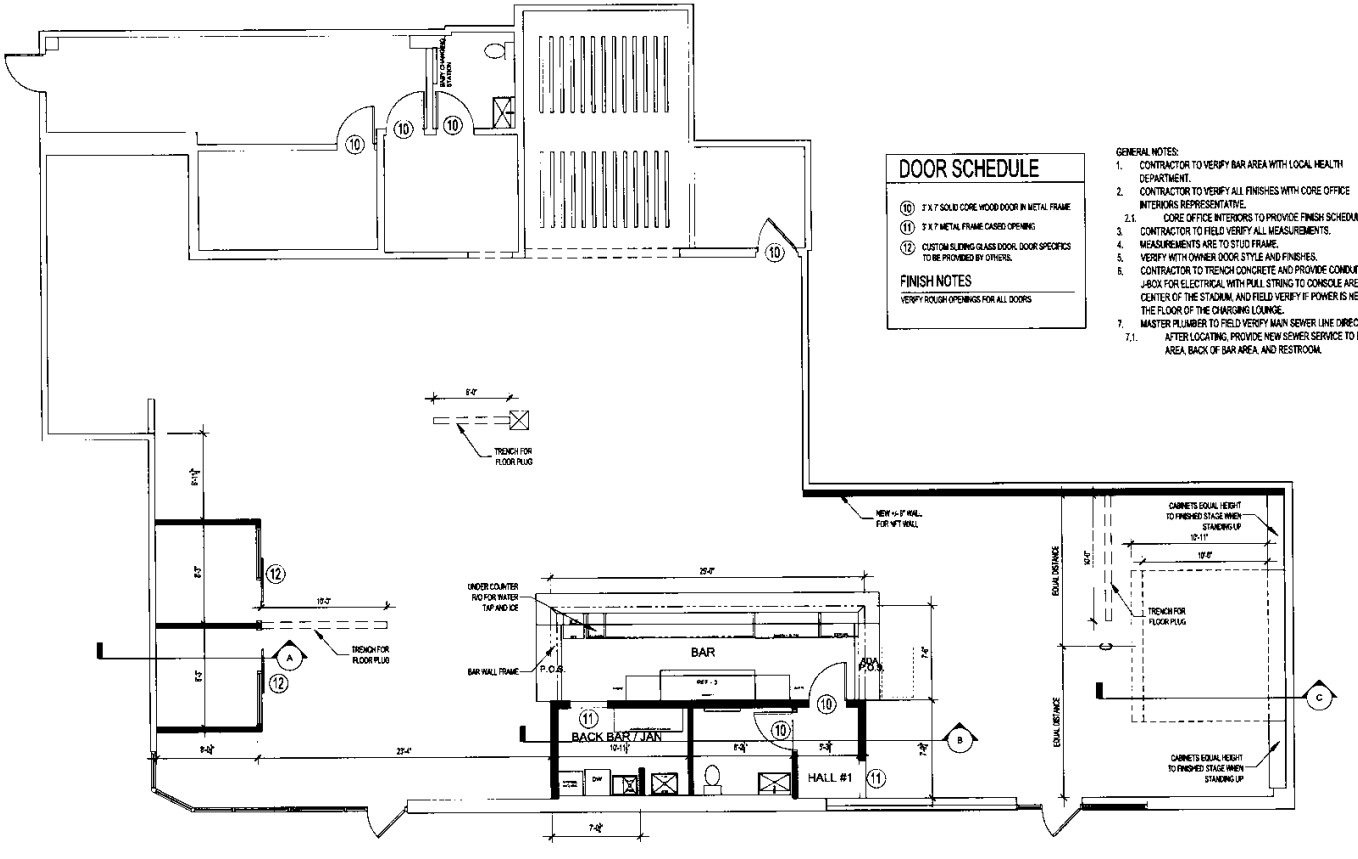
APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT "A"



A FLOOR PLAN
A-1.0 SCALE: 1/4" = 1'-0"

PRELIMINARY PLAN
THESE DOCUMENTS ARE INTERIM REVIEW AND ARE NOT INTENDED FOR CONSTRUCTION AND/OR PERMIT PURPOSES.

ELEMENT 14
MIDLAND, TEXAS

1	PRELIMINARY PLANS	03/28/22

DCI
CHAD WALTERS
432-352-0788
CHAD@MIDLAND-DCI.COM
WWW.MIDLAND-DCI.COM

PROJECT NUMBER: 2022028	
DRAWN BY:	CDW
CHECKED BY:	CDW

A-1.0

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MIDLAND Planning Division

Specific Use Designation with Term for the Sale of Alcoholic Beverages for On-Premises Consumption

Project Number: SUP-22-0131

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Joshua Hernandez		Phone (~~432~~) 528-9692 Email clt.josh@gmail.com	
Address: 1412 Mockingbird Lane	City: Midland	State: TX	Zip: 79705
Property Owner Printed Name: See Attached	Colonnade at Polo Park Woodcrest LP	Phone ( ) Email 817 927-0050	
Address: 3113 S University Drive	City: Fort Worth	State: TX	Zip: 76109
Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Street Address: 4610 N. Garfield Street #C3

Business Name: Element 14

Legal Description Lot: 10 Block: 8 Subdivision: Polo Park Sec. 3

Current Zoning:

Reason for Request: Applying for a Mixed Beverage Permit

Type of Business *(restaurant, bar, lounge, nightclub, etc.):* ~~Restaurant~~ BAR

Proposed/Current Days and Hours of Operation: Monday - Sunday

Proposed Days and Hours of Alcohol Service: 11:00 AM - ~~12:00 Midnite~~ 2 AM

Total Square Footage of Business: 4,399

Square Footage of Alcohol Serviceable Area: ~~4,399~~ 3,200

Restroom Fixtures:	*Men*	**Toilets/Urinals:** 1 / 1 /	**Bathroom Sinks:** /
	Women	**Toilets:** /	**Bathroom Sinks:** /

RECEIVED
APR 13 2022
BY: DR

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Floor Plan showing:
  - Seating
  - Exits
  - Restrooms
  - Kitchen (if applicable)
  - Total Square Footage
  - Serviceable Square Footage
- Dimensioned Site Plan showing: *Parking *Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)

Signatures

Applicant (signature): [signature] Date: 4-12-22

Applicant (printed): Josh Hernandez

Property Owner (signature): [signature] Date: 4.14.22

Property Owner (printed): James A Ruffel

The Specific Use Designation with Term for the sale of all alcoholic beverages shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials submitted in support of an application or displayed during a public hearing shall remain the property of the City of Midland.

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

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Josh Hernandez who, being by me duly sworn, upon oath says: That (s)he is authorized by James A Ruffel 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 13th day of April 2022, to certify which witness my hand and seal of office.

[signature]
Notary Public

DALIA SALINAS
My Notary ID # 128541568
Expires March 9, 2023

FOR OFFICE USE ONLY

☒ Property Owner Authorization	☒ Dimensioned Floor Plan
☒ Application Fee	☐ Site Plan
Check # 1154	☒ Plans in Digital Format (PDF/JPEG)

Received By: _____ Date: _____

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

Quality Suites
4.2 (256)
3-star hotel
4706
2100
Castleford Rd
4707
4703
4701
Midland Yoga Works
Magic Massage
Boren Orthodontics
Tuesday Morning
Home goods store
Farmers Insurance - Richard King
The Ox Nightclub and Dance Bar
Sapporo Ramen & Grill
Japanese · $$
Jason's Deli
A Kayser Christmas Experience
I Love Nails and Spa
Colonnade At Polo Park
Shopping mall
Foresight Sport
Sporting goods store
The Blue Door
The Fire Place
Fireplace store
Tkilaz Mexican
Mexican · $$
Chili's Grill & Bar
Tex Mex · $$
Carolina Skin Centre
Librado
Brew St. Brew and Food
Vegan · $$
Torrid
Plus size clothing store
N Garfield St
W Loop 250 N
Loop 250 Frontage Rd

ORDINANCE NO. 7771

AN ORDINANCE AMENDING ORDINANCE NO. 7324, WHICH ADOPTED A SITE PLAN FOR A "PLANNED DISTRICT" FOR A SHOPPING CENTER SO AS TO ADOPT AN AMENDED SITE PLAN; 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 amending the site plan for a "Planned District" for a Shopping Center by amending Ordinance No. 7324; 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 amend the site plan adopted by Ordinance No. 7324;

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

SECTION ONE. That the "Planned District" site plan adopted for the property described in Section One of

Ordinance No. 7324, specifically Lot 1, Block 8, Polo Park, Section III, City and County of Midland, Texas, shall be amended in its entirety as set forth in Exhibit "A", attached hereto and incorporated herein by reference subject to the following conditions:

A. That the maximum sign area for all free standing signs for this development not exceed 640 square feet.

B. That no future free standing sign associated with this development be allowed on the Loop 250 frontage.

C. That the Site Plan (Exhibits A & B) be adhered to in regard to the locations and types of signs proposed for this development.

SECTION TWO. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION THREE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared

unconstitutional or invalid.

SECTION FOUR. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION FIVE. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the 8th day of September, A.D., 1998; and passed to second reading on motion of Council member Brooks, seconded by Council member Cuevas, by the following vote:

Council members voting "AYE": Brooks, Cuevas, Wood, Brown, Burns, Simpson and Washburn

Council members voting "NAY": None

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member Brooks, seconded by Council member Cuevas, on the 22nd day of September, A.D., 1998, at a regular meeting of the City Council:

Council members voting "AYE": Brooks, Cuevas, Wood, Brown, Burns, Simpson and Washburn

Council members voting "NAY": None

PASSED AND APPROVED THIS 22nd **day of** September **,**

A.D., 1998.

Robt. E. Burns, Mayor

ATTEST:

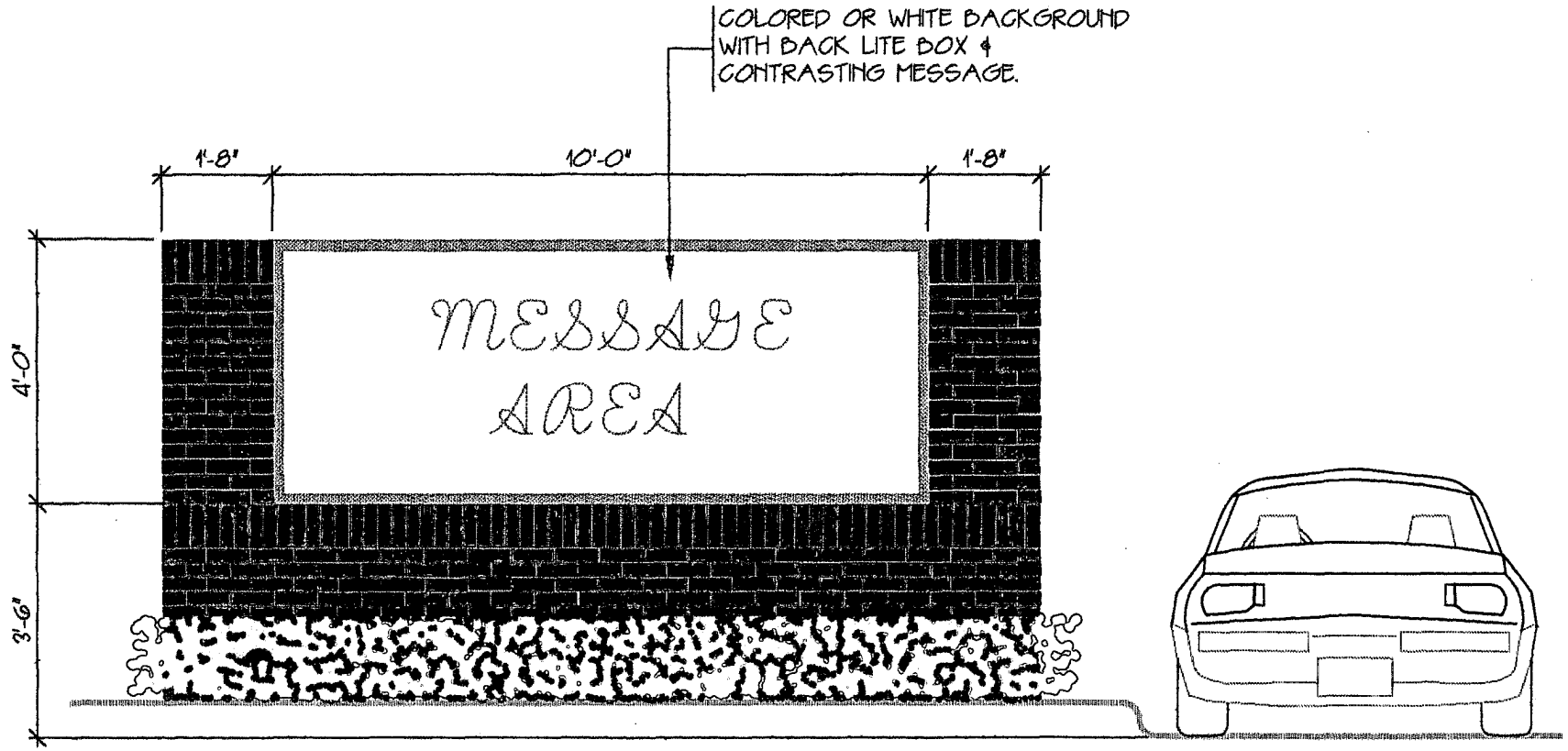
Kaylah J. McCord

Kaylah J. McCord, City Secretary

APPROVED AS TO FORM:

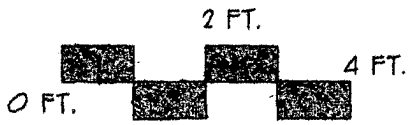
Keith Stretcher, City Attorney

ord\planning\plndist\Z-98-022 Red Oak



MONUMENT SIGN PROPOSAL

COLONADE SHOPPING CENTER
MIDLAND, TEXAS



RECEIVED
AUG 25 1998
PLANNING & DEVELOPMENT
CITY OF MIDLAND

VANDERGRIFF GROUP
ARCHITECTS • PLANNERS
312 N. BIG SPRING, SUITE 100 (915) 687-0781 MIDLAND, TEXAS
MEMBER AMERICAN INSTITUTE OF ARCHITECTS

8-11-98

EXHIBIT B CASE NO. Z-98-022

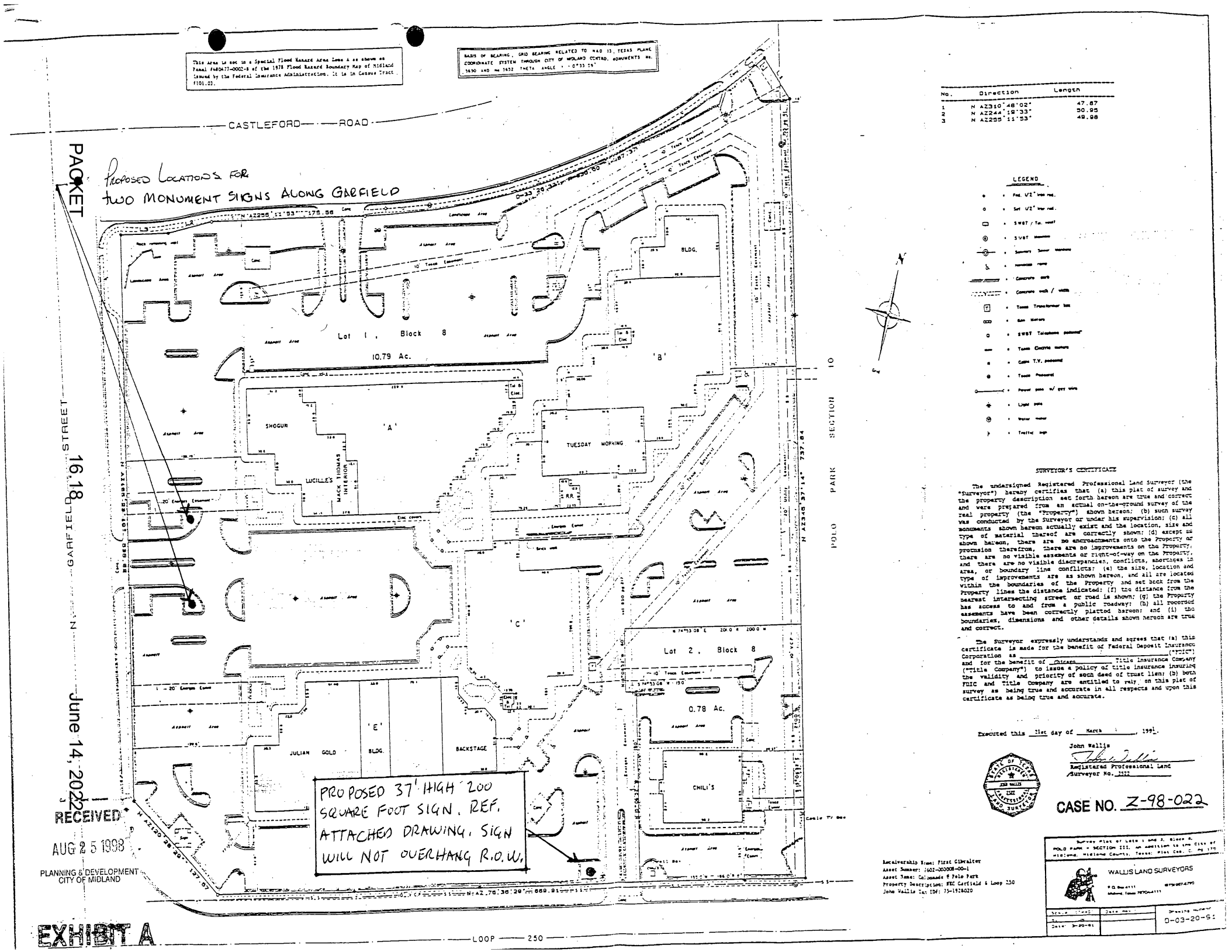
PACKET

June 14, 2022

16.18

RECEIVED
AUG 25 1998
PLANNING & DEVELOPMENT
CITY OF MIDLAND

EXHIBIT A



No.	Direction	Length
1	N AZ310°48'02"	47.87
2	N AZ244°19'33"	50.95
3	N AZ259°11'53"	49.98

LEGEND

- Fnd. 1/2" iron rod.
- Set 1/2" iron rod.
- SWBT / Tel. vault
- SWBT manhole
- Sanitary Sewer manhole
- Handicap ramp
- Concrete walk
- Concrete curb / valley
- Texas Transformer box
- Gas Marker
- SWBT Telephone pedestal
- Texas Electric marker
- Cable T.V. pedestal
- Texaco Pedestal
- Power pole w/ guy wire
- Light pole
- Water meter
- Traffic sign

SURVEYOR'S CERTIFICATE

The undersigned Registered Professional Land Surveyor (the "Surveyor") hereby certifies that (a) this plat of survey and the property description set forth hereon are true and correct and were prepared from an actual on-the-ground survey of the real property (the "Property") shown hereon; (b) such survey was conducted by the Surveyor or under his supervision; (c) all monuments shown hereon actually exist and the location, size and type of material thereof are correctly shown; (d) except as shown hereon, there are no encroachments onto the Property or protrusion therefrom, there are no improvements on the Property; there are no visible easements or right-of-way on the Property; and there are no visible discrepancies, conflicts, shortages in area, or boundary line conflicts; (e) the size, location and type of improvements are as shown hereon, and all are located within the boundaries of the Property and set back from the Property lines the distance indicated; (f) the distance from the nearest intersecting street or road is shown; (g) the Property has access to and from a public roadway; (h) all recorded easements have been correctly plotted hereon; and (i) the boundaries, dimensions and other details shown hereon are true and correct.

The Surveyor expressly understands and agrees that (a) this certificate is made for the benefit of Federal Deposit Insurance Corporation as _____ ("FDIC") and for the benefit of Chicago Title Insurance Company ("Title Company") to issue a policy of title insurance insuring the validity and priority of such deed of trust lien; (b) both FDIC and Title Company are entitled to rely on this plat of survey as being true and accurate in all respects and upon this certificate as being true and accurate.

Executed this 21st day of March, 1991.

John Wallis

Registered Professional Land Surveyor No. 1572

CASE NO. Z-98-022

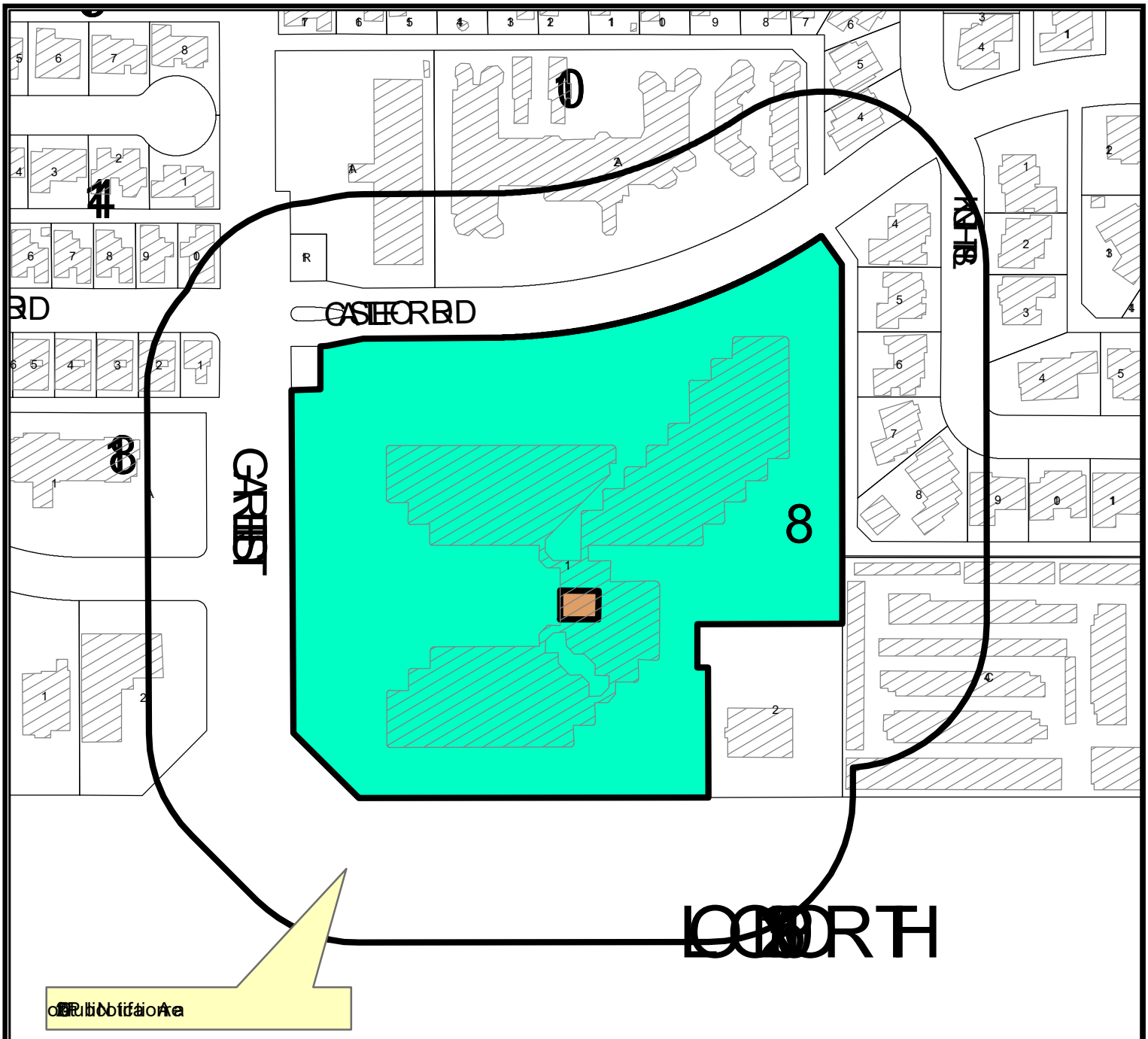
Receivership Name: First Gibralter
Asset Number: 1602-003008-00-1
Asset Name: Colonnade @ Polo Park
Property Description: NEC Garfield & Loop 250
John Wallis Tax ID#: 75-1918020

Survey Plat of Lots 1 and 2, Block 8, POLO PARK - SECTION III, an addition to the City of Midland, Midland County, Texas; Plat Cab. C Pg. 170

WALLIS LAND SURVEYORS

P.O. Box 4111
Midland, Texas 79704-4111
915/697-6790

Scale	Date Rev.	Drawing number
1" = 100'		D-03-20-91
Date: 3-20-91		



LOCATION MAP

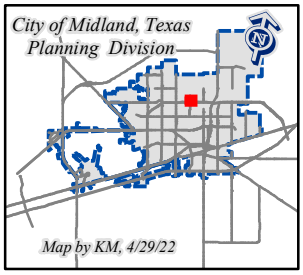
SUD-22-0131 **Scale: 1" = 200'**

Consider a request by Joshua Hernandez, for a Specific Use Designation with Term for the sale of all alcoholic beverages for on-premises consumption, in a bar, on a 4,399 square foot portion of Lot 1, Block 8, Polo Park Addition, Section 3, City and County of Midland, Texas.

Generally located on the northeast corner of the intersection of N. Garfield Street and W. Loop 250 North. (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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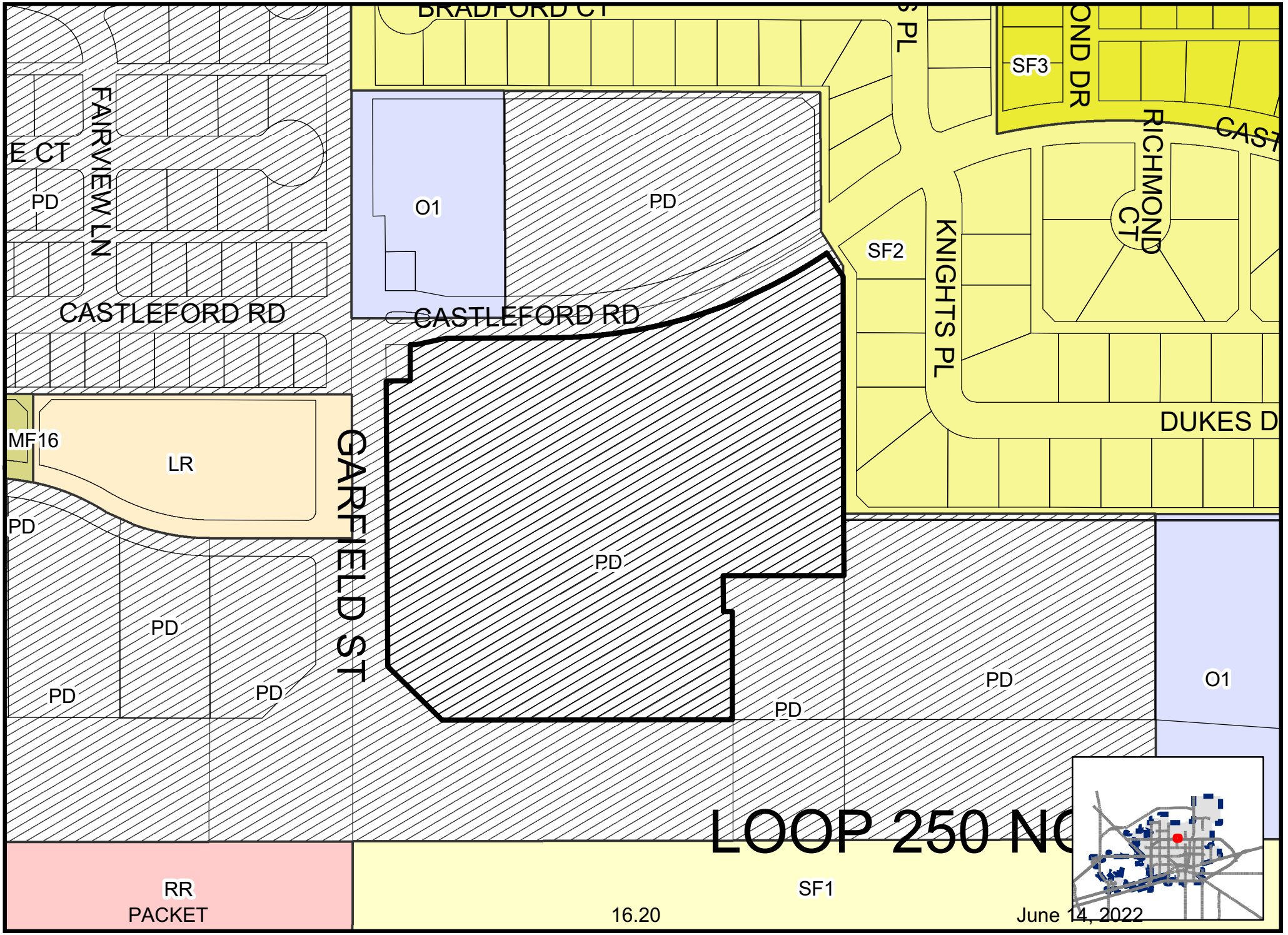

Map By KM, 4/29/22

SUD-22-0131

Scale: 1" = 200'

ZONING MAP

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Cindie's your romance store!
GOLF HEADQUARTERS

GOLF HEADQUARTERS
CLUB FITTING USING
FORESIGHT

LIBRADO

THE BLUE DOOR

City Council Meeting

Item Number: 17

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Kelly Martinez, Kelly Martinez

Subject: **AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 3,210-SQUARE FOOT PORTION OF LOT 33C, BLOCK 3, BRIARWOOD ADDITION, SECTION 16, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 428 FEET WEST OF NORTH MIDLAND DRIVE), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A NIGHTCLUB FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)**

Purpose:

The applicant, Julio Lozoya, is requesting a Specific Use Designation (SUD) for the sale of all alcoholic beverages, for on-premises consumption, in a nightclub, located at 4416 Briarwood Avenue, Suite #108.

Recommended City Council Action:

Approve

Fiscal Impact:

This proposal does not have a significant financial impact to the City.

Surrounding Zoning and Land Use:

The properties to the north, east, and south are zoned PD, Planned Development District and the locations of vacant land, a gas station, and Walmart. The property to the west is zoned RR, Regional Retail District, and the location of Family Care Clinic.

Discussion:

The property is located at 4416 Briarwood Avenue, in a PD, Planned District for a Shopping Center, which is regulated by Ordinance No. 6332. This zoning district permits the sale of all alcoholic beverages, for on-premises consumption, in a nightclub with the approval of a Specific Use Designation with Term. This property was previously occupied by Mr. Vapes, an E-Cig and Hookah Lounge, which had a Specific Use Designation (SUD) for on premises consumption in a lounge. However, the SUD expired back in January 2022. Thus, requiring Y Knot to apply for a new SUD.

Y Knot is currently in operation. The floor plan attached hereto as “Exhibit A” illustrates that the establishment, has a total square footage of 3,210 square feet, with an alcohol serviceable area of 2,587 square feet. The site currently has adequate parking, access, and internal circulation.

The proposed days and hours of operation including alcohol sales are the following:

Tuesday through Saturday from 6:00 p.m. to 2:00 a.m. (the following day)

Per Midland City Code, Section 5-4-4, Prohibited Places of Business:

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public-school, public-school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

There are no schools or churches within 300 feet of the property.

This project has been circulated to all City departments for review. Below are the department comments.

Fire: (Approved)

No objections to zone change request.

Engineering: (Approved)

No objections.

Transportation: (Approved)

No objections.

Building Code: (Approved)

The SUD for Y Knot is acceptable. The property must adhere to the maximum occupant load of 253 for the alcohol serviceable area. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Planning:

The request is in compliance with the *Tall City Tomorrow Comprehensive Plan, Chapter 6-Character Plan Goal 4, which is to* "Encourage the development of places where Midland residents can gather and socialize to build connections." (Tall City Tomorrow page 137) Y knot offers a new concept to the nightlife in the city. This modern space provides Midland residents with a unique social gathering experience.

This request is set to be heard at the June 6, 2022, Planning and Zoning Commission meeting.

Staff recommends approval of this Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a nightclub, subject to conditions A through G.

Conditions:

A. **That the alcohol serviceable area of the nightclub shall be limited to approximately 2,587 square feet as shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.**

B. **That the days and hours of alcoholic beverages sales and consumption shall be limited to:**

Tuesday through Saturday from 6:00 p.m. to 2:00 a.m. (the following day)

C. **That the occupancy of the establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.**

D. **That the establishment shall meet all requirements of the Fire Department and Code Administration.**

E. **That the sale and on-premises consumption of alcoholic beverages shall conform to applicable state and local laws.**

F. That the applicant shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on premises consumption to ensure that the conditions of this permit are satisfied.

G. That in accordance with Section 9.07.E.3 of the zoning ordinance, the nightclub shall be in operation within 120 days from the final adoption date of this ordinance.

Letters of Objection:

As of June 8, 2022, staff has not received any letters of objections.

Attachments:

Application
Floor Plan (Exhibit A)
Site Plan (Exhibit B)
Maps
Ordinance No. 6332

Morris Williams Jr.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 3,210-SQUARE FOOT PORTION OF LOT 33C, BLOCK 3, BRIARWOOD ADDITION, SECTION 16, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 428 FEET WEST OF NORTH MIDLAND DRIVE), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A NIGHTCLUB FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for a 3,210-square foot portion of Lot 33C, Block 3, Briarwood Addition, Section 16, City and County of Midland, Texas (the "Property"), as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of all alcoholic beverages in a nightclub (the "Establishment") for on-premises consumption, together with the uses permitted in the present PD, Planned Development District for a

Shopping Center.

SECTION TWO. That the Property shall be subject to the following conditions and restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 2,587 square feet as shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to Tuesday through Saturday from 6:00 p.m. to 2:00 a.m. of the following day.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more

sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2022; 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., 2022, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2022.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

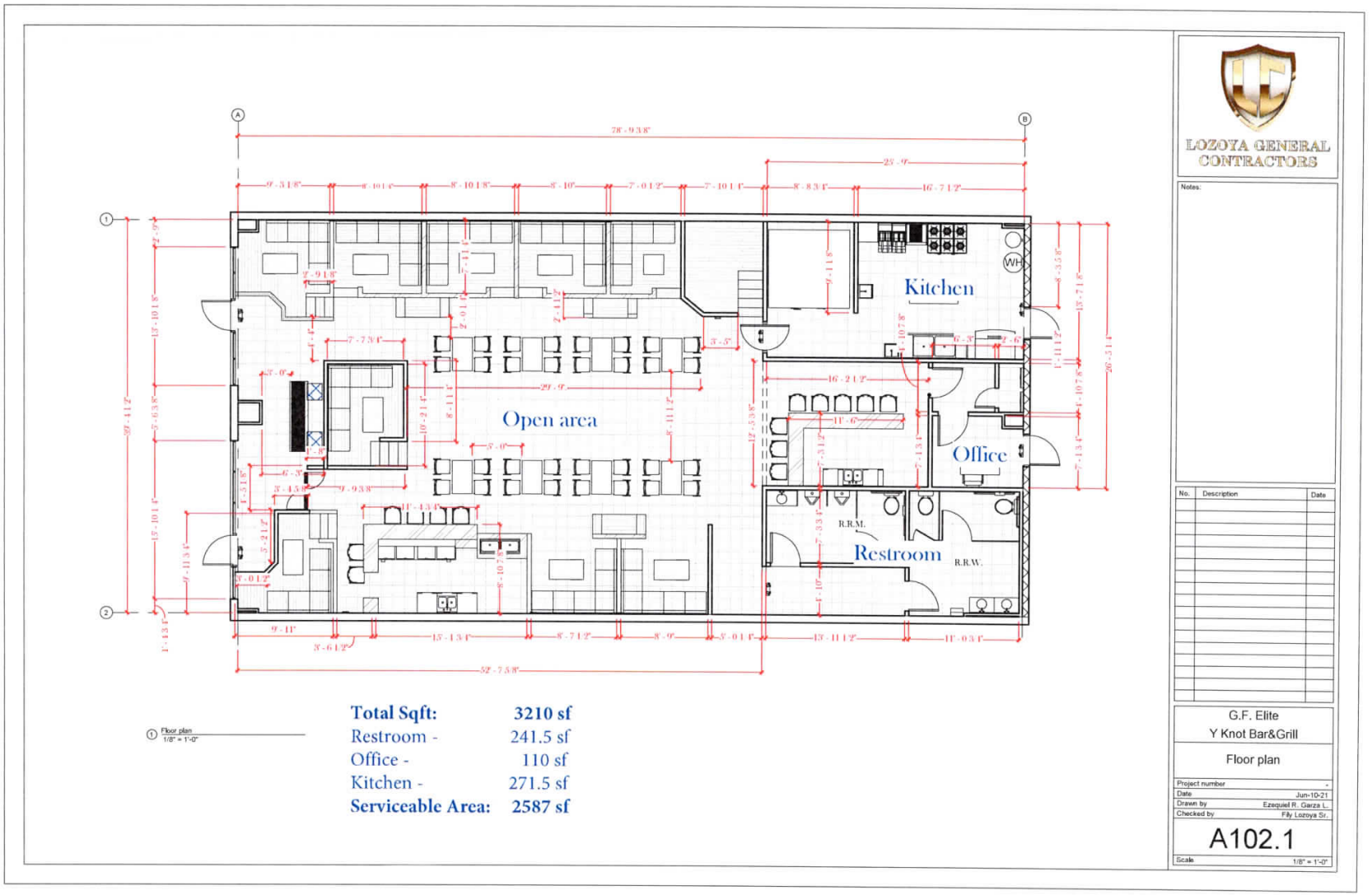
APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT "A"


LOZOYA GENERAL CONTRACTORS
Notes:
No. Description Date
Kitchen
Open area
Office
Restroom
R.R.M.
R.R.W.
WH
Total Sqft: 3210 sf
Restroom - 241.5 sf
Office - 110 sf
Kitchen - 271.5 sf
Serviceable Area: 2587 sf
Floor plan
1/8" = 1'-0"
G.F. Elite
Y Knot Bar&Grill
Floor plan
Project number -
Date Jun-10-21
Drawn by Ezequiel R. Garza L.
Checked by Fily Lozoya Sr.
A102.1
Scale 1/8" = 1'-0"

MIDLAND Planning Division

Specific Use Designation with Term for the Sale of Alcoholic Beverages for On-Premises Consumption

Project Number: SUB-22-0132

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Julio Lozoya		Phone (432) 770-3038 Email	
Address: 4416 N Briarwood	City: Midland	State: Texas	Zip: 79707

Property Owner Printed Name: The shops at Briarwood, LLC		Phone (432) 682-4081 Email	
Address: 4416 Briarwood	City: Midland	State: Texas	Zip: 79707

Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Street Address: 4416 N Briarwood

Business Name: Y Knot Entertainment

Legal Description
Lot: 33C Block: C03 Subdivision: Briarwood Section 1b

Current Zoning:

Reason for Request: to sell alcohol

Type of Business *(restaurant, bar, lounge, nightclub, etc.)*:

Proposed/Current Days and Hours of Operation: Tuesday - Saturday 6pm - 2AM

Proposed Days and Hours of Alcohol Service: Tuesday - Saturday 6pm - 2AM

Total Square Footage of Business: ~~3,000~~ Sq/Ft 3210

Square Footage of Alcohol Serviceable Area: ~~2,600~~ Sq/Ft 2587

Restroom Fixtures:			
Men	**Toilets/Urinals:** 1 / 2	**Bathroom Sinks:** 1
Women	**Toilets:** 2	**Bathroom Sinks:** 2

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Floor Plan showing:
  - Seating
  - Exits
  - Restrooms
  - Kitchen (if applicable)
  - Total Square Footage
  - Serviceable Square Footage
- Dimensioned Site Plan showing: *Parking *Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)

Signatures

Applicant (signature):	Date: 5/5/2022
Applicant (printed): Julio Lozoya	
Property Owner (signature):	Date:
Property Owner (printed) :	

The Specific Use Designation with Term for the sale of all alcoholic beverages shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

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

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Julio Lozoya who, being by me duly sworn, upon oath says: That (s)he is authorized by Richard Samuel Hillman, 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 5th day of May, 2022, to certify which witness my hand and seal of office.

DALIA SALINAS
My Notary ID # 128541568
Expires March 9, 2023

Notary Public

FOR OFFICE USE ONLY

☒ Property Owner Authorization	☒ Dimensioned Floor Plan
☒ Application Fee	☐ Site Plan
Check # 323	☒ Plans in Digital Format (PDF/JPEG)
Received By: KM	Date: 5/5/22

MAY 05 2022

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

Parking Lot:
53,130 sqft

Address:

Yknot Entertainment, LLC
4416 Briarwood Ave.
Local # 108
Midland, TX
79707

LOZOYA GENERAL CONTRACTORS

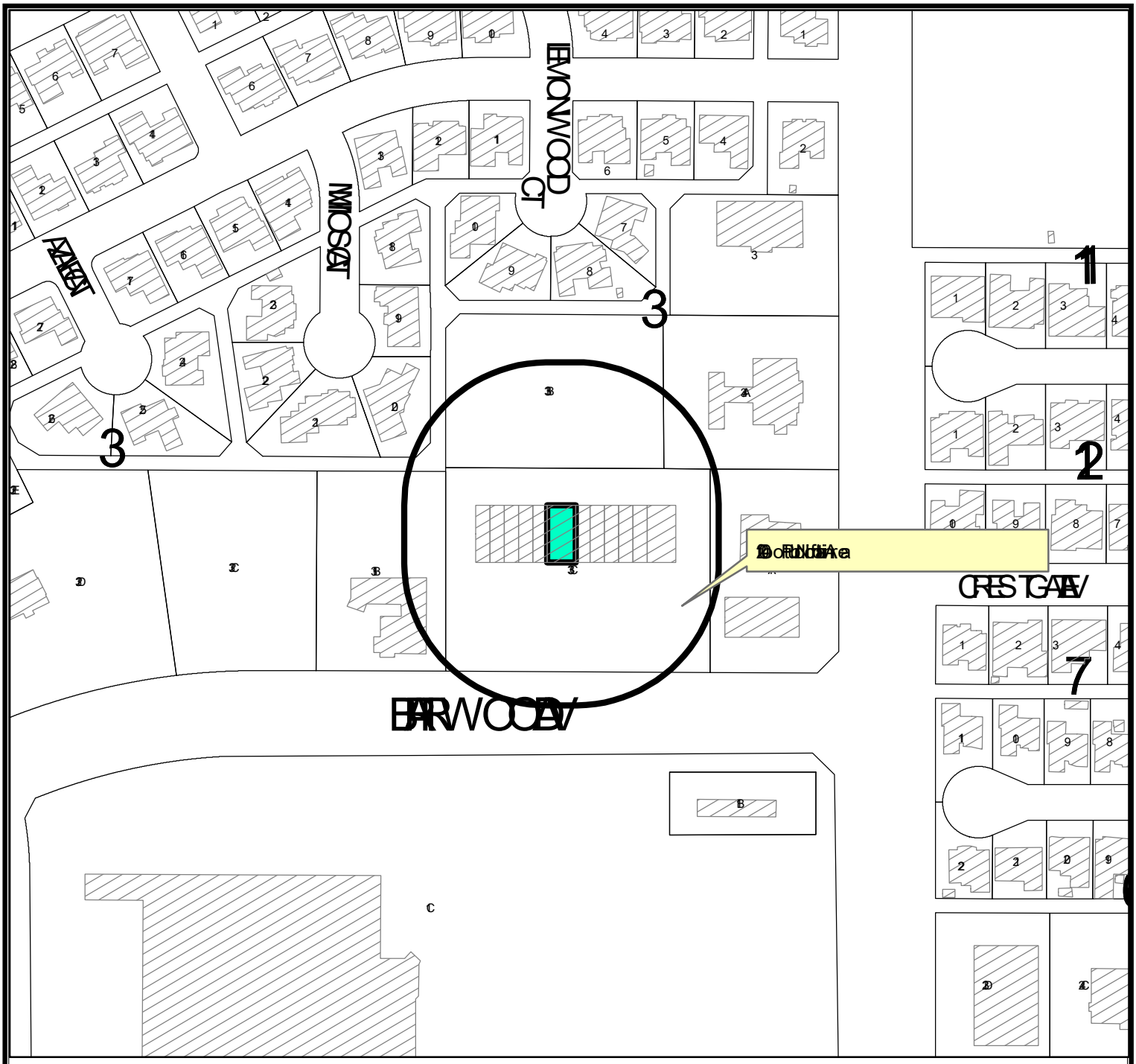
No.	Description	Date

G.F. Elite
Y Knot Bar&Grill
Localization

Project number -
Date Jun-10-21
Drawn by Fernando Leal M.
Checked by Fily

A101

Scale



LOCATION MAP

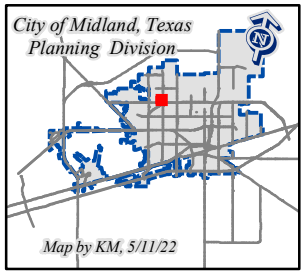
SUD-22-0132 **Scale: 1" = 200'**

Consider a request by Julio Lozoya, for a Specific Use Designation with Term for the sale of all alcoholic beverages for on-premises consumption, in a nightclub, on a 3,210 square foot portion of Lot 33C, Block 3, Briarwood Addition, Section 16, City and County of Midland, Texas.

Generally located on the north side of Briarwood Avenue, approximately 428-feet west of N. Midland Drive. (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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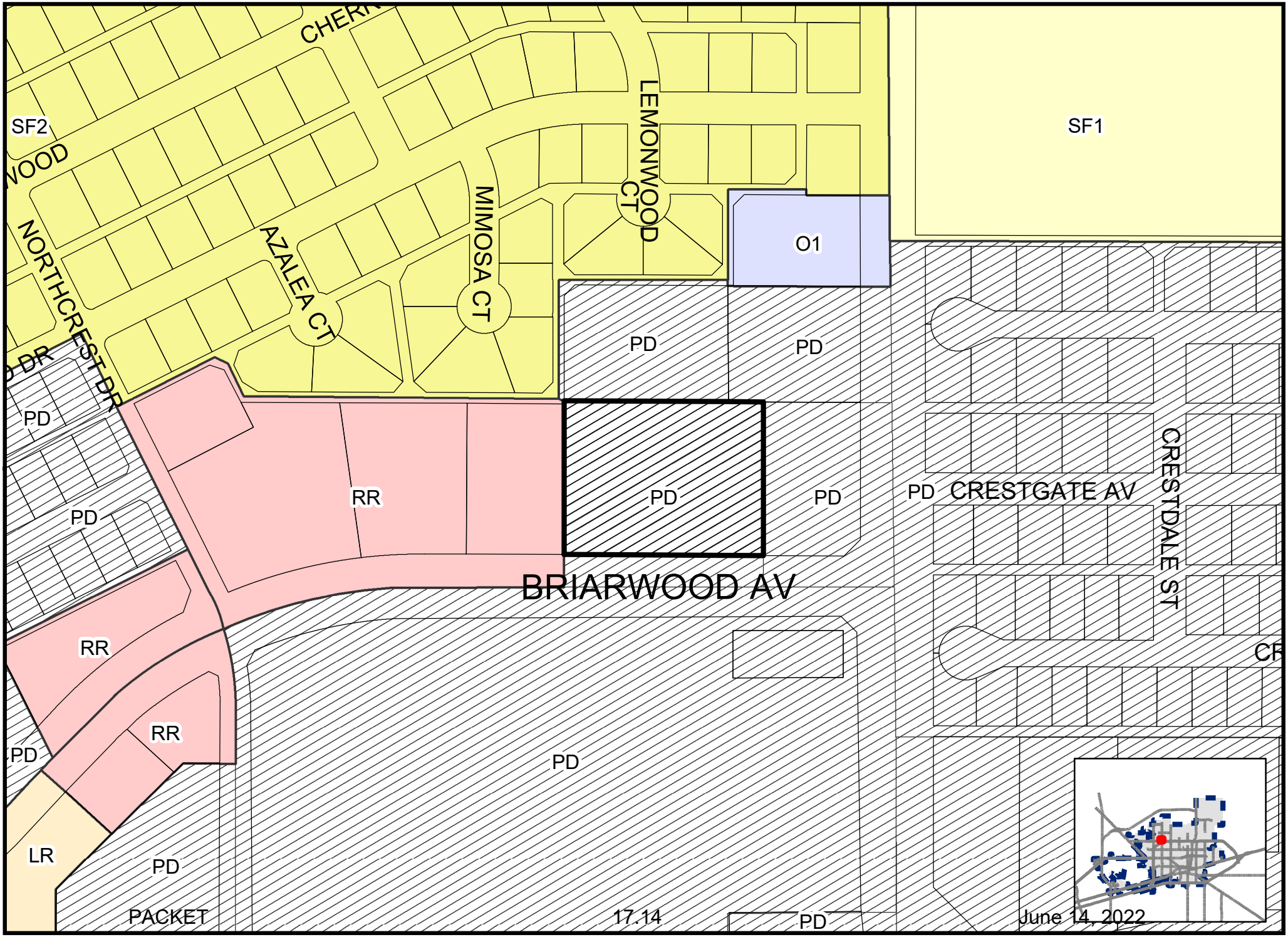

Map By KM, 5/11/22

SUD-22-0132

Scale: 1" = 200'

ZONING MAP

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NAILS
stripes
GameStop

SKY
MAZDA
TEXAS
NCW-8971

Y Knot
Express
Package+
DHL
FedEx

pr

ORDINANCE NO. 6332

AN ORDINANCE AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING THE PROPERTY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED "PLANNED DISTRICT" FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED "PLANNED DISTRICT" FOR A SHOPPING CENTER; PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; PROVIDING THAT THE PROPERTY SHALL BE IMPROVED ACCORDING TO THE ORDINANCES AND OTHER SPECIFICATIONS SET OUT AND REFERRED TO HEREIN; ADDING THE PROPERTY DESCRIBED IN SECTION ONE HEREOF TO THE FIRE DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF ONE THOUSAND DOLLARS ($1,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter and the State law with reference to the creation of "Planned Districts" under the zoning ordinance regulations and zoning map have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by the creation of the "Planned District" set out hereinafter and subject to the conditions and restrictions set out hereinafter;

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

SECTION ONE. That Chapter One, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned "Planned District" for a Shopping Center, and it shall be used as an Amended "Planned District" for a Shopping Center, subject to the special conditions and restrictions hereinafter set out.

Said property is described as follows:

A 28.08 acre tract of land in Section 6, Block X, H. P. Hilliard Survey, Midland County, Texas, being more fully described by metes and bounds as follows:

Beginning at a point in said Section 6, for the most southerly SE corner of this tract, from which the SE corner of said Section 6 bears S. 15° 04' 13" E., 35.00 feet and N. 74° 55' 47" E., 95.23 feet;

Thence N. 29° 49' 07" E., 49.54 feet to a point for the most easterly SE corner of this tract;

Thence N. 15° 17' 34" W., 24.90 feet to a point for an interior corner of this tract;

Thence N. 29° 49' 07° E., 21.17 feet to a point in the western boundary of Midland Drive, for an exterior corner of this tract;

Thence N. 15° 17' 34" W., 935.00 feet along the western boundary of Midland Drive, to a point for the NE corner of this tract;

Thence S. 74° 55' 47" W., 1,195.00 feet to a point for the most northerly NW corner of this tract;

Thence S. 30° 15' 16" W., 254.01 feet to a point for the most westerly NW corner of this tract;

Thence S. 59° 44' 44" E., 114.31 feet to a point of curvature of this tract;

Thence along the curved boundary of this tract, Delta Angle = 44° 40' 31" right, Radius = 462.40 feet, Tangent Length = 190.00 feet, and an Arc Length of 360.55 feet to a point of tangency this tract;

Thence S. 15° 04' 13" E., 425.00 feet to a point for the SW corner of this tract;

Thence N. 74° 55' 47" E., 1,115.50 feet to the place of beginning and containing 28.08 acres of land.

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

1. That the use and development of the property shall conform to all regulations applicable to an "LR-2", Local Retail District.

2. That the maximum floor area ratio applicable to all buildings and portions of buildings except those used for vehicle parking shall be .25:1.

SECTION THREE. That the Fire District be amended so as to add thereto the premises described in Section One hereof and the Building Inspector is authorized and directed to add to the Fire District Map said premises.

SECTION FOUR. That definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FIVE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION SIX. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SEVEN. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding one thousand dollars ($1,000.00).

SECTION EIGHT. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the 13th day of December, A.D., 1983; and passed to second reading on motion of Councilman Sloan, seconded by Councilman Godfrey, by the following vote:

Councilmen voting "AYE": Sloan, Godfrey, Hatfield, Davidson, Marcum and Akins

Councilmen voting "NAY": None

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Councilman Godfrey, seconded by Councilman Sloan, on the 10th day of January, A.D., 1984, at a regular meeting of the City Council:

Councilmen voting "AYE": Godfrey, Sloan, Marcum, Hatfield, Akins and Davidson

Councilmen voting "NAY": None

PASSED AND APPROVED THIS 10th day of January, A.D., 1984.

G. Thane Akins, Mayor

ATTEST:

J. W. McCullough, City Secretary

APPROVED AS TO FORM:

J. M. Nuessle, City Attorney

City Council Meeting

Item Number: 18

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Paul Rodriguez, Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 3.570-ACRE TRACT OF LAND OUT OF SECTION 9, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM SF-1, SINGLE-FAMILY DWELLING DISTRICT TO BP, I-20 BUSINESS PARK DISTRICT (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST COUNTY ROAD 110, APPROXIMATELY 150 FEET EAST OF SOUTH COUNTY ROAD 1205); 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 (DISTRICT 2) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Frank Mendoza, is requesting a Zone Change from SF-1, Single Family Dwelling District to BP, Business Park District at 2605 W. County Rd. 110, to allow for a truck yard and facility.

Recommended City Council Action:

Deny

Fiscal Impact:

This request does not require any City funds.

Discussion:

Analysis:

The applicant is requesting this zone change for the purposes creating a truck yard and facility.

This proposed zone change has been circulated to the respective City departments for internal

review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No objections.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2020 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary. Code versions are subject to change depending on time of new code edition adoption in the City of Midland and date of permit application.

Engineering: (Approved)

No objections to zone change. [For the Applicant's information only] Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

Oil & Gas Review: (Approved)

No Oil and Gas Issues. Informational: No Oil or Gas wells identified within 500 ft. permitted well radius or in the 135 ft. non-permitted well radius of location on plat. Please note if oil & gas wells are not identified or left off of plat, this could prevent receiving city permits for structures. Any plugged and abandoned well would need to be identified.

GIS: (Approved)

No comments.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.] No objection to zone change. [For the Applicant's information only.]

Planning (Denied):

The proposed development falls under a mix of circumstances surrounding the comprehensive plan. In some regards, the proposed development will propagate the goals and ideas of the

plan, but in others, it stands in stark opposition. This request is a mixed bag when it comes to compliance with the Tall City Tomorrow Comprehensive Plan, Chapter 3 An Integrated Land Use Vision.

The Tall City of Tomorrow Comprehensive Plan, Chapter 3, An Integrated Land Use Vision, “Development Policy Areas” labels this area as part of the ‘Southside’. In where it is defined as a scattered development area that represents a mixture of residential and light industrial. Its goal is to represent a well-established long-term plan, minimum building standards that assist improving life safety in the area and create a more consistent land use pattern. This development will not be consistent to the established neighborhood pattern.

This proposed development fits with the Tall City Tomorrow Comprehensive Plan, Chapter 3, An Integrated Land Use Vision, Future Land Use Map as this area calls for Business Park I-20. This designation calls for development area along the I-20 corridor where special consideration should be given to the image travelers have as they pass through Midland. This area would include sites suitable for industrial and business development adjacent to railroad and interstate access, important to the economic development of the region. However, by allowing this proposed development of a Truck Yard and Facility, it would represent a misfit of its already existing housing development and it would not represent that holistic development that incorporates retail and office uses that our travelers on I-20 would be able to benefit from.

The Planning & Zoning Commission recommended denial at the June 6th Planning Zoning Commission meeting.

Therefore, staff recommends denial of this zone change from SF-1, Single-Family Dwelling District to BP, Business Park District, however if approved; staff recommends that it should be subject to condition A.

Conditions:

A. That the use and development of this property shall conform to the regulations of the BP, Business Park District.

Letters of Objection:

Staff has received one letter of objection as of June 10, 2022.

Attachments:

Application
Maps
Plat

City Manager’s Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 3.570-ACRE TRACT OF LAND OUT OF SECTION 9, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM SF-1, SINGLE-FAMILY DWELLING DISTRICT TO BP, I-20 BUSINESS PARK DISTRICT (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST COUNTY ROAD 110, APPROXIMATELY 150 FEET EAST OF SOUTH COUNTY ROAD 1205); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning a 3.570-acre tract of land out of Section 9, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "A", which is attached hereto and incorporated herein (the "Property") to BP, I-20 Business Park District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from SF-1, Single-Family Dwelling District to BP, I-20 Business Park District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2022; 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., 2022, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2022.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

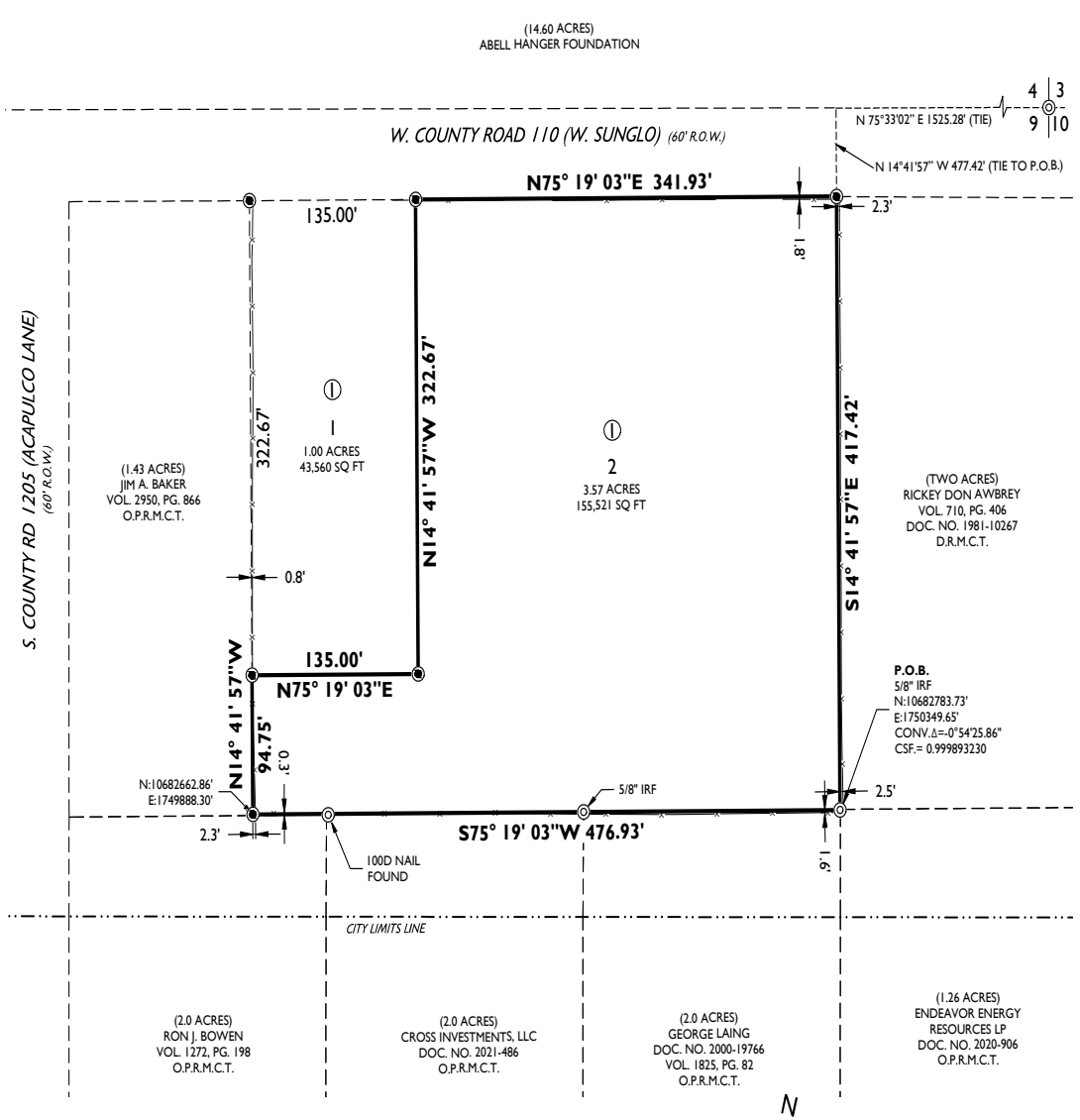
APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT "A"



FIELD NOTE DESCRIPTION OF A 3.57 ACRE TRACT OF LAND, BEING FULLY AND COMPLETELY DESCRIBED AS LOT 2, BLOCK 1, STALLION PARK ADDITION, BEING A PROPOSED SUBDIVISION SITUATED IN SECTION 9, BLOCK 39, TOWNSHIP 2 SOUTH, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND BEING PORTIONS OF THE THREE TRACTS OF LAND AS DESCRIBED IN DOCUMENT NUMBER 24248, IN VOLUME 2764 ON PAGE 575, OF THE OFFICIAL PUBLIC RECORDS (OPR) OF SAID MIDLAND COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT N.(y):10682783.73, E.(x):1750349.65, A FIVE EIGHTHS INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF A CALLED 2.0 ACRE TRACT, DESCRIBED IN DOCUMENT NUMBER 19766 IN VOLUME 1825 ON PAGE 82 OF SAID "OPR", FROM WHICH A ONE HALF INCH IRON ROD WITH A RED PLASTIC CAP MARKED "MAVERICK FIRM #10194514" (RPC) FOUND FOR THE NORTHEAST CORNER OF SAID SECTION 9 BEARS N.14°41'57"W., 477.42 FEET AND N.75°33'02"E., 1525.28 FEET AND BEING THE SOUTHEAST CORNER HEREOF;

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THENCE S.14°41'57"E., ALONG THE WEST LINE OF SAID CALLED TWO ACRE TRACT, 417.42 FEET TO THE **POINT OF BEGINNING**, CONTAINING 3.57 ACRES OF LAND.

LEGEND

◉	DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "MAVERICK FIRM #10194514"
◎	DENOTES FOUND MONUMENT AS NOTED
———	DENOTES BOUNDARY LINE
- - - - -	DENOTES EXISTING LOTS
———X———	DENOTES EXISTING FENCE
O.P.R.M.C.T.	OFFICIAL PUBLIC RECORDS, MIDLAND CO., TX
D.R.M.C.T.	DEED RECORDS, MIDLAND CO., TX
P.R.M.C.T.	PLAT RECORDS, MIDLAND CO., TX

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

REVISED: MARCH 29, 2022
FEBRUARY 2, 2022

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

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

MAVERICK
CIVIL ENGINEERING / LAND SURVEYING
1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-15089
SURVEY FIRM #: 10194514
Tel: (432) 262-0999 Fax: (432) 262-0989
www.Maverick-Eng.com

0' 100' 200' 300'

SCALE 1" = 100'

BEARING BASIS

BASIS OF BEARING, COORDINATES, DISTANCE AND ACREAGE ARE A LAMBERT CONICAL PROJECTION OF THE TEXAS COORDINATE SYSTEM, STATE PLANE GRID, CENTRAL ZONE, NAD 83 WITH A CONVERGENCE ANGLE (theta) OF -0°54'25.86" WITH A CSF OF 0.999893230 AT THE POINT OF BEGINNING.

BOUNDARY SURVEY

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MIDLAND
Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: 2-22-0292

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Frank H Mendoza		Phone ( ) Email	
Address 4606 W Illinois Ave	City Midland	State TX	Zip 79703

Property Owner Printed Name: see applicant		Phone ( ) Email	
Address	City	State	Zip

Representative *(if different from Applicant or Property Owner)* Firm: Maverick Engineering Printed Name: Paladin Huckaba		Phone (432) 262.0999 Email phuckaba@maverick-eng.com	
Address 1909 W wall st ste k	City midland	State tx	Zip 79701

Street Address: 2605 W CR 110

Legal Description
Lot: 2 Block: 1 Subdivision: (Proposed) Stallion Park Addition

Current Zoning: SF1

Proposed Zone: BP
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Change zoning to conform with adjacent BP zoning and proposed use for a trucking yard.

Present Use of Property: Vacant

Proposed Use of Property: Trucking yard and facility

How would this zone change affect the public health, safety and welfare?
Advance development of currently vacant property within the City of Midland

Describe how conditions affecting the property have changed since present zoning designation: Increased industrial and commercial development adjacent'/proximate this location.

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

RECEIVED
APR 08 2022
BY: CF

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature):	Date: 04/07/22
Applicant (printed): FRANK MENDOZA	
Property Owner (signature):	Date: 04/07/22
Property Owner (printed) :	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

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 Meller who, being by me duly sworn, upon oath says: That (s)he is authorized by Frank H Mendoza, 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 Meller
Authorized Agent (*signature*)

Subscribed and sworn to before me, this 8th day of April, 2022, to certify which witness my hand and seal of office.

Kelsey Ann Lewis
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

Kelsey Ann Lewis
My Commission Expires
2/19/2026
Notary ID
131456388

FOR OFFICE USE ONLY

☑ Property Owner Authorization	☑ Dimensioned Site Plan
☑ Application Fee	☑ Plans in Digital Format (PDF/JPEG)
Check # 3710	
Received By:	Date: 4-8-22

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

MAVERICK
ENGINEERING • SURVEY • WATER RESOURCES
1909 West Wall Street, Suite K • Midland, TX 79701
Tel: 432.262.0999 • Fax: 432.262.0989 • maverick-eng.com
ENGINEER FIRM #: F-15089 | SURVEY FIRM #:10194514

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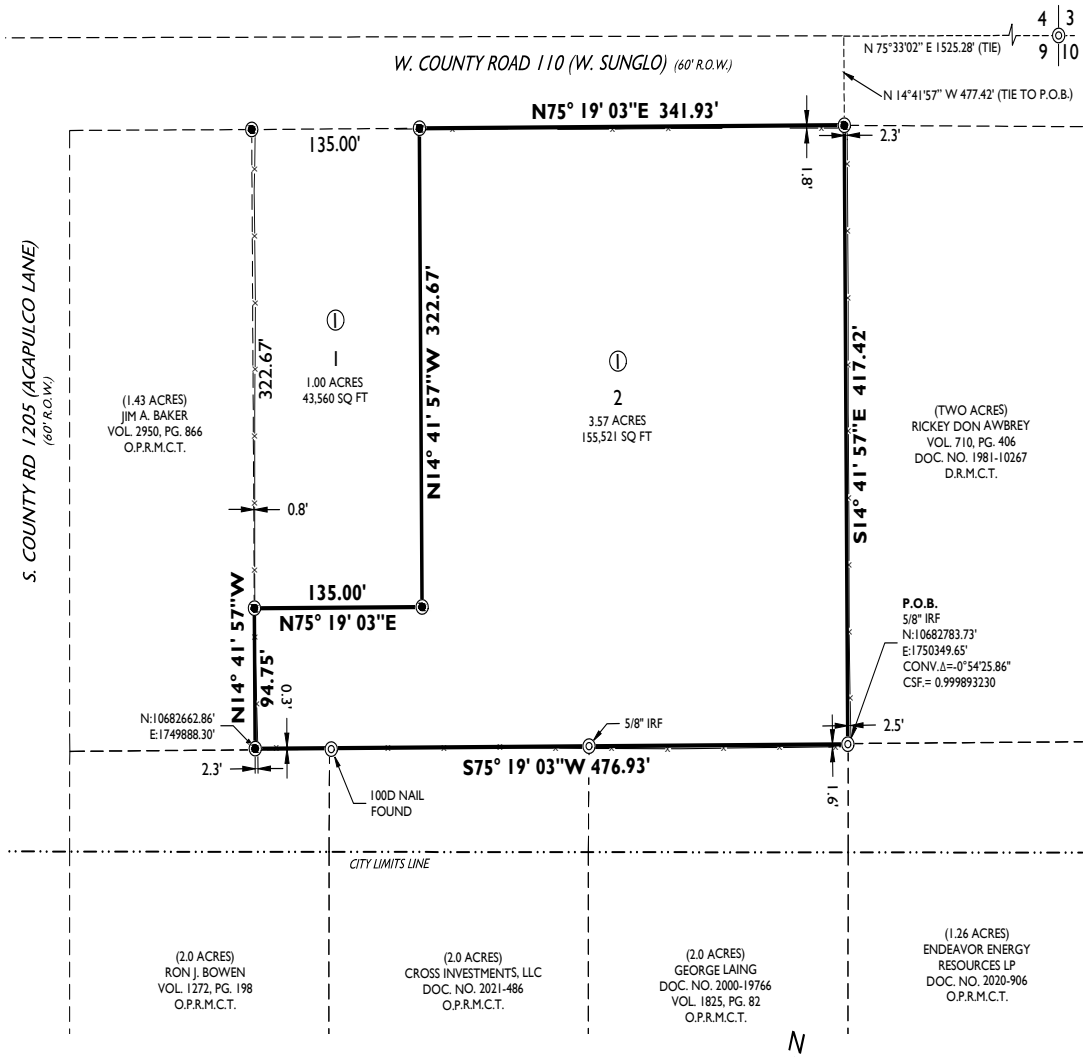
March 29, 2022

Gregory W. Shoults
www.maverick-eng.com
Texas RPLS - No. 5356
Maverick Engineering (FIRM – No. 10194514)



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REVISED: MARCH 29, 2022
FEBRUARY 2, 2022

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

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

MAVERICK
CIVIL ENGINEERING / LAND SURVEYING
1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-15089
SURVEY FIRM #: 10194514
Tel: (432) 262-0999 Fax: (432) 262-0989
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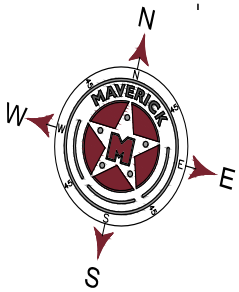

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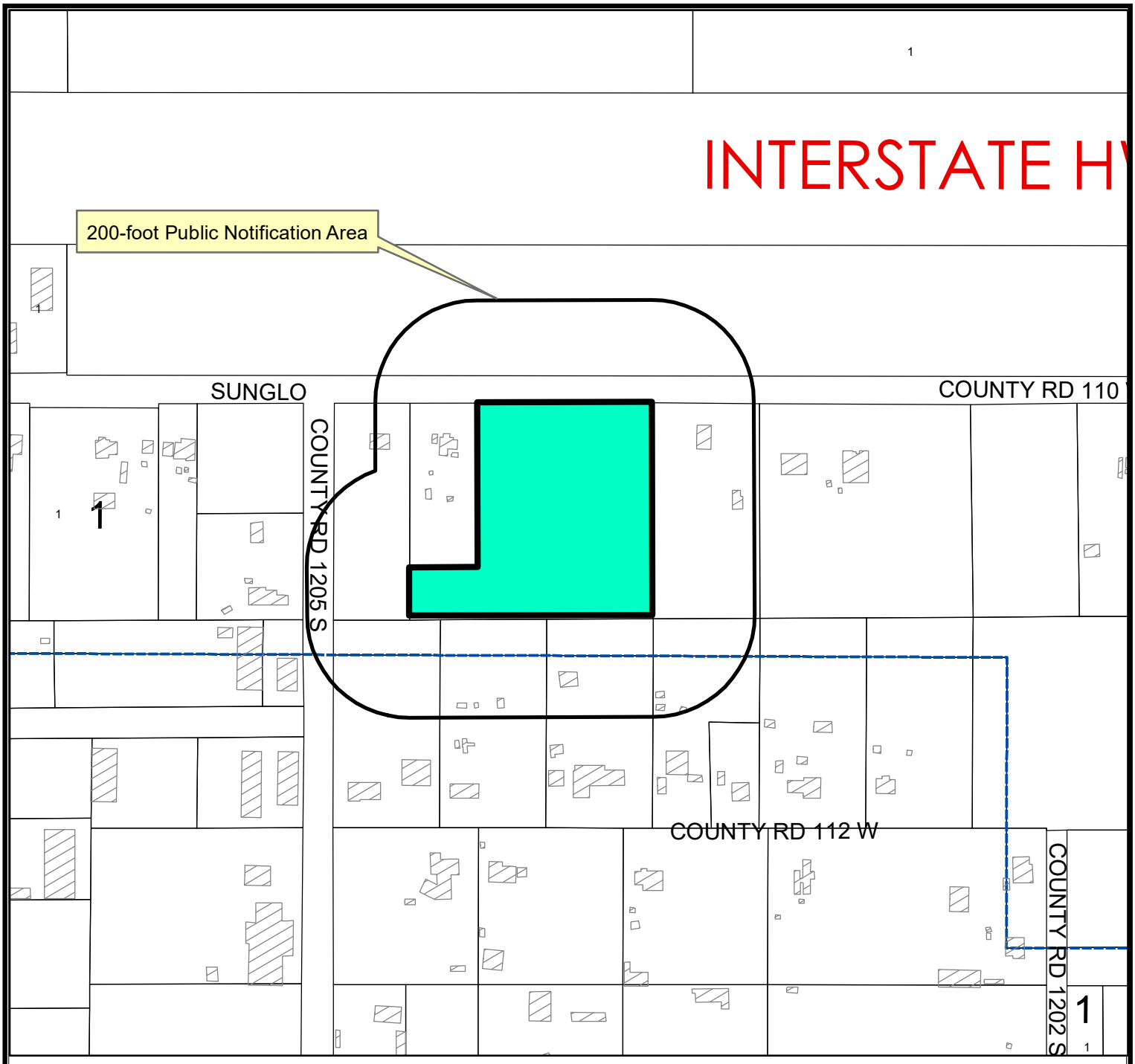
PACKET

Drawing : F:\2021\210208-RAUL DOMINGUEZ-SUNGLO TRACT\DRAWINGS\BOUNDARY SURVEY\210208 - BOUNDARY SURVEY.DWG Last Saved By: ADevine on 3/29/22



LOCATION MAP

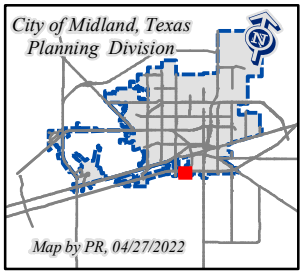
Z-22-0292 **Scale: 1" = 200'**

Consider a request by Frank Mendoza for a zone change from SF-1, Single-Family Dwelling District to BP, Business Park District on a 3.570 -acres tract of land out of Section 9, Block 39, T-2-S, RR. Co. Survey, Midland County, Texas.

Generally located on the south side of West County Road 110, approximately 150-ft east of South County Road 1205. (Council District 2)

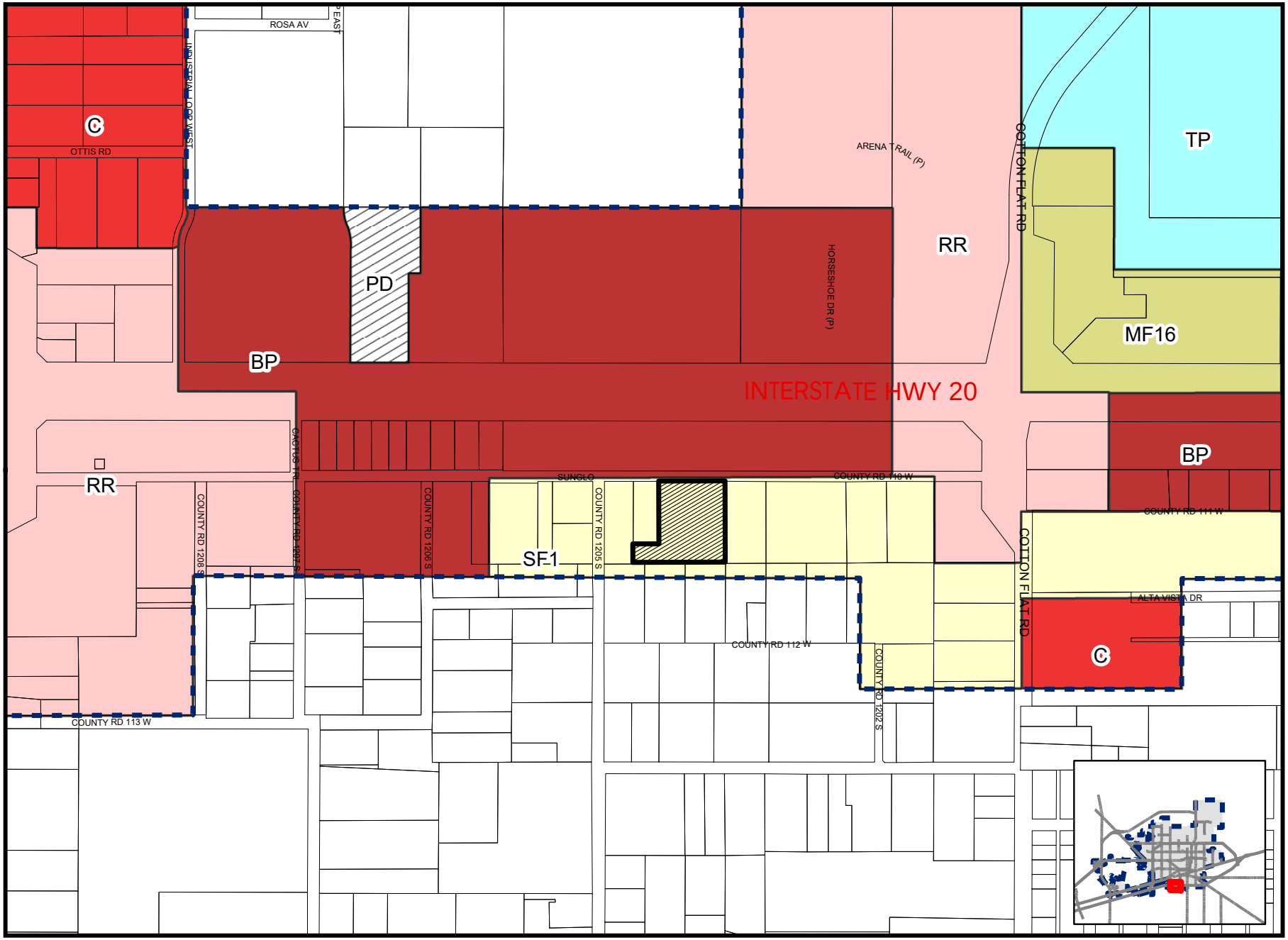
LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2021
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR PRIOR IS IT DESIGNED TO BE USED AS THE PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

June 14, 2022



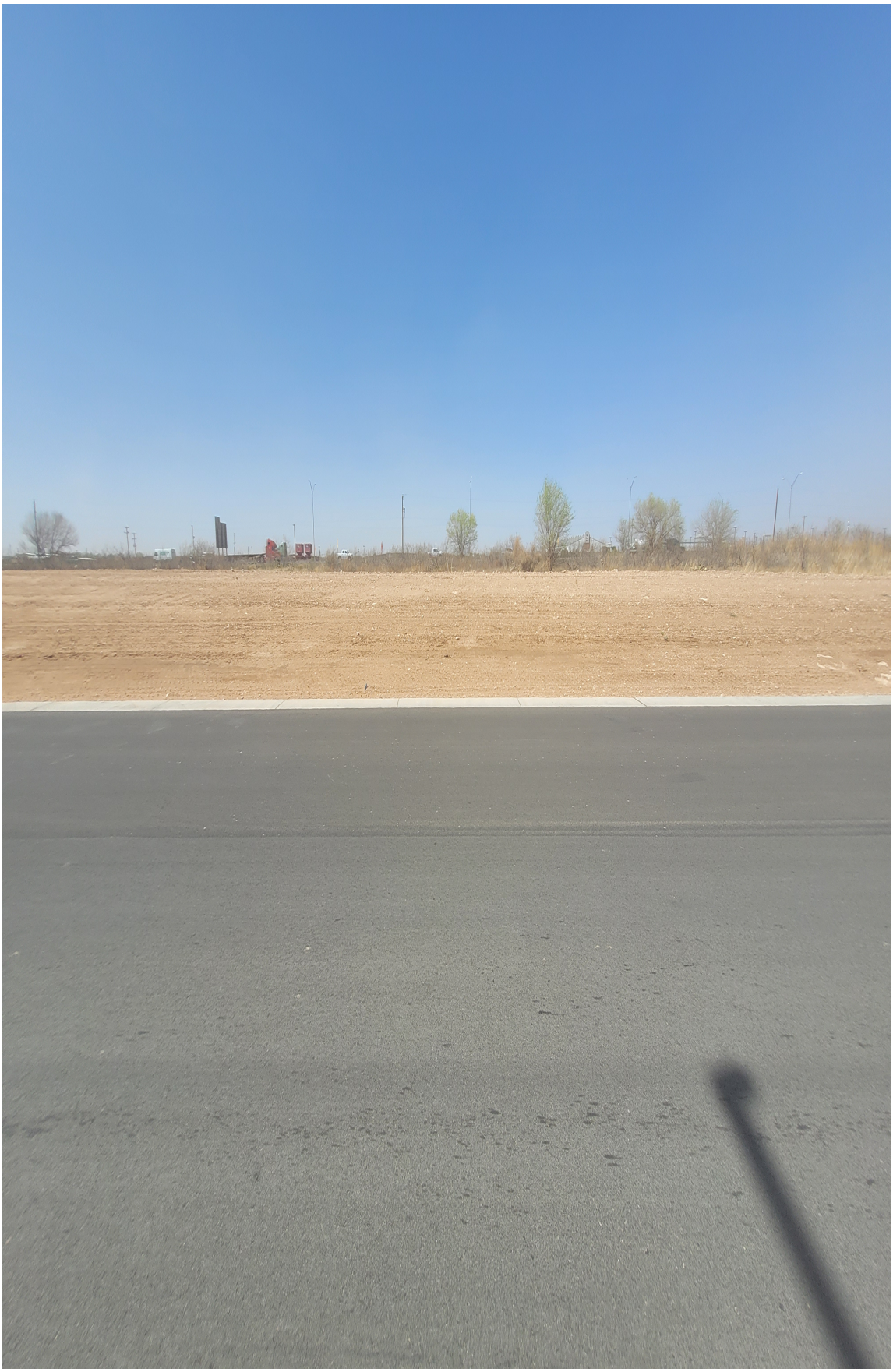
Map By ES, 5/12/2022

Z-22-0292

Scale: 1" = 4,000'

ZONING MAP

PACKET
18.13
June 14, 2022



MIDLAND
Planning Division

BAKER JIM A
2609 W COUNTY ROAD 110
MIDLAND TX 79706-3701

BY: .....

RECEIVED MAY 12 2021

PUBLIC NOTICE

The **Planning and Zoning Commission** of the City of Midland, Texas will hold a public hearing at **3:30 p.m.** on **Monday, May 16, 2022**, in the Council Chambers, City Hall, 300 N. Loraine, Midland, Texas 79701 and via videoconference, on a request by **Frank Mendoza** for approval of a **Zone Change** on the following described property:

LEGAL DESCRIPTION: A 3.570 -acres tract of land out of Section 9, Block 39, T-2-S, RR. Co. Survey, City and County of Midland, Texas.

LOCATION: Generally located on the south side of W Sunglo, approximately 150-ft east of South County Road 1205. (Council District 2)

PROPOSED ZONING: **From:** SF-1, Single Family Dwelling District

To: BP, Business Park District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request X

Comments: Noise, to many people, dirt

Required Information:

Property Owner's Signature	Printed Name	Property Address (**No P. O. Boxes**)
[signature]	JIM BAKER	2609 C.R. W. 110

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 8
Date Mailed: May 6, 2022
Case Number: Z-22-0292
Case Name: 2605 Sunglo Street
PR Planner's Initials

Elizabeth Shaughnessy
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.
Videoconference information will be available by accessing the meeting agenda at https://www.midlandtexas.gov/967/primegov-meeting

City Council Meeting

Item Number: 19

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Paul Rodriguez, Planner

Subject: AN ORDINANCE VACATING AND ABANDONING A 0.871-ACRE PORTION OF WEST INDIANA AVENUE AND SOUTH K STREET RIGHT-OF-WAY LOCATED ADJACENT TO BLOCKS 93, 94, 96, 104, AND 105, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF SOUTH L STREET AND WEST INDIANA AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $75,881.52; RETAINING A NONEXCLUSIVE UTILITY EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY (DISTRICT 3) (DEVELOPMENT SERVICES)

Purpose:

The applicant, LCA, is requesting a vacation 0.871-acre portion of the street right-of-way of W. Indiana Avenue and S. "K" Street adjacent to Blocks 93, 94, 96, 104, and 105, West End Addition, City and County of Midland, Texas for the purpose of a future development of the Museum of the Southwest and Haley Memorial Library.

Recommended City Council Action:

Approve

Fiscal Impact:

The appraised value of the alley right-of-way is $2.00 per square feet or $75,881.52.

Surrounding Zoning and Land Use:

The applicant, LCA, is requesting a vacation the 0.871-acre portion of the street right-of-way of W. Indiana Avenue and S. "K" Street adjacent to Blocks 93, 94, 96, 104, and 105, West End Addition, City and County of Midland, Texas for the purpose of a future development of the

Museum of the Southwest and Haley Memorial Library.

The Midland Central's Appraisal District's appraisal of the land is $2.00 per square foot, for a total value of $75,881.52.
The applicants will need to retain an easement for all affected utilities.

This request has been circulated and reviewed by all pertinent City departments and franchise utility companies. Their comments, conditions, and requests are as follows:

Code Compliance: (Approved)

No Oil and Gas issues.

Building Code: (Approved)

No objections.

Engineering: (Approved)

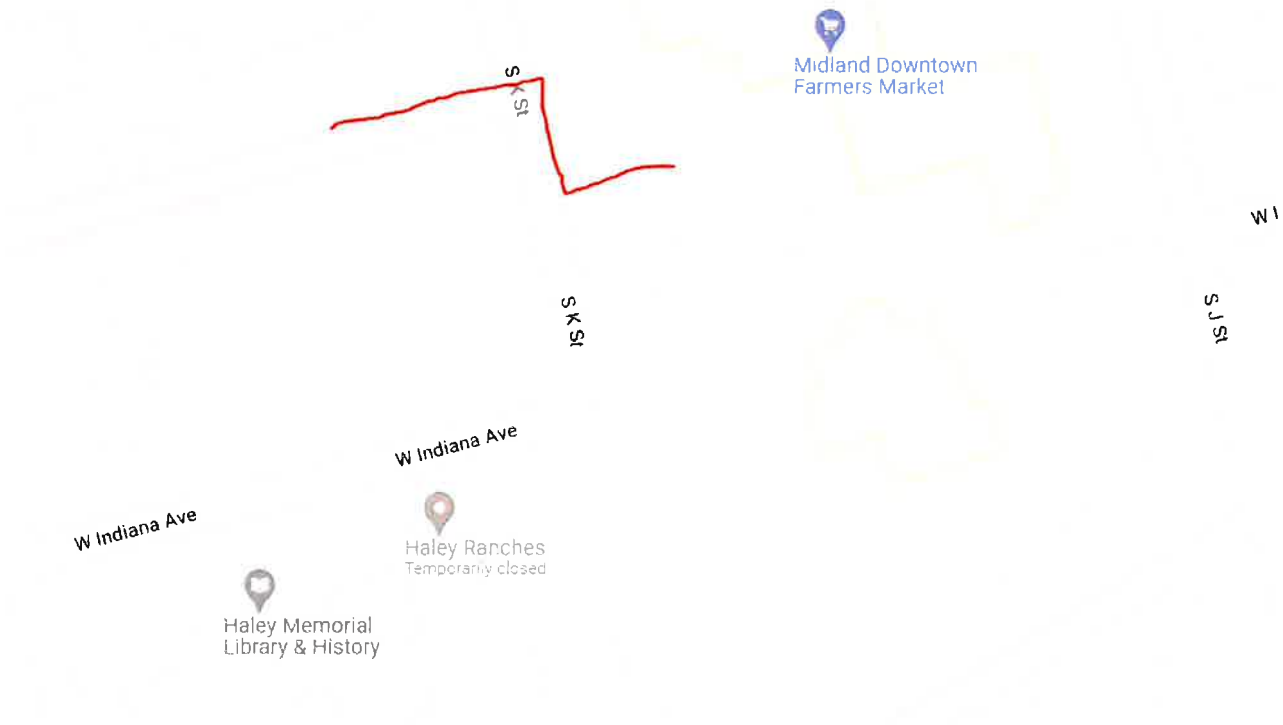
No objections to vacation. Applicant shall be responsible for relocating any utilities, if existing, or providing easements as needed.

Fire: (Approved)

All future development shall meet the requirements of IFC 2015 ed. and local ordinances. No objection to vacation request.

AT&T: (Approved)

We have a fiber going south on K street from the alley between Missouri and W. Indiana Ave on the east side of K street and going into the Museum.



Atmos: (Approved with conditions)

Atmos Energy currently has facilities located within the above-described Right of Way of W. Indiana and S. K Street. We have an existing gas main that extends along both streets. Atmos could vacate the referenced portion however since we are currently serving customers off this line on Indiana & further west of L Street, we would need to either relocate our facilities or maintain a utility easement. Any relocation costs would be passed on to individual or entity requesting the vacation.

Grande: (Approved)

From looking at our maps it does not show we have any kind of network in that section of Midland.

Oncor: (Approved)

Oncor does not have any facilities in or around the proposed street closure.

Suddenlink: (Approved)

I have attached a Google earth picture of out aerial plant. Our coax plant dead ends on the 3rd pole east off of, L Street.
And goes north & south on L street.

Midland Central Appraisal District:

The vacation area indicated has a current value of $2.00 per square foot or $75,881.52.

Planning:

Pertinent City departments and franchise utility companies have reviewed this vacation request and have approved it with the condition that a utility easement is retained.

Therefore, staff recommends approval of the vacation of a 0.871-acre portion of the street right-of-way, located on a portion of W. Indiana Avenue and S. "K" Street between S. "L" Street and W. Missouri Ave. between Lots 7-12, Blocks 93, and Block 94, 96, 104, and 105, West End Addition, City and County of Midland, Texas, subject to conditions A through C.

Conditions:

A. **That the City of Midland has received from the property owner the sum of $75,881.52.**

B. **That an accessible nonexclusive utility easement is retained.**

C. **That a replat of the subject property is approved by the City of Midland and filed and recorded with the County Clerk of Midland County.**

Letters of Objection:

As of June 6, 2022, staff has not received any letters of objection to this request.

Attachments:

Application
Maps
Vacation Survey (Exhibit A)
Responses from Franchise Utility Companies and Midland Central Appraisal District

Morris Williams Jr
City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE VACATING AND ABANDONING A 0.871-ACRE PORTION OF WEST INDIANA AVENUE AND SOUTH K STREET RIGHT-OF-WAY LOCATED ADJACENT TO BLOCKS 93, 94, 96, 104, AND 105, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF SOUTH L STREET AND WEST INDIANA AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $75,881.52; RETAINING A NONEXCLUSIVE UTILITY EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.871-acre portion of West Indiana Avenue and South K Street right-of-way located adjacent to Blocks 93, 94, 96, 104, and 105, West End 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 (the "Property"), is no longer needed for public use; and

WHEREAS, Section 272.001 of the Texas Local Government Code provides that a political subdivision may not convey, sell, or exchange its interest in land without observing notice and bid requirements, unless the conveyance is to one or more abutting property owners; and

WHEREAS, an application for vacating the Property has been received by the City from the abutting property owner; and

WHEREAS, the City Manager has appraised the value of the City's property interest in the Property at $75,881.52, 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 Property;

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

SECTION ONE. That the Property is hereby vacated and abandoned for all public

purposes. Provided, however, that the City is hereby abandoning only the public interest in the Property, and this ordinance in no way affects any private easement or access easement which abutting property owners may have in the Property.

SECTION TWO. That this ordinance shall not be effective until:

A. the City of Midland has received from the abutting property owner(s) the sum of $75,881.52; and

B. a replat of the Property is approved by the City of Midland and filed and recorded with the County Clerk of Midland County, Texas.

SECTION THREE. That the City herein retains an accessible nonexclusive utility easement across, through, over, under, on and along the Property until all entities that were using the Property for utility purposes as of the date of approval of this ordinance have abandoned their uses of the Property.

SECTION FOUR. That upon the City's receipt of the sum set forth in Section Two hereof, the City Secretary is hereby authorized and directed to file a certified copy of this ordinance with the County Clerk of Midland County, Texas, for purposes of recording in the Official Records of Midland County, Texas.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2022; 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., 2022, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2022.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

LCA

ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

lca@lcaodessa.com
521 N. Texas Ave. • Odessa, Texas 79761
(432) 332-5058 or 580-8812 • Fax (432) 332-8812
Engineering Firm# 001363 • Surveying Firm# 10034300

EXHIBIT "A"
METES AND BOUNDS DESCRIPTION
0.871-ACRE STREET CLOSURES OF
A PORTION OF W. INDIANA AVENUE AND S. K STREET
LOCATED IN THE WEST END ADDITION
AN ADDITION TO THE CITY OF MIDLAND,
VOLUME 17 PAGES 614-615
DEED RECORDS OF MIDLAND COUNTY, TEXAS

BEING AN 0.871-ACRE STREET CLOSURE AND BEING A PORTION OF W. INDIANA AVENUE AND S. K STREET LOCATED IN THE WEST END ADDITION AS DESCRIBED IN VOLUME 17, PAGE 614-615 OF THE MIDLAND COUNTY PLAT RECORDS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT (Y=10,692,770.55' & X= 1,750,743.17) AT 3/8" SPIKE NAIL IN 2" IRON PIPE (CONTROL MONUMENT) FOUND ON THE EAST RIGHT-OF-WAY OF S. L STREET, AN 60-FOOT PUBLIC RIGHT-OF-WAY, AND THE SOUTHWEST CORNER OF LOT 7, BLOCK 93 OF SAID WEST END ADDITION ON THE NORTH RIGHT-OF-WAY OF W. INDIANA AVENUE, A 80-FOOT PUBLIC RIGHT-OFF-WAY, WHENCE A ½" IRON ROD (CONTROL MONUMENT) FOUND AT THE NORTHWEST CORNER OF LOT 7 OF SAID BLOCK 93, BEARS NORTH 14°36'57" WEST A DISTANCE OF 140.00 FEET, AND A 3/8" SPIKE IN A 2" IRON PIPE (CONTROL MONUMENT) FOUND AT THE NORTHWEST CORNER OF LOT 6 OF SAID BLOCK 93 BEARS NORTH 14°36'57" WEST, A DISTANCE OF 299.50 FEET;

THENCE NORTH 75° 22' 02" EAST ALONG THE NORTH RIGHT-OF-WAY OF SAID W. INDIANA AVENUE AND THE SOUTH LINE OF SAID BLOCK 93, PASS A ½" IRON ROD WITH CAP MARKED "RPLS 4170" (CONTROL MONUMENT) AT 150.14 FEET FOUND AT THE COMMON CORNER OF LOTS 9 & 10 OF SAID BLOCK 93, FOR A TOTAL DISTANCE OF 300.15 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TEXAS" SET AT THE SOUTHEAST CORNER OF LOT 12 OF SAID BLOCK 93 AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF SAID W. INDIANA AVENUE AND THE WEST RIGHT-OF-WAY SAID S. K STREET;

THENCE NORTH 14° 40' 35" WEST ALONG THE EAST LINE OF SAID LOT 12 AND THE WEST RIGHT-OF-WAY OF SAID S. K STREET, A DISTANCE OF 139.72 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE NORTHEAST CORNER OF SAID LOT 12 AT THE INTERSECTION OF A 20-FOOT ALLEY;

THENCE NORTH 75° 25' 12" EAST ACROSS SAID S. K STREET, A DISTACE OF 60.00 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET ON THE EAST RIGHT-OF-WAY LINE OF SAID S. K STREET, AND BEING THE NORTHWEST CORNER LOT 7 BLOCK 94 OF SAID WEST END ADDITION;

THENCE SOUTH 14° 40' 35" EAST ALONG THE WEST LINE OF SAID LOT 7, PASS THE SOUTHWEST CORNER OF SAID LOT 7 ON THE NORTH RIGHT-OF-WAY LINE OF SAID W.

INDIANA AVENUE AT 139.72 FEET CONTINUING ACROSS SAID W. INDIANA AVENUE, A TOTAL DISTANCE OF 219.67 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET ON THE SOUTH RIGHT-OF-WAY LINE OF SAID W. INDIANA AVE, AND BEING THE SOUTHWEST CORNER OF THE PREVIOUSLY ABANDONED PORTION OF SAID W. INDIANA AVENUE ON THE NORTHERN LINE OF THE ABANDONED PORTION OF S. K STREET, ORDINANCE NO. 6159 AS RECORDED IN VOLUME 720, PAGE 469 OF SAID DEED RECORDS OF MIDLAND COUNTY, TEXAS;

THENCE SOUTH 75° 22' 02" WEST ALONG THE SOUTH RIGHT-OF-WAY OF W. INDIANA AVENUE, PASS THE EAST CORNER OF BLOCK 96 OF SAID WEST END SUBDIVISION AT 72.87 FEET, CONTINUING ALONG THE NORTH LINE OF SAID BLOCK 96 AND THE SOUTH RIGHT-OF-WAY OF SAID W. INDIANA AVENUE, A TOTAL DISTANCE OF 240.23 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE NORTHEAST CORNER OF THAT CERTAIN CITY OF MIDLAND TRACT AS DESCRIBED IN VOLUME 607 PAGE 808 OF SAID DEED RECORDS OF MIDLAND COUNTY, TEXAS;

THENCE SOUTH 14°36'57" EAST WITH THE EAST LINE OF SAID CITY OF MIDLAND TRACT, A DISTANCE OF 6.00 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE SOUTHEAST CORNER OF SAID CITY OF MIDLAND TRACT;

THENCE SOUTH 75°22'02" WEST WITH THE SOUTH LINE OF SAID CITY OF MIDLAND TRACT, A DISTANCE OF 120.00 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE SOUTHWEST CORNER OF SAID CITY OF MIDLAND TRACT ON THE EAST RIGHT-OF-WAY OF SAID S. L STREET;

THENCE NORTH 14° 36' 57" WEST ALONG EAST RIGHT-OF-WAY OF SAID S. L STREET, PASS A ½" IRON ROD FOUND 0.5 FEET WEST OF THE NORTHWEST CORNER OF SAID CITY OF MIDLAND TRACT AT 6.00 FEET, CONTINUING WITH SAID RIGHT-OF-WAY FOR A TOTAL DISTANCE OF 86.00 FEET TO THE POINT OF BEGINNING CONTAINING 0.871-SURFACE ACRES AS DEPICTED ON THE ATTACHED EXHIBIT "B".

BEARINGS, DISTANCES AND COORDINATES ARE RELATIVE TO THE TEXAS COORDINATE SYSTEM, 1983 NAD, CENTRAL ZONE, BASED ON THE CITY OF MIDLAND GPS CONTROL MONUMENT "E89-6405" (Y=10,695,261.89' AND X=1,754,276.95', ELEVATION = 2782.04 NAVD 29) WITH A THETA ANGLE OF -00°54'55" WITH A COMBINED GRID FACTOR OF 0.999900197 AS PUBLISHED IN US SURVEY FEET.

LCA

JOHN F. LANDGRAF, RPLS
3 MAY, 2022

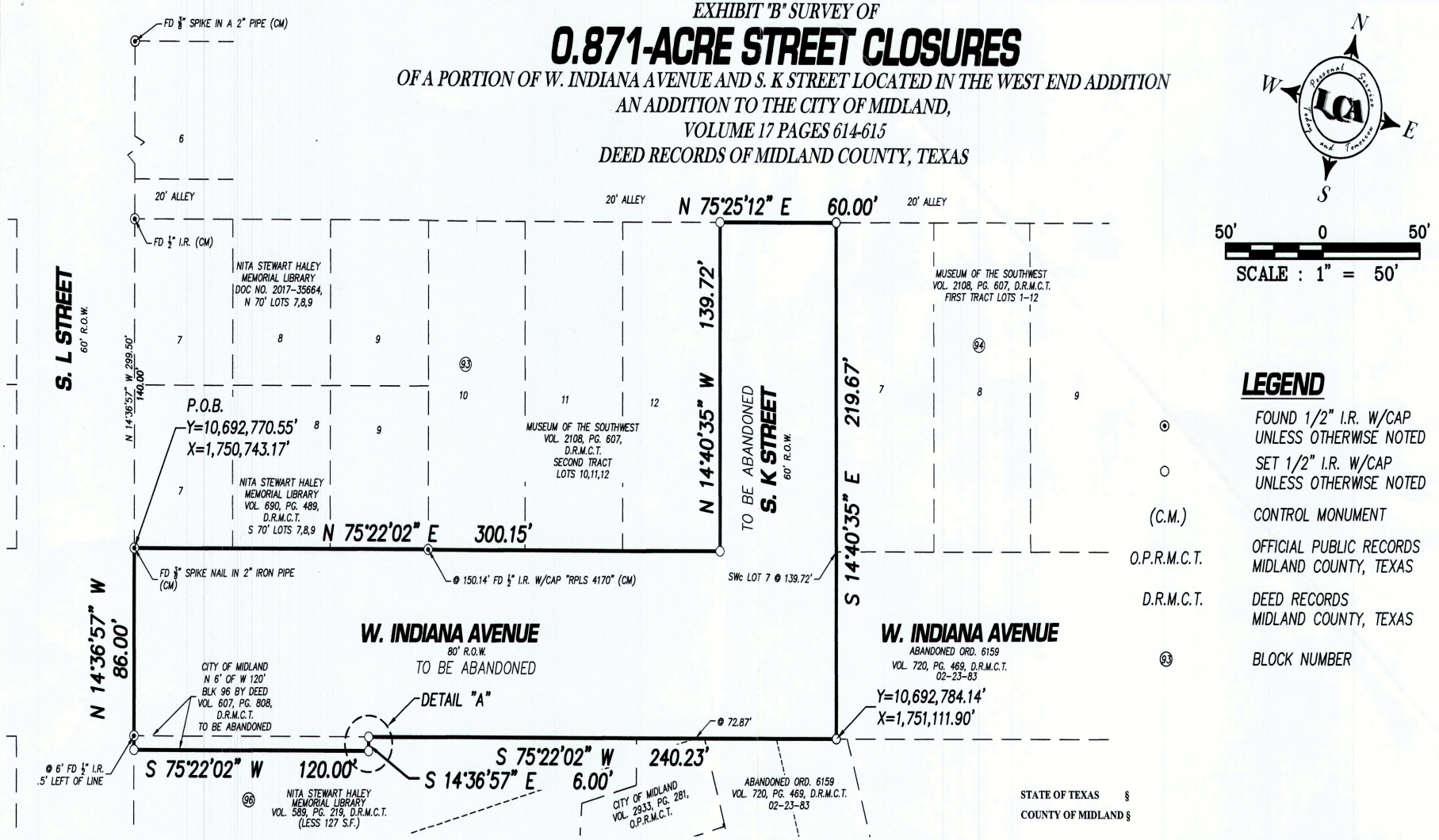
STATE OF TEXAS
REGISTERED
JOHN F. LANDGRAF
2410
PROFESSIONAL
LAND SURVEYOR

LCA PROJECT NO. 2020-029

EXHIBIT "B" SURVEY OF

0.871-ACRE STREET CLOSURES

OF A PORTION OF W. INDIANA AVENUE AND S. K STREET LOCATED IN THE WEST END ADDITION
AN ADDITION TO THE CITY OF MIDLAND,
VOLUME 17 PAGES 614-615
DEED RECORDS OF MIDLAND COUNTY, TEXAS



50' 0 50'

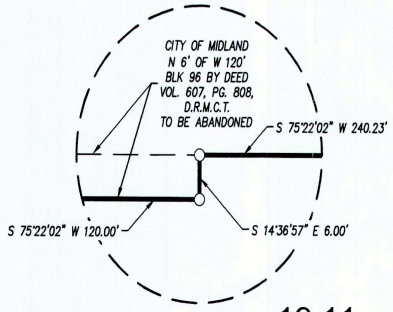
SCALE : 1" = 50'

LEGEND

⊙	FOUND 1/2" I.R. W/CAP UNLESS OTHERWISE NOTED
○	SET 1/2" I.R. W/CAP UNLESS OTHERWISE NOTED
(C.M.)	CONTROL MONUMENT
O.P.R.M.C.T.	OFFICIAL PUBLIC RECORDS MIDLAND COUNTY, TEXAS
D.R.M.C.T.	DEED RECORDS MIDLAND COUNTY, TEXAS
(93)	BLOCK NUMBER

NOTES:

1. BEARINGS, DISTANCES AND COORDINATES ARE RELATIVE TO THE TEXAS COORDINATE SYSTEM, 1983 NAD, CENTRAL ZONE, BASED ON THE CITY OF MIDLAND GPS CONTROL MONUMENT "E89-6405" (Y=10,695,261.89' AND X=1,754,276.95', ELEVATION = 2782.04 NAVD 29) WITH A THETA ANGLE OF -00°54'55" WITH A COMBINED GRID FACTOR OF 0.999900197 AS PUBLISHED IN US SURVEY FEET.
2. THIS SURVEY EXHIBIT DOES NOT SHOW ANY OF THE IMROVEMENTS.
3. A METES & BOUNDS DESCRIPTION, EXHIBIT "B", ACCOMPANIES THIS SURVEY EXHIBIT.



DETAIL "A"

STATE OF TEXAS §
COUNTY OF MIDLAND §

I, JOHN F. LANDGRAF, TEXAS REGISTERED PROFESSIONAL SURVEYOR NO. 2410, DO HEREBY CERTIFY THAT THE ABOVE SURVEY WAS MADEACTUALLY MADE ON-THE-GROUND BY ME OR UNDER MY DIRECT SUPERVISION.

JOHN F. LANDGRAF, R.P.L.S. NO. 2410
3 MAY, 2022

ENG._____ E.T. PACKET
SVY._____ DFT._____

19.11

LCA JOB No. 2020-027

LCA ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING
521 North Texas, Odessa Tx. 79761 F-001363 F-10034300
Phone # (432) 332-5058 E-Mail : lca@lcaodessa.com
Personal Service, Today and Tomorrow

June 14, 2022

MIDLAND
Feel the Energy!

Office of the City Manager

June 3, 2022

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.871-acre portion of West Indiana Avenue and South K Street right-of-way located adjacent to Blocks 93, 94, 96, 104, and 105, West End Addition, City and County of Midland, Texas

Dear Members of the City Council:

The above-referenced property has been appraised in accordance with Chapter 272 of the Texas Local Government Code. The fair market value of the property is $75,881.52. Upon the City's receipt of this sum from the adjoining property owner, the ordinance vacating and abandoning the City's interest in the property may be recorded in the Midland County Clerk's office.

Very truly yours,

Robert Patrick
City Manager

EXHIBIT "C"

300 N. Loraine Midland TX 79701 * 432-685-7208 * Fax 432-686-1600

LCA Job No.: 20-029

MIDLAND Planning Division

Vacate Right-of-Way/Public Utility Easement/Land/Street Application

Project Number: V-22-0040

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: LCA (agent)		Phone (432) 332-5058 Email mbo@lcaodessa.com	
Address 521 N. Texas Avenue	City Odessa	State TX	Zip 79761

Application is hereby made to the City Council to vacate the following:

- ■ Right-of-Way
- ☐ Public Utility Easement
- ☐ Land
- ■ Street

Description of Address: A portion of W. Indiana Avenue & S. K Street between S. L Street & W. Missouri Avenue.

Reason for Request: Future development of the Museum of the Southwest & Memorial Library

Reasons, in applicant's opinion, why the requested vacation will not adversely affect the public welfare or will contribute to it in a positive way:

The street vacation will be similar to the surround closed streets to help provide growing room for the Museum of the Southwest as well as the Memorial Library.

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Sealed metes and bounds description of the property to be vacated (included on the map) and total square feet of vacation. Include ownership, legal and deed information for adjacent property owners
- Digital Copies of Survey (PDF/JPEG)

Utility Company Approval

Clearance is needed from the following utility companies:

- City of Midland
- AT&T
- Atmos Energy
- Suddenlink Cable TV Co.
- Oncor Electric
- Grande Communications

The City will route the request to these companies, but it is the applicant's responsibility to ensure clearance has been obtained to resolve any issues that may arise.

Policies

1. If the vacation request involves only a portion of a section right-of-way, such that approval would not affect the public's ability to travel along said right-of-way, then the request will be scheduled for consideration by the City Council. No public hearing will be needed.

2. If the vacation request involves an entire section of right-of-way, such that approval would cause the public to lose all rights to use it, then the following procedures apply:

   a. Nearby land owners who have a reasonable expectation to use said right-of-way, as determined by the Transportation Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected landowners.

   b. If all letters are received indicating that the affected landowners agree to the request, then a public hearing before the City Council will be scheduled. The Planning Division will mail public notice of the hearing to landowners within 400 feet of the affected right-of-way.

   c. If a request is approved, the right-of-way shall be divided into two equal parts, with each half becoming the property of the respective abutting owner. If the applicant desires to own the entire width, he or she must negotiate with the opposite landowner.

Signatures LCA- Agent		
Applicant (signature):		Date: 5/5/22
Affected Property Owners:		
Signature:	Print:	Date:
Signature:	Print:	Date
Signature:	Print:	Date
Signature:	Print:	Date

The Vacation of right-of-way/public utility easement/land/street shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

FOR OFFICE USE ONLY

☐ 1 FOLDED Copy of Survey ☐ Survey in Digital Format (PDF/JPEG)

☐ Application Fee

Check #_____

Received By:	Date:

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

ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

lca@lcaodessa.com
521 N. Texas Ave. • Odessa, Texas 79761
(432) 332-5058 or 580-8812 • Fax (432) 332-8812
Engineering Firm# 001363 • Surveying Firm# 10034300

EXHIBIT "A"
METES AND BOUNDS DESCRIPTION
0.871-ACRE STREET CLOSURES OF
A PORTION OF W. INDIANA AVENUE AND S. K STREET
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BEGINNING AT (Y=10,692,770.55' & X= 1,750,743.17) AT 3/8" SPIKE NAIL IN 2" IRON PIPE (CONTROL MONUMENT) FOUND ON THE EAST RIGHT-OF-WAY OF S. L STREET, AN 60-FOOT PUBLIC RIGHT-OF-WAY, AND THE SOUTHWEST CORNER OF LOT 7, BLOCK 93 OF SAID WEST END ADDITION ON THE NORTH RIGHT-OF-WAY OF W. INDIANA AVENUE, A 80-FOOT PUBLIC RIGHT-OFF-WAY, WHENCE A ½" IRON ROD (CONTROL MONUMENT) FOUND AT THE NORTHWEST CORNER OF LOT 7 OF SAID BLOCK 93, BEARS NORTH 14°36'57" WEST A DISTANCE OF 140.00 FEET, AND A 3/8" SPIKE IN A 2" IRON PIPE (CONTROL MONUMENT) FOUND AT THE NORTHWEST CORNER OF LOT 6 OF SAID BLOCK 93 BEARS NORTH 14°36'57" WEST, A DISTANCE OF 299.50 FEET;

THENCE NORTH 75° 22' 02" EAST ALONG THE NORTH RIGHT-OF-WAY OF SAID W. INDIANA AVENUE AND THE SOUTH LINE OF SAID BLOCK 93, PASS A ½" IRON ROD WITH CAP MARKED "RPLS 4170" (CONTROL MONUMENT) AT 150.14 FEET FOUND AT THE COMMON CORNER OF LOTS 9 & 10 OF SAID BLOCK 93, FOR A TOTAL DISTANCE OF 300.15 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TEXAS" SET AT THE SOUTHEAST CORNER OF LOT 12 OF SAID BLOCK 93 AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF SAID W. INDIANA AVENUE AND THE WEST RIGHT-OF-WAY SAID S. K STREET;

THENCE NORTH 14° 40' 35" WEST ALONG THE EAST LINE OF SAID LOT 12 AND THE WEST RIGHT-OF-WAY OF SAID S. K STREET, A DISTANCE OF 139.72 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE NORTHEAST CORNER OF SAID LOT 12 AT THE INTERSECTION OF A 20-FOOT ALLEY;

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LCA

JOHN F. LANDGRAF, RPLS
3 MAY, 2022

STATE OF TEXAS
REGISTERED
JOHN F. LANDGRAF
2410
PROFESSIONAL
LAND SURVEYOR

LCA PROJECT NO. 2020-029

ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

lca@lcaodessa.com
521 N. Texas Ave. • Odessa, Texas 79761
(432) 332-5058 or 580-8812 • Fax (432) 332-8812
Engineering Firm# 001363 • Surveying Firm# 10034300

EXHIBIT "A"
METES AND BOUNDS DESCRIPTION
0.871-ACRE STREET CLOSURES OF
A PORTION OF W. INDIANA AVENUE AND S. K STREET
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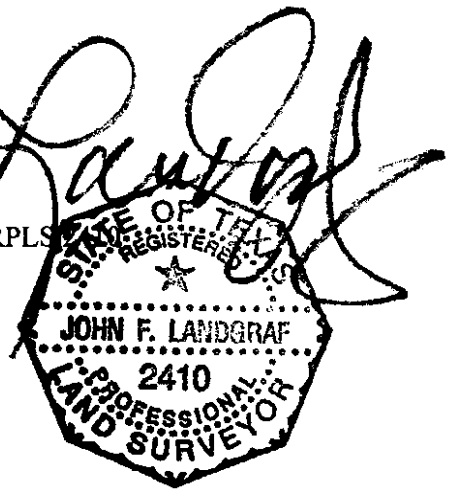
LCA

JOHN F. LANDGRAF, RPLS
3 MAY, 2022



LCA PROJECT NO. 2020-029

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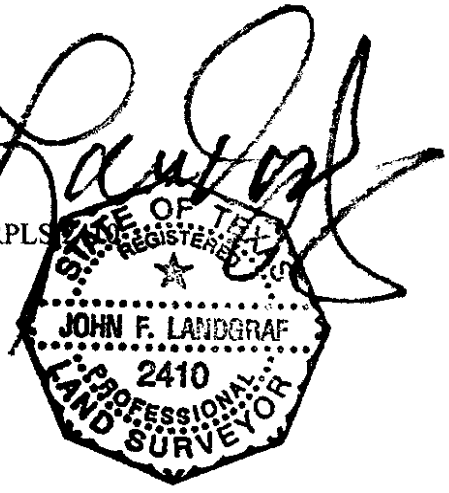
LCA

JOHN F. LANDGRAF, RPLS
3 MAY, 2022



LCA PROJECT NO. 2020-029

EXHIBIT "B" SURVEY OF

0.871-ACRE STREET CLOSURES

OF A PORTION OF W. INDIANA AVENUE AND S. K STREET LOCATED IN THE WEST END ADDITION
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VOLUME 17 PAGES 614-615
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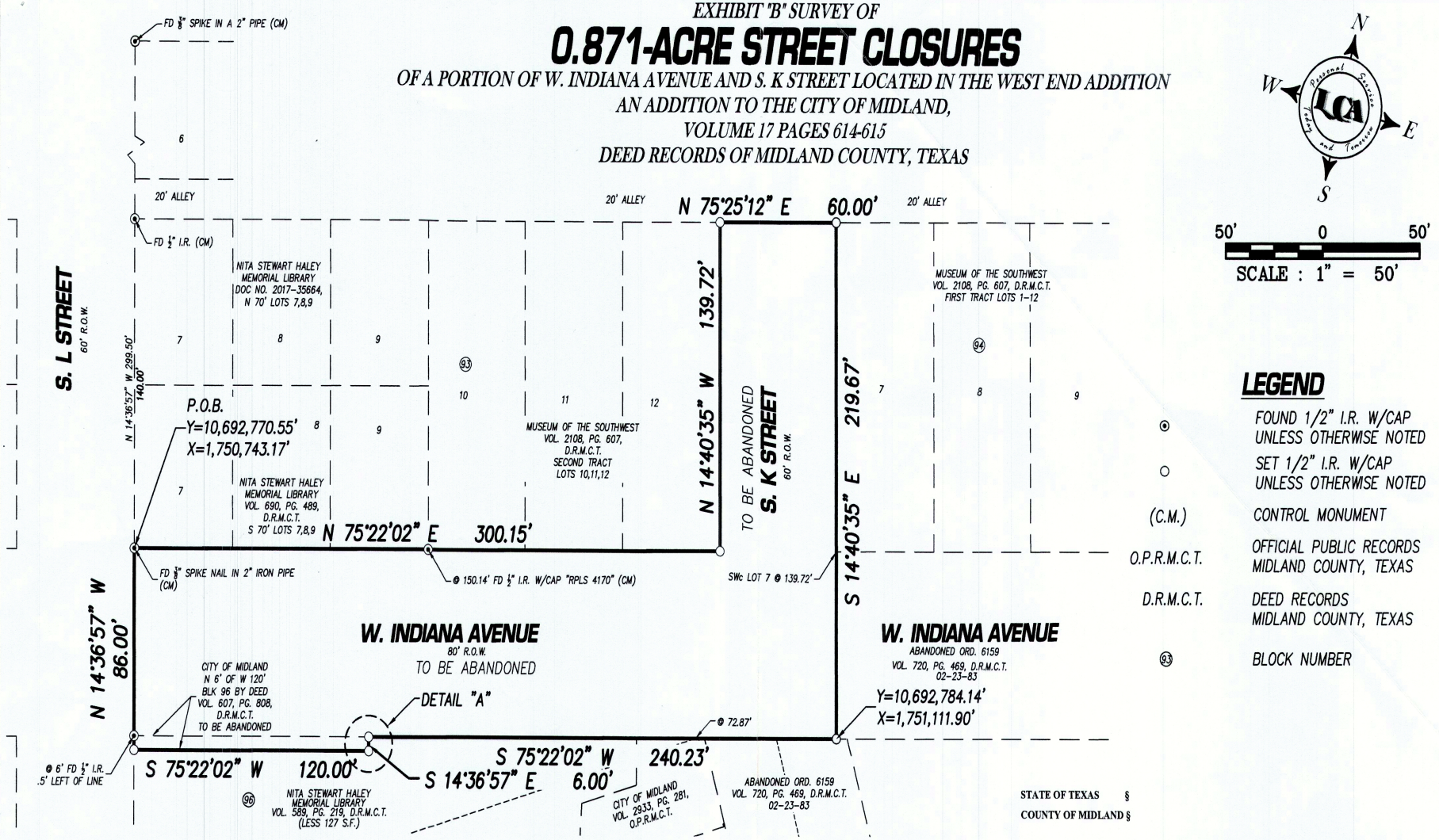


50' 0 50'

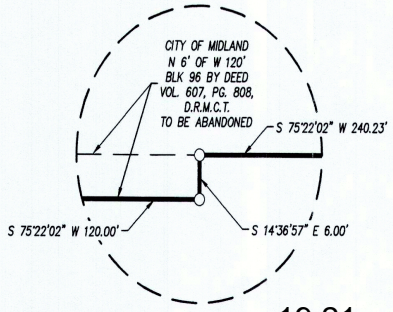
SCALE : 1" = 50'

LEGEND

⊙	FOUND 1/2" I.R. W/CAP UNLESS OTHERWISE NOTED
○	SET 1/2" I.R. W/CAP UNLESS OTHERWISE NOTED
(C.M.)	CONTROL MONUMENT
O.P.R.M.C.T.	OFFICIAL PUBLIC RECORDS MIDLAND COUNTY, TEXAS
D.R.M.C.T.	DEED RECORDS MIDLAND COUNTY, TEXAS
(93)	BLOCK NUMBER

NOTES:

1. BEARINGS, DISTANCES AND COORDINATES ARE RELATIVE TO THE TEXAS COORDINATE SYSTEM, 1983 NAD, CENTRAL ZONE, BASED ON THE CITY OF MIDLAND GPS CONTROL MONUMENT "E89-6405" (Y=10,695,261.89' AND X=1,754,276.95', ELEVATION = 2782.04 NAVD 29) WITH A THETA ANGLE OF -00°54'55" WITH A COMBINED GRID FACTOR OF 0.999900197 AS PUBLISHED IN US SURVEY FEET.
2. THIS SURVEY EXHIBIT DOES NOT SHOW ANY OF THE IMROVEMENTS.
3. A METES & BOUNDS DESCRIPTION, EXHIBIT "B", ACCOMPANIES THIS SURVEY EXHIBIT.



DETAIL "A"

STATE OF TEXAS §
COUNTY OF MIDLAND §

I, JOHN F. LANDGRAF, TEXAS REGISTERED PROFESSIONAL SURVEYOR NO. 2410, DO HEREBY CERTIFY THAT THE ABOVE SURVEY WAS MADEACTUALLY MADE ON-THE-GROUND BY ME OR UNDER MY DIRECT SUPERVISION.

JOHN F. LANDGRAF, R.P.L.S. NO. 2410
3 MAY, 2022

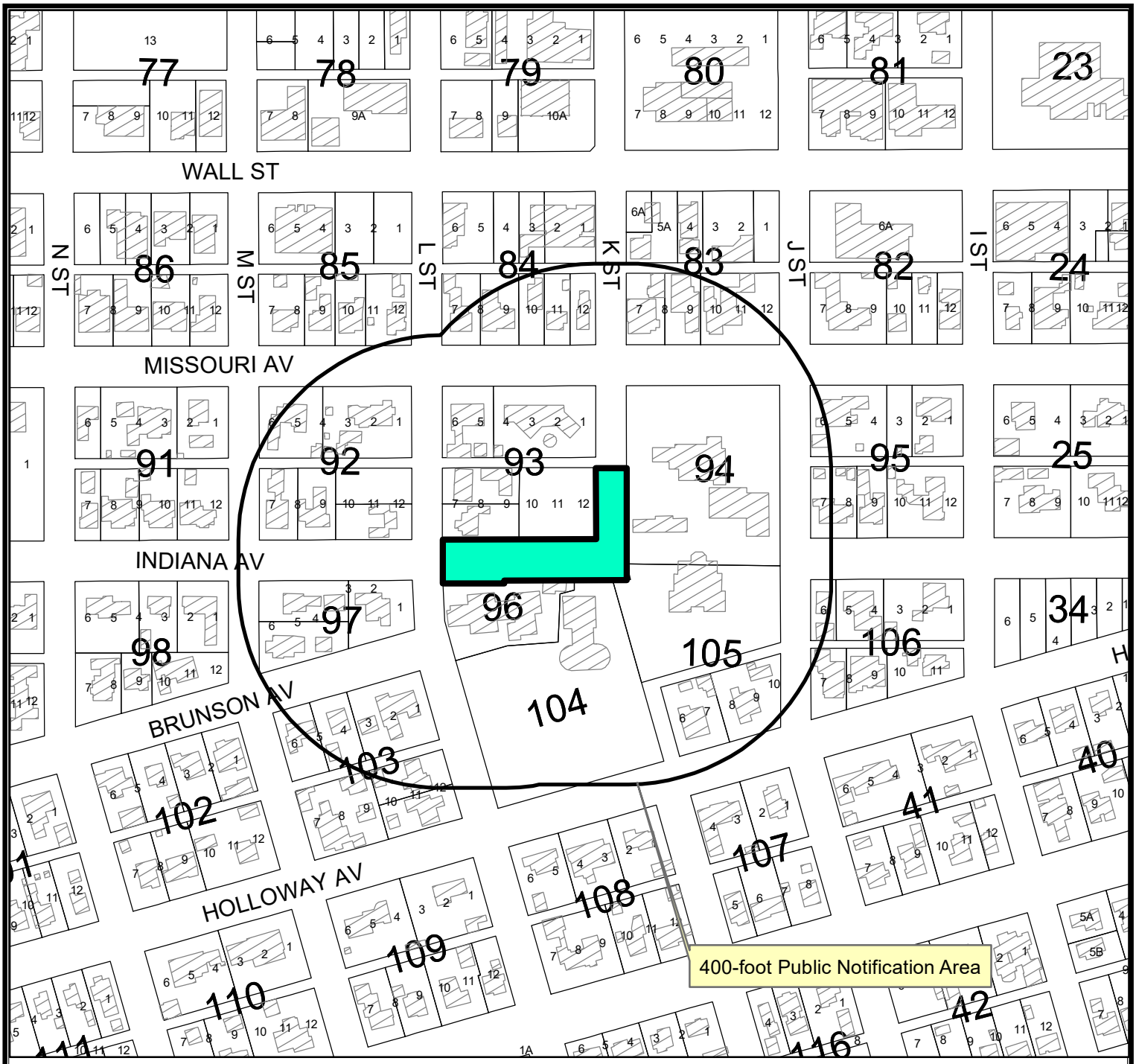
ENG._____ E.T. PACKET
SVY._____ DFT._____

19.21

LCA JOB No. 2020-027

LCA ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING
521 North Texas, Odessa Tx. 79761 F-001363 F-10034300
Phone # (432) 332-5058 E-Mail : lca@lcaodessa.com
Personal Service, Today and Tomorrow

June 14, 2022



LOCATION MAP

V-22-0040 **Scale: 1" = 200'**

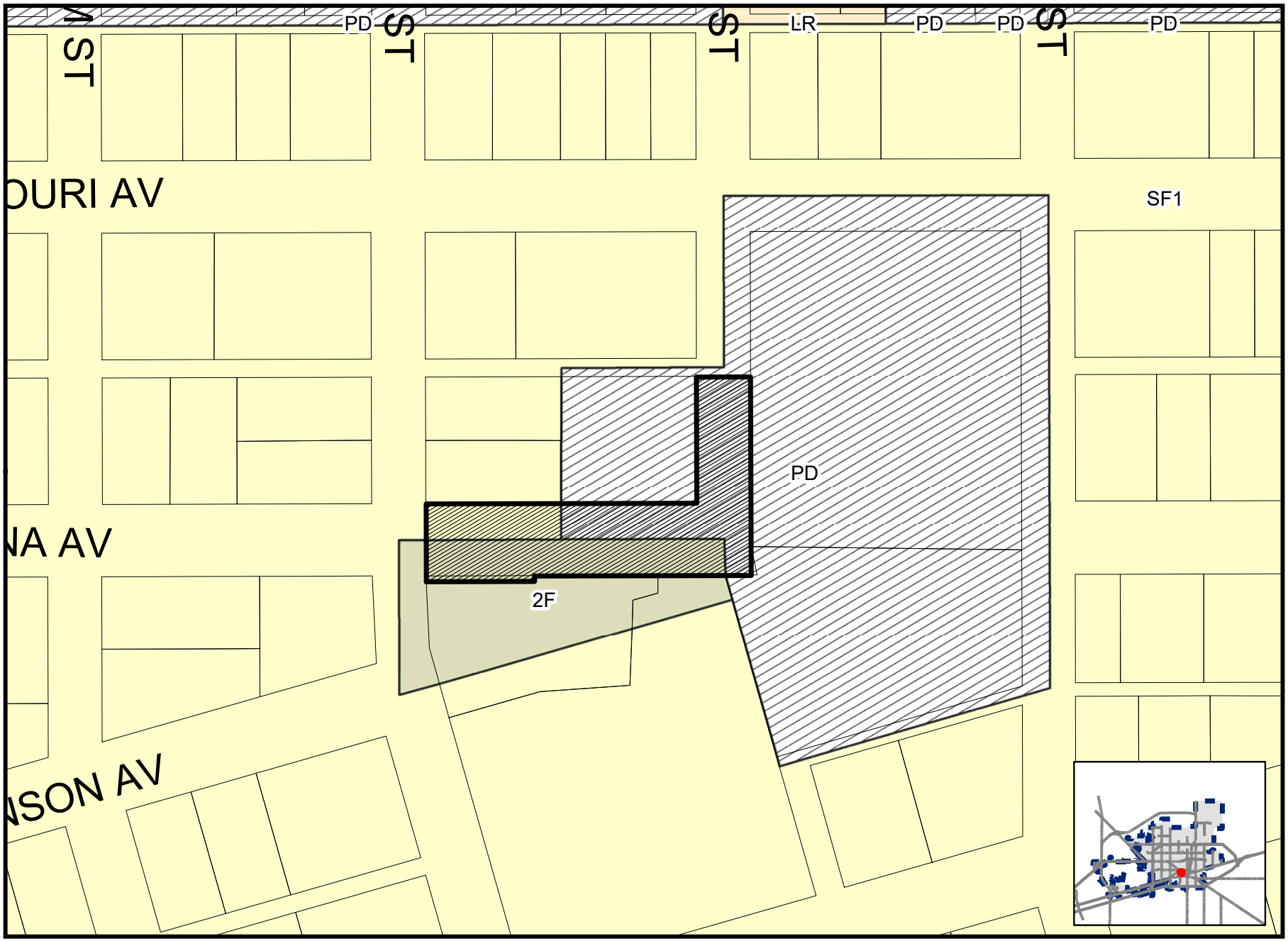
Request request by LCA, for a vacation of a 0.871-acre portion of the street right-of-way of W. Indiana Avenue and S. "K" Street adjacent to Lots 7-12, Blocks 93, and Block 94, 96, 104, and 105, West End Addition, City and County of Midland, Texas.

Generally located on the northeast corner of the intersetion of S. "K" Street and Indiana Avenue. Council District 3)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS

©THE CITY OF MIDLAND - 2021
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map By ES, 6/3/2022

V-22-0040

Scale: 1" = 200'

ZONING MAP

NOR IS IT DESIGNED
INFORMATION CONTAINED
THE USE OF THIS DATA.

From:	Luis Montez
To:	Bradley Ritter; Eron Zapata; Raymond Revilla
Cc:	Paul Rodriguez
Subject:	RE: External E-mail - V-22-0040, Memorial Library Vacation
Date:	Tuesday, May 31, 2022 12:17:54 PM
Attachments:	image005.png image006.png image001.png

I have attached a Google earth picture of out aerial plant. Our coax plant dead ends on the 3rd pole east off of, L Street.
And goes north & south on L street.

From: Bradley Ritter <Bradley.Ritter@AlticeUSA.com>
Sent: Tuesday, May 31, 2022 7:52 AM
To: Luis Montez <Luis.Montez@AlticeUSA.com>; Eron Zapata <Eron.Zapata@AlticeUSA.com>; Raymond Revilla <Raymond.Revilla@AlticeUSA.com>
Subject: FW: External E-mail - V-22-0040, Memorial Library Vacation

Can yall look into this pls

Thank You,

altice

Supervisor Ops.
Abilene, Midland, & San Angelo System's
Altice USA
P: (806)771-6256
C: (806)241-0488
E: Bradley.Ritter@AlticeUSA.com
A: 6710 Hartford Ave. Lubbock,Tx. 79413

From: Paul Rodriguez <prodriguez@midlandtexas.gov>

Sent: Friday, May 27, 2022 5:19 PM
To: Bradley Ritter <Bradley.Ritter@AlticeUSA.com>
Subject: External E-mail - V-22-0040, Memorial Library Vacation

[External Email]

Caution: This email originated outside of Altice USA. Please do not click links or attachments unless you recognize the sender and know the content is safe.

Hello Mr. Bradley Ritter,

Attached you will find the street closure map as well as the vacation notification letter.

Please review and provide comments in 5-7 business days.

Paul Rodriguez, MPA
Planner
Development Services Department
(432) 685-7208
300 N. Loraine Midland, TX 79702

Caution: This email originated outside of Altice USA. Please do not click links or attachments unless you recognize the sender and know the content is safe.

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CAUTION: This email originated from outside your organization — exercise caution when opening attachments or

clicking links, especially from unknown senders.

From: Ruben Guerra
To: Paul Rodriguez
Subject: Re: V-22-0040, Memorial Library Vacation
Date: Wednesday, June 1, 2022 10:05:33 AM
Attachments: image001.png

From looking at our maps it does not show we have any kind of network in that section of Midland.

Thank You
Ruben Guerra
Construction Coordinator
O: 432-272-3088
C: 432-653-9369
Ruben.Guerra@astound.com
Astound Business Solutions
Powered by RCN | Grande | Wave
astound.com

On Fri, May 27, 2022 at 5:20 PM Paul Rodriguez <prodriguez@midlandtexas.gov> wrote:

> Hello Mr. Ruben Guerra,
>
> Attached you will find the street closure map as well as the vacation notification letter.
>
> Please review and provide comments in 5-7 business days.
>
> Paul Rodriguez, MPA
>
> Planner
>
> Development Services Department
>
> (432) 685-7208
>
> 300 N. Loraine Midland, TX 79702

CAUTION: This email originated from outside your organization — exercise caution when opening attachments or clicking links, especially from unknown senders.

From:	UNDERWOOD, JERRY D
To:	Paul Rodriguez
Cc:	JONES, BRYAN
Subject:	RE: V-22-0040, Memorial Library
Date:	Tuesday, May 31, 2022 7:23:24 AM
Attachments:	image001.png Museum.PNG

Good morning,

I show we have a fiber going south on K street from the alley between Missouri and W. Indiana Ave on the east side of K street and going into the Museum.

Thanks,
Jerry

From: Paul Rodriguez <prodriguez@midlandtexas.gov>
Sent: Friday, May 27, 2022 5:13 PM
To: UNDERWOOD, JERRY D <ju1659@att.com>
Subject: V-22-0040, Memorial Library

Hello Mr. Jerry Underwood,

Attached you will find the street closure map as well as the vacation notification letter.

Please review and provide comments in 5-7 business days.

Paul Rodriguez, MPA
Planner
Development Services Department
(432) 685-7208
300 N. Loraine Midland, TX 79702

CAUTION: This email originated from outside your organization — exercise caution when opening attachments or clicking links, especially from unknown senders.

City Council Meeting

Item Number: 20

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Cole Furqueron, Senior Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 2, BLOCK 2, GRANDRIDGE PARK ADDITION, SECTION 1, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH LOOP 250 WEST AND WADLEY AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 4) (DEVELOPMENT SERVICES)

Purpose:

The applicant, David Powlen, is requesting a zone change from PD, Planned Development District for a Shopping Center to Amended PD, Planned Development District for Shopping Center on Lot 2, Block 2, Grandridge Park Addition, Section 1, City and County of Midland, Texas for an addition of a garden center.

Recommended City Council Action:

Approve

Fiscal Impact:

No City funds would be required for this project.

Discussion:

Current Zoning:

PD, Planned Development District for a Shopping Center

Surrounding Zoning and Land Use:

The properties to the north is zoned PD, Planned development District and the location of a shopping center and SF-1 Single-family Dwelling and the location of C.J. Kelly Park. The property to the east is zoned RR, Regional Retail District, and the location of a shopping center. The property to the south, is zoned PD, Planned Development District, and the location of office buildings. The property the west is zoned PD, Planned Development District, and the location of a housing development.

Analysis:

The applicant, David Powlen, is requesting a zone change from PD, Planned Development District of a Shopping Center to Amended PD, Planned Development District of a Shopping Center, for the expansion of their Garden Center located at 3315 N. Loop 250 W. Midland TX.

The site plan provided, hereto shown as Exhibit A, illustrates the proposed addition that will be located on the southwest side of the existing Garden Center building. The proposed new design will be approximately 19,237 square feet. Although 99 parking spaced where removed, they are still exceeding the parking requirements by 229 spaces, providing a total of 709 parking spaces.

The applicant will be required to adhere to the site plan review standards outlined within the City of Midland Zoning Ordinance Section 5.05: - Nonresidential Zoning District Dimensional Regulations Chart as well as Chapter 9, Landscape Regulations for future landscaping.

This proposed zone change has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No objections.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2020 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary. Code versions are subject to change depending on time of new code edition adoption in the City of Midland and date of permit application.

Engineering: (Approved)

No objection to zone change. [For the Applicant's information only.]

Site drainage, utilities, driveway access and traffic circulation may be adjusted during the construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

Code: (Approved)

No Oil and Gas issues. Informational: No Oil or Gas wells identified within 500 ft. permitted well radius or in the 135 ft. non-permitted well radius of location on plat. Please note if oil & gas wells are not identified and left off of plat, this could prevent receiving city permits for structures. Any plugged and abandoned well would need to be identified.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

No objection to zone change. [For Applicant's information only.]

Planning:

The request fits with the Tall City Tomorrow Comprehensive Plan, Chapter 3-Land Use Vision. The land use map indicates that this area shall be used for RC, Regional Commercial developments. There areas are designed to be utilized by major community and reginal commercial developments that are both large in scale and have high traffic impact. The reason for this proposed zone change is to allow for alterations to the previously adopted Site Plan, which could not be changed without an amendment to the PD. Additionally, the Garden Center expansion will not change the overall use of the property and will have minimal impact on traffic in the area.

This request was recommended for approval at the June 6, 2022, Planning and Zoning Commission meeting.

Therefore, staff recommends approval of this zone change from PD, Planned Development District for a Shopping Center, to Amended PD, Planned Development District for a Shopping Center to condition A through G.

Condition:

A. **That the development of this property shall significantly conform to the site plan and elevations attached hereto and incorporated herein as Exhibits "A".**

B. **In addition to the uses allowed in an "RR", Reginal Retail District, the property may be used for outdoor commercial amusements such as driving ranges, skating rinks, or miniature golf.**

C. **All landscaping shall be irrigated with an automatic sprinkler system, and be maintained in a healthy, growing condition.**

D. **That the use and development of this property shall conform to the regulations and the RR, Regional Retail District, except as stated below.**

E. **That a 26-foot fire lane shall be striped in the outdoor storage area and kept clear at all times.**

F. **That the gates to the outdoor storage area shall have emergency overrides for emergency services.**

G. **That the covered outdoor storage area shall be fire sprinkled.**

Letters of Objection:

Staff has not received any letters of objection as of June 8, 2022.

Attachments:

Application
Site Plans (Exhibit A)
Maps
Ordinance #9333

Morris William Jr.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 2, BLOCK 2, GRANDRIDGE PARK ADDITION, SECTION 1, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH LOOP 250 WEST AND WADLEY AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning Lot 2, Block 2, Grandridge Park Addition, Section 1, City and County of Midland, Texas (the "Property") to an amended PD, Planned Development District for a Shopping Center and adopting a site plan therefor, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from PD, Planned Development District for a Shopping Center to an amended PD, Planned Development District for a Shopping Center.

SECTION TWO. That the base zoning district to which the use and development of the Property shall conform, except as modified by Section Three of this ordinance, is the RR, Regional Retail District.

SECTION THREE. That a site plan, which is attached hereto as Exhibit "A" and

incorporated herein for all purposes, is hereby adopted, and the use and development of the Property shall be subject to the following conditions and restrictions:

A. That the development of the Property shall significantly conform to the site plan and elevation drawings attached hereto as Exhibit "A".

B. That in addition to the uses allowed in the RR, Regional Retail District, the Property may be used for outdoor commercial amusements such as driving ranges, skating rinks, or miniature golf.

C. All landscaping shall be irrigated with an automatic sprinkler system and be maintained in a healthy, growing condition.

D. That a 26-foot fire lane shall be striped in the outdoor storage area and kept clear at all times.

E. That the gates to the outdoor storage area shall have emergency overrides for emergency services.

F. That the covered outdoor storage area shall be fire sprinkled.

SECTION FOUR. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FIVE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION SIX. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SEVEN. The penalty for violation of this ordinance shall be in

accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION EIGHT. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2022; 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., 2022, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2022.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT A

LOWES #0063 - MIDLAND

3315 N. LOOP 250 W
MIDLAND, TX 79707

INDEX OF DRAWINGS

C000	COVER SHEET
C100	EXISTING CONDITIONS
C200	DEMOLITION PLAN
C300	LAYOUT AND MATERIALS PLAN
C301	SITE ENLARGEMENTS
C400	GRADING AND DRAINAGE PLAN
C500	SITE DETAILS
A5.2	PLAN, SECTIONS & DETAILS
	GARDEN CENTER (FOR REFERENCE)

SITE INFORMATION

PROJECT TEAM

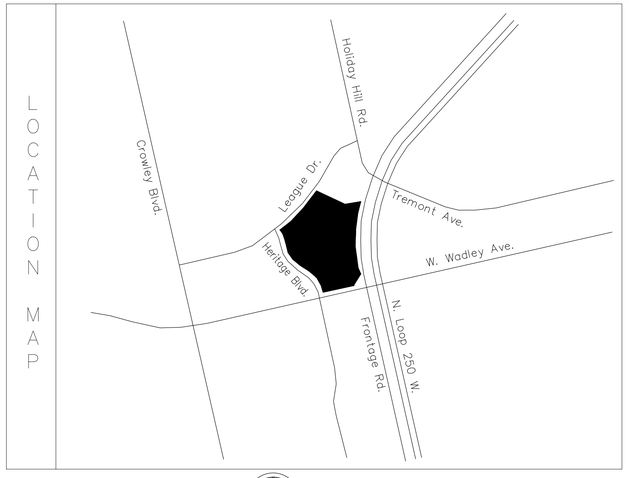
OWNER
LOWE'S HOME CENTERS, LLC
1000 LOWE'S BLVD
MOORESVILLE, NC 28117-8520
(704)-758-1000

ARCHITECT
LITTLE DIVERSIFIED ARCHITECTURAL CONSULTING
615 SOUTH COLLEGE STREET, SUITE 1600
CHARLOTTE, NORTH CAROLINA 28202
(704)-525-6350

LAND PLANNING
LITTLE DIVERSIFIED ARCHITECTURAL CONSULTING
615 SOUTH COLLEGE STREET, SUITE 1600
CHARLOTTE, NORTH CAROLINA 28202
(704)-525-6350

SURVEYOR
FREELAND-CLINKSCALES & ASSOCIATES INC. OF NC
201 2ND AVE EAST
HENDERSONVILLE, NC 28792
(828)697-6539

VICINITY MAP



NOT TO SCALE

ORIGINAL SECOND FINAL

REVISIONS
◇ PRE-BID SET ISSUE DATE △ POST BID SET ISSUE DATE

DATE		DESCRIPTION

LITTLE
DIVERSIFIED ARCHITECTURAL CONSULTING
615 S. COLLEGE ST., SUITE 1600 Charlotte, NC 28202
T: 704.525.6350 F: 704.561.8700

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COVER

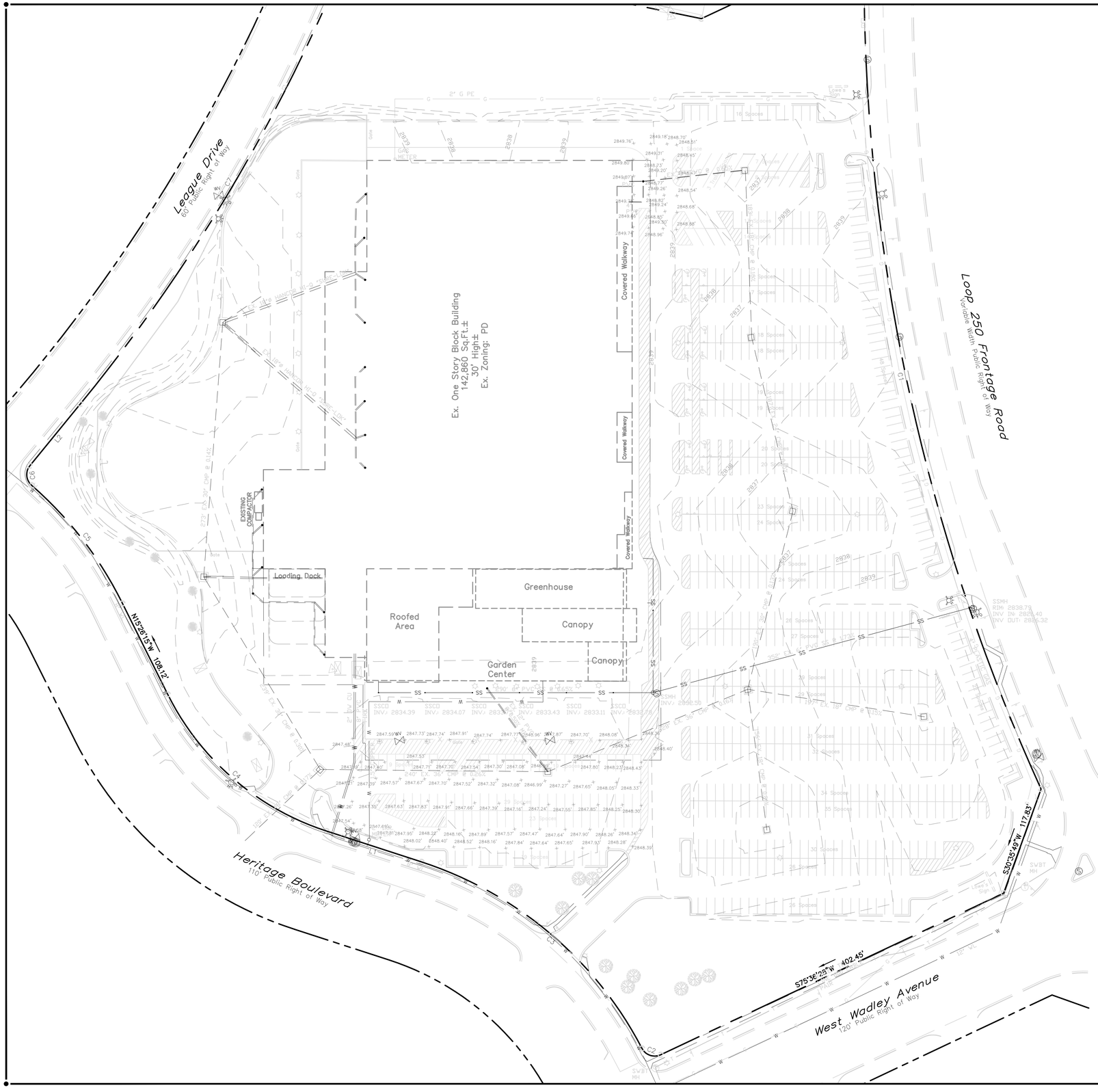
LOWE'S #0063 - MIDLAND
3315 N. LOOP 250 W
MIDLAND, TEXAS 79707

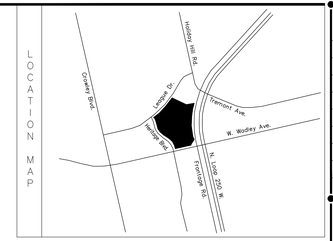
PROJECT No: 121792.00 | DRAWN BY: | CHECKED BY:

FOR REVIEW

PLANNING ISSUE DATE: 04/13/22

DRAWING NUMBER:
C000





REVISIONS ◇ PRE-BID SET ISSUE DATE △ POST BID SET ISSUE DATE	
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811 Know what's below. Call before you dig.

CAUTION!!!

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GRAPHIC SCALE

50 0 25 50 100 200

1" = 50'-0"

EXISTING CONDITIONS PLAN

LOWE'S #0063 - MIDLAND
3315 N. LOOP 250 W
MIDLAND, TEXAS 79707

PROJECT No: 121726.00 | DRAWN BY: | CHECKED BY:

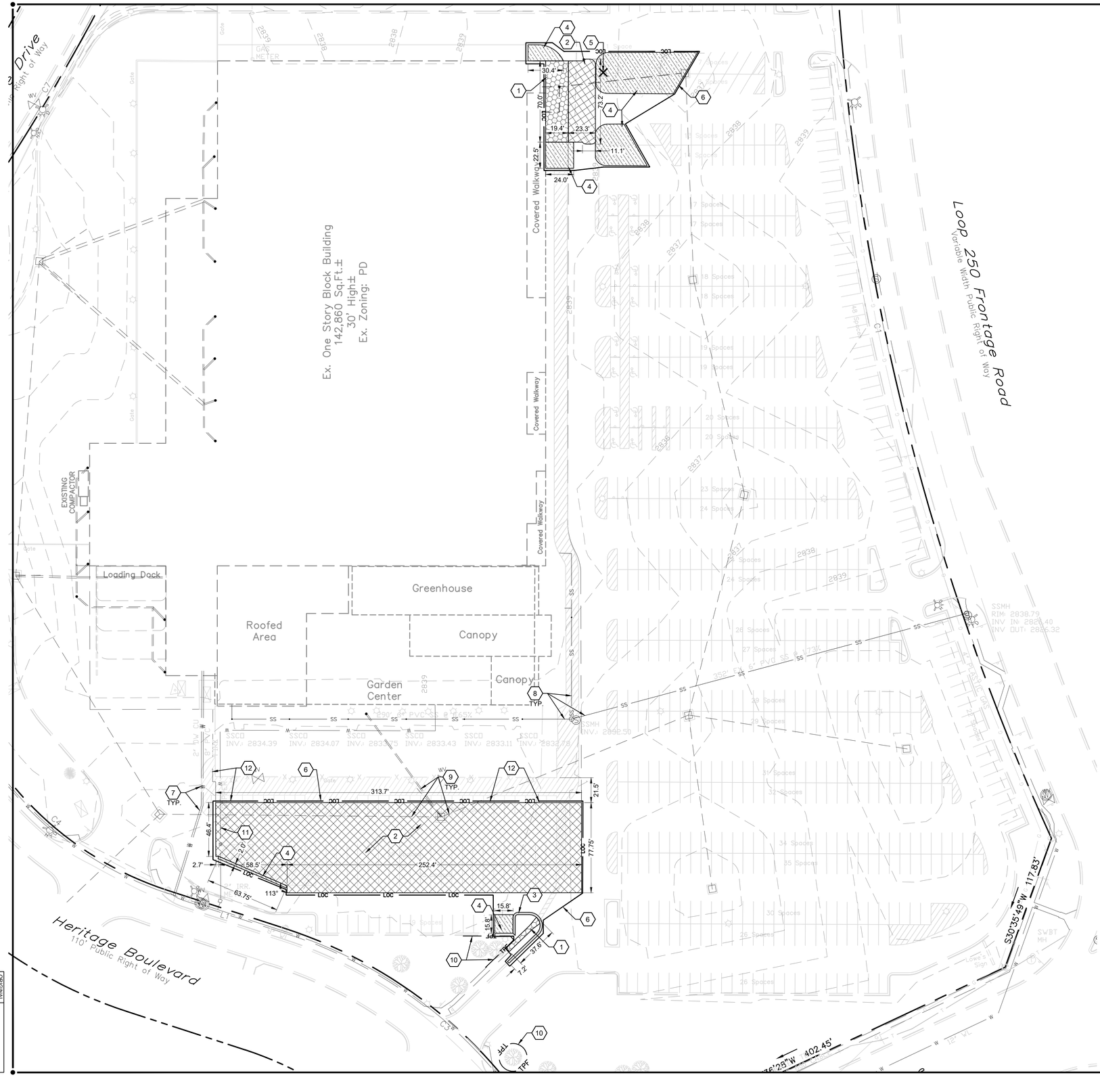
FOR REVIEW

PLANNING ISSUE DATE: 04/13/22

DRAWING NUMBER:

C100

ORIGINAL SECOND FINAL



DEMOLITION NOTES

A. PARTIAL BOUNDARY AND TOPOGRAPHICAL SURVEY INFORMATION IS TAKEN FROM A SURVEY BY FREELAND-CLINKSCALES & ASSOCIATES INC. OF NC, 201 2ND AVE EAST, HENDERSONVILLE, NC 28792 (828)697-6539 AND ENTITLED "PLAT OF BOUNDARY SURVEY LOWE'S HOME IMPROVEMENT 3315 NORTH LOOP 250 WEST, MIDLAND, MIDLAND COUNTY, TEXAS" AND ORIGINAL DESIGN DRAWINGS BY ASG INCORPORATED, DATED 07-12-1995.

B. THE CONTRACTOR SHALL NOTIFY A PRIVATE UTILITY LOCATOR SERVICE AND RESEARCH EXISTING DRAWINGS AND OTHER DOCUMENTATION PRIOR TO BEGINNING CONSTRUCTION. ANY BELOW GRADE APPURTENANCES NOT CHARTED BY THE SURVEYOR ARE TO BE REPORTED TO THE DESIGNER OF RECORD. ALL REPAIRS/REPLACEMENTS MUST BE APPROVED BY DESIGNER OF RECORD.

C. THE UTILITIES AND THE LOCATION SHOWN ON THE PLANS REPRESENT THE DESIGNER'S UNDERSTANDING OF EXISTING UTILITIES LOCATED WITHIN THE LIMITS OF CONSTRUCTION. PRIOR TO ANY EXCAVATION, CONTRACTOR IS TO FIELD VERIFY THE LOCATION, DEPTH, AND EXISTENCE OF ALL UTILITIES (ELECTRICAL, MECHANICAL, WATER, TELEPHONE, GAS, STORM, ETC.) WITH THE OWNER AND/OR THE APPROPRIATE UTILITY COMPANY. THE OMISSION OF, NONEXISTENCE OF, OR INCLUSION OF UTILITY LOCATIONS ON THE PLANS IS NOT TO BE CONSIDERED AS ABSOLUTE. DAMAGED UTILITIES SHALL BE REPAIRED/REPLACED AT THE CONTRACTOR'S EXPENSE. CONTRACTOR TO COORDINATE ANY FIELD CONDITIONS THAT MAY REVISE THE DESIGN WITH THE DESIGNER OF RECORD PRIOR TO PROCEEDING.

D. CONTRACTOR SHALL MAINTAIN WATER, SEWER, ELECTRICAL AND OTHER UTILITY SERVICE TO EXISTING BUILDING AT ALL TIMES. CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES FROM DAMAGE DURING CONSTRUCTION. THE DESIGNER OF RECORD SHALL BE NOTIFIED OF ALL UNDERGROUND UTILITIES EXPOSED DURING CONSTRUCTION OR THOSE LEFT WITH LESS THAN ACCEPTABLE EARTH COVER. THE DESIGNER OF RECORD SHALL DETERMINE THE RESOLUTION OF THE UTILITY AND DETERMINE IF A CHANGE ORDER IS REQUIRED OR THE CONTRACTOR IS RESPONSIBLE FOR ALL COSTS INVOLVED.

E. INSTALL ALL EROSION CONTROL MEASURES PRIOR TO BEGINNING CONSTRUCTION.

F. INSTALL INLET PROTECTION AS NOTED ON EROSION CONTROL PLANS AT ALL EXISTING STORM DRAINAGE STRUCTURES ADJACENT TO OR DOWNSTREAM OF DEMOLITION AREAS TO PREVENT FLOW OF SEDIMENT AND DEBRIS INTO EXISTING STORM DRAINAGE SYSTEMS.

G. NO SOIL DISTURBANCE, SOIL COMPACTION, CONSTRUCTION MATERIALS, OR CONSTRUCTION TRAFFIC IS ALLOWED BEYOND THE LIMITS OF CONSTRUCTION SHOWN.

H. TREE PROTECTION BARRICADES MUST BE INSTALLED PRIOR TO ANY GRADING, DEMOLITION, OR CONSTRUCTION AND SHALL NOT BE REMOVED UNTIL PROJECT IS COMPLETED.

I. ALL EXISTING TREES AND SHRUBS SHALL REMAIN AND BE PROTECTED.

DEMOLITION LEGEND

1. SAWCUT AND REMOVE EXISTING CONCRETE
2. SAWCUT AND REMOVE EXISTING ASPHALT
3. SAWCUT AND REMOVE EXISTING CURB AND GUTTER
4. EXISTING PAVEMENT TO BE CLEANED IN PREPARATION FOR SEAL COATING
5. EXISTING LIGHT POLE AND UNDERGROUND ELECTRICAL SERVICE TO BE REMOVED.
6. LIMITS OF CONSTRUCTION (0.85 AC.).
7. EXISTING DOMESTIC AND FIRE WATER LINE TO REMAIN AND BE PROTECTED DURING CONSTRUCTION. COORDINATE WITH UTILITY PLANS.
8. EXISTING SANITARY SEWER LINE TO REMAIN AND BE PROTECTED DURING CONSTRUCTION - COORDINATE WITH UTILITY PLANS.
9. EXISTING STORM PIPES AND STRUCTURES TO REMAIN AND BE PROTECTED DURING CONSTRUCTION - COORDINATE WITH GRADING PLANS.
10. PROPOSED TREE PROTECTION FENCE - SEE DETAIL 11/C500
11. VERIFY LOCATION & DEPTH OF EXISTING IRRIGATION LINE AND RELOCATE AS NECESSARY IF LOCATION CONFLICTS WITH PROPOSED WALL.
12. EXISTING CONCRETE TO REMAIN AND BE PROTECTED.

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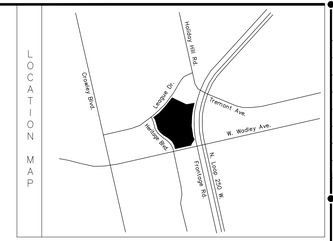
GRAPHIC SCALE

40 0 20 40 80 160

1" = 40'-0"

FINAL / ORIGINAL

LOCATION MAP



REVISIONS
PRE-BID SET ISSUE DATE
POST BID SET ISSUE DATE

DATE	DESCRIPTION

LITTLE
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LOWE'S

DEMOLITION PLAN

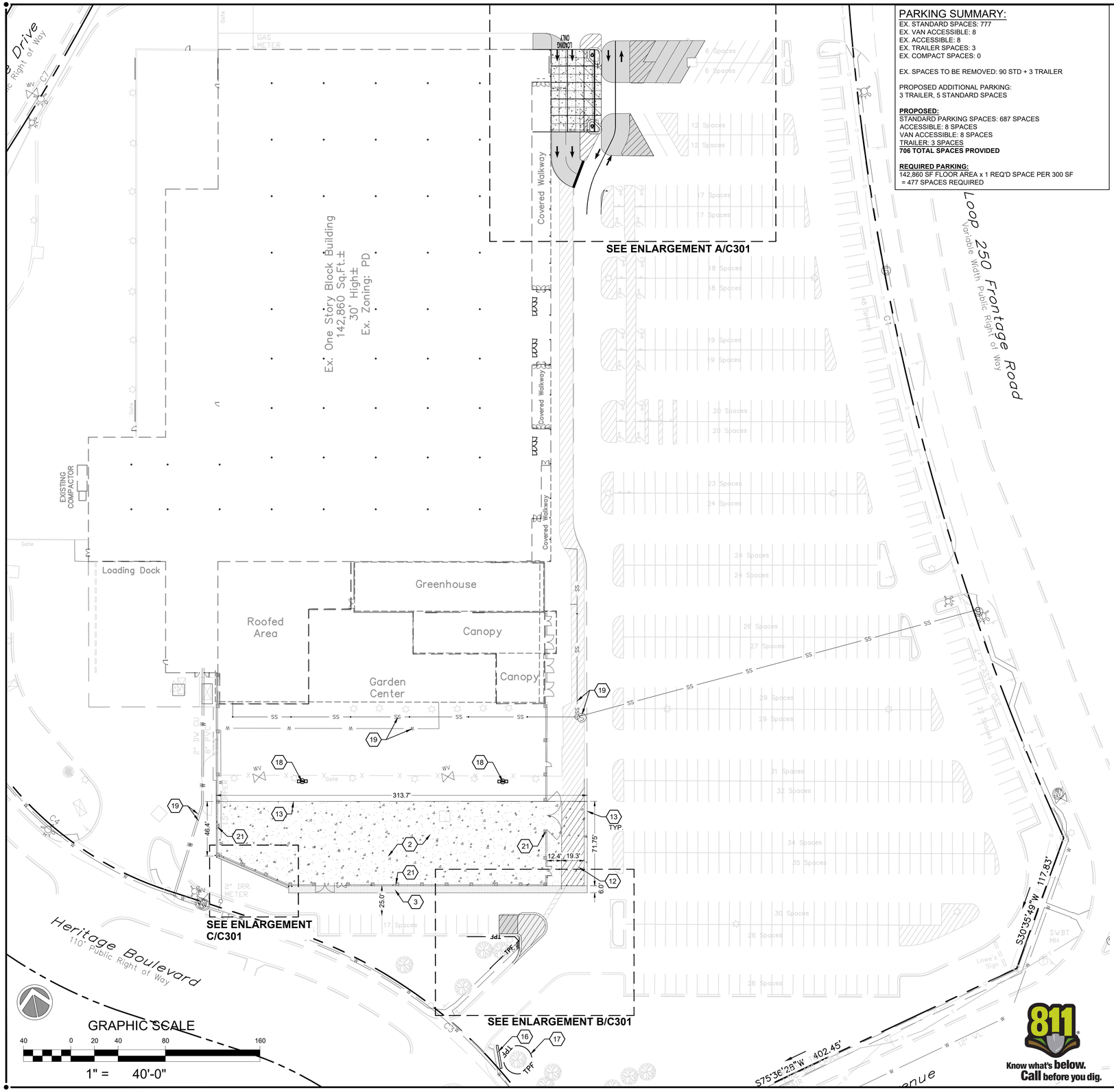
LOWE'S #0063 - MIDLAND
3315 N. LOOP 250 W
MIDLAND, TEXAS 79707

PROJECT No: 191720.00 | DRAWN BY: | CHECKED BY:

FOR REVIEW

PLANNING ISSUE DATE: 04/13/22

DRAWING NUMBER:
C200



PARKING SUMMARY:

EX. STANDARD SPACES: 777
EX. VAN ACCESSIBLE: 8
EX. ACCESSIBLE: 8
EX. TRAILER SPACES: 3
EX. COMPACT SPACES: 0

EX. SPACES TO BE REMOVED: 90 STD + 3 TRAILER

PROPOSED ADDITIONAL PARKING:
3 TRAILER, 5 STANDARD SPACES

PROPOSED:
STANDARD PARKING SPACES: 687 SPACES
ACCESSIBLE: 8 SPACES
VAN ACCESSIBLE: 8 SPACES
TRAILER: 3 SPACES
706 TOTAL SPACES PROVIDED

REQUIRED PARKING:
142,860 SF FLOOR AREA x 1 REQ'D SPACE PER 300 SF
= 477 SPACES REQUIRED

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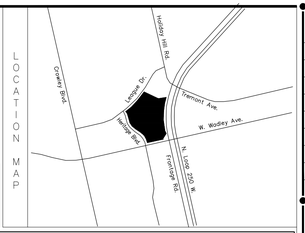
IMPERVIOUS AREA SUMMARY:

IMPERVIOUS AREA REMOVED: 0 SF
IMPERVIOUS AREA ADDED: 380 SF

LOCATION MAP



LAYOUT NOTES

A. ALL TRAFFIC CONTROL SIGNAGE, DEVICES, AND STRIPING TO CONFORM TO THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (M.U.T.C.D.).

B. ALL PAVING CUTS SHALL BE MADE BY SAW CUTS.

C. EXISTING ELEVATIONS SHALL BE FIELD VERIFIED AND MATCHED.

D. CONTRACTOR TO COORDINATE ANY CHANGES IN FIELD CONDITIONS THAT MAY REVISE THE DESIGN WITH DESIGNER OF RECORD PRIOR TO PROCEEDING.

E. ALL DIMENSIONS ARE TO FACE OF CURB OR TO FINISHED FACE OF BUILDING UNLESS NOTED OTHERWISE.

F. ALL RADII ON CURBS SHALL BE 5'-0" UNLESS NOTED OTHERWISE.

G. ALL ACCESSIBLE PARKING SPACES SHALL DISPLAY APPROVED RESERVED PARKING SPACE SIGNAGE AS PRESCRIBED BY THE AMERICANS WITH DISABILITIES ACT (ADA), M.U.T.C.D., AND ANY ADDITIONAL STATE AND/OR LOCAL REQUIREMENTS. HEIGHT FROM FINISHED GRADE TO BOTTOM OF SIGN IN ANY LOCATION SHALL BE 84" MINIMUM.

H. ALL WORK WITHIN THE RIGHT OF WAY OF ALL ROADS AND HIGHWAYS SHALL BE IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS OF THE APPROPRIATE STATE AND/OR LOCAL JURISDICTION. CONTRACTOR SHALL SECURE ALL NECESSARY DRIVEWAY AND ENCROACHMENT PERMITS PRIOR TO CONSTRUCTION. IF NECESSARY, CONTRACTOR SHALL PROVIDE TRAFFIC CONTROL DURING CONSTRUCTION WITHIN THE RIGHT OF WAY, PER WORK AREA TRAFFIC CONTROL HANDBOOK (W.A.T.C.H.) STANDARDS.

I. A MINIMUM OF 18" IS TO BE MAINTAINED BETWEEN ALL PAVED SURFACES AND TOPS OF FOOTINGS.

J. CONTRACTOR TO INSTALL TEMPORARY SEEDING IN ALL DISTURBED AREAS NOT COVERED BY PAVEMENT UPON COMPLETION OF CONSTRUCTION. CONTRACTOR TO INSTALL PERMANENT SEEDING DURING APPROPRIATE SEEDING SEASON.

K. EXISTING TRASH COLLECTION TO REMAIN.

LAYOUT LEGEND

1. HEAVY DUTY CONCRETE - SEE DETAIL 4/C500
2. PROPOSED CONCRETE SLAB - SEE ARCHITECTURAL PLANS
3. PROPOSED HEAVY DUTY ASPHALT PAVEMENT - SEE DETAIL 3/C500
4. 2'-0" WIDE CURB AND GUTTER - SEE DETAIL 1/C500
5. PROPOSED 3' CURB TAPER - SEE DETAIL 5/C500
6. DASHED LINE INDICATES FLUSH CURB - SEE DETAIL 7/C500
7. SEAL COAT PAVEMENT BLACK
8. WHITE PAINTED PARKING ISLAND
9. DIRECTION ARROW (TYP.) - SEE DETAIL 6/C500 AND GENERAL NOTE A
10. 4" WIDE PAINTED SOLID STRIPE (WHITE)
11. 18" WIDE PAINTED STOP BAR (WHITE)
12. PAINTED FIRE LANE STRIPING TO MATCH EXISTING
13. INSTALL FLUSH WITH EXISTING
14. 36" PAINTED LETTERS (WHITE)
15. 4" WIDE DASHED PAINTED LANE LINE (WHITE)
16. PROPOSED DELIVERY SIGNAGE
17. PROPOSED TREE PROTECTION FENCE - SEE DETAIL 11/C500
18. PROPOSED LIGHT POLE BASE - SEE DETAIL 12/C500. SEE SITE LIGHTING PLAN FOR EXACT LOCATIONS AND FIXTURES
19. EXISTING UTILITIES TO REMAIN AND SHALL BE PROTECTED DURING CONSTRUCTION
20. ACCESSIBLE CURB RAMP WITH TRUNCATED DOMES - SEE DETAILS 9/C500 & 8C500
21. PROPOSED SCREEN WALL - SEE ARCHITECTURAL DRAWINGS
22. PROPOSED BOLLARD - SEE DETAIL 10/C500
23. EDGE OF PROPOSED CANOPY - SEE ARCHITECTURAL DRAWINGS
24. EXPANSION JOINTS (@ 14' O.C.)
25. CONTROL JOINTS (@ 7' O.C.)

Know what's below. Call before you dig.

GRAPHIC SCALE
40 0 20 40 80 160
1" = 40'-0"

FINAL / ORIGINAL SCALE

REVISIONS

◇ PRE-BID SET ISSUE DATE △ POST BID SET ISSUE DATE

DATE	DESCRIPTION

LITTLE
DIVERSIFIED ARCHITECTURAL CONSULTING
615 S. COLLEGE ST., SUITE 1600 Charlotte, NC 28202
T: 704.525.6350 F: 704.561.8700

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1000 LOWE'S BOULEVARD
MOORESVILLE, NC 28117
704.758.1000 (PH.)

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LOWE'S

SITE LAYOUT PLAN

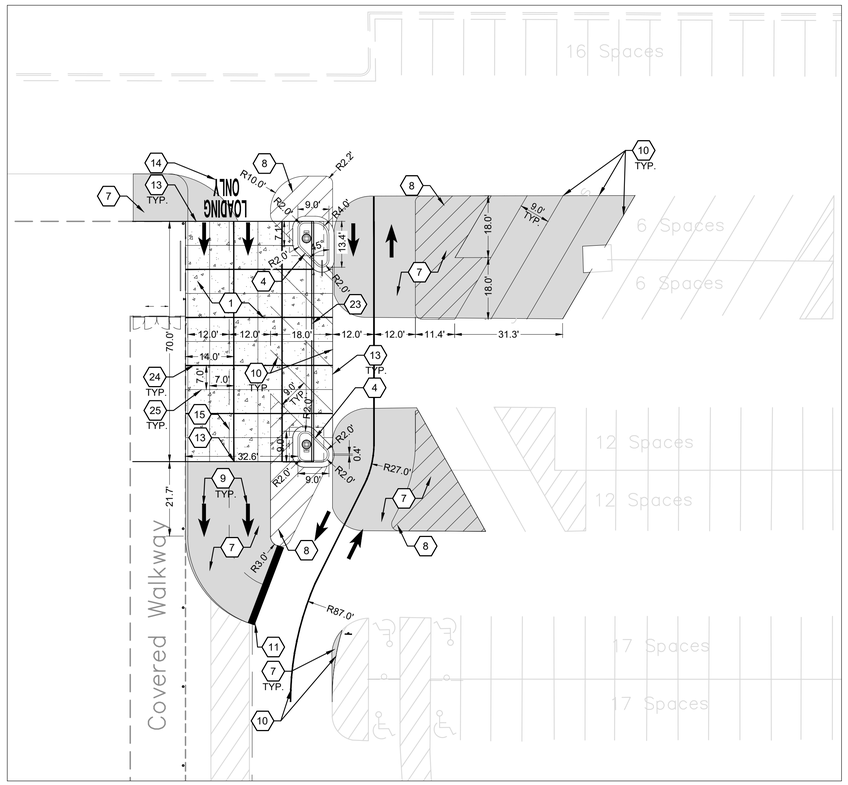
LOWE'S #0063 - MIDLAND
3315 N. LOOP 250 W
MIDLAND, TEXAS 79707

PROJECT No: 121.17820.00 DRAWN BY: CHECKED BY:

FOR REVIEW

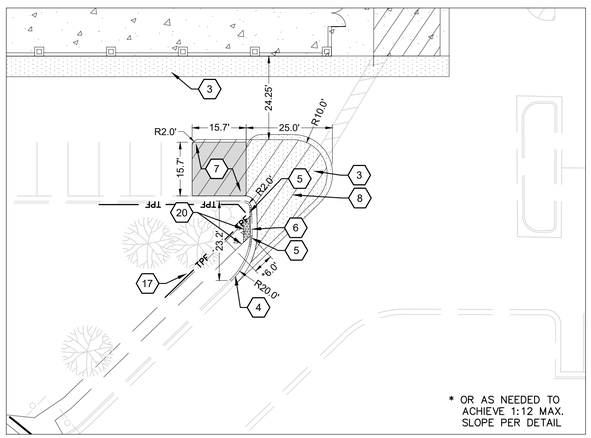
PLANNING ISSUE DATE: 04/13/22

DRAWING NUMBER:
C300



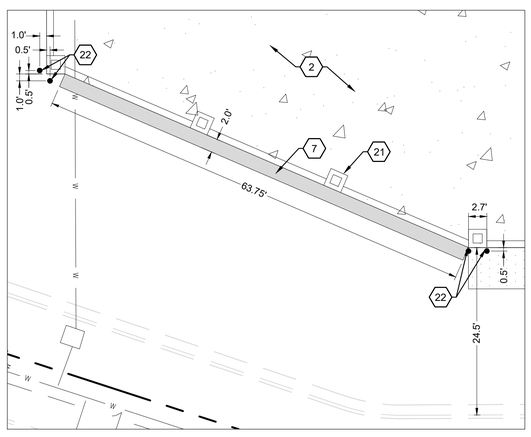
ENLARGEMENT A

SCALE: 1"=20'



ENLARGEMENT B

SCALE: 1"=20'



ENLARGEMENT C

SCALE: 1"=10'

LAYOUT LEGEND

1. HEAVY DUTY CONCRETE - SEE DETAIL 4/C500
2. PROPOSED CONCRETE SLAB - SEE ARCHITECTURAL PLANS
3. PROPOSED HEAVY DUTY ASPHALT PAVEMENT - SEE DETAIL 3/C500
4. 2'-0" WIDE CURB AND GUTTER - SEE DETAIL 1/C500
5. PROPOSED 3' CURB TAPER - SEE DETAIL 5/C500
6. DASHED LINE INDICATES FLUSH CURB - SEE DETAIL 7/C500
7. SEAL COAT PAVEMENT BLACK
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9. DIRECTION ARROW (TYP.) - SEE DETAIL 6/C500 AND GENERAL NOTE A
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12. PAINTED FIRE LANE STRIPING TO MATCH EXISTING
13. INSTALL FLUSH WITH EXISTING
14. 36" PAINTED LETTERS (WHITE)
15. 4" WIDE DASHED PAINTED LANE LINE (WHITE)
16. PROPOSED DELIVERY SIGNAGE
17. PROPOSED TREE PROTECTION FENCE - SEE DETAIL 11/C500
18. PROPOSED LIGHT POLE BASE - SEE DETAIL 12/C500. SEE SITE LIGHTING PLAN FOR EXACT LOCATIONS AND FIXTURES
19. EXISTING UTILITIES TO REMAIN AND SHALL BE PROTECTED DURING CONSTRUCTION
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21. PROPOSED SCREEN WALL - SEE ARCHITECTURAL DRAWINGS
22. PROPOSED BOLLARD - SEE DETAIL 10/C500
23. EDGE OF PROPOSED CANOPY - SEE ARCHITECTURAL DRAWINGS
24. EXPANSION JOINTS (@ 14' O.C.)
25. CONTROL JOINTS (@ 7' O.C.)

GRAPHIC SCALE

20 0 10 20 40 20

1" = 20'-0"

Know what's below. Call before you dig.

CAUTION!!!

THE LOCATIONS AND ELEVATIONS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESS OR IMPLIED AS TO THE COMPLETENESS OF ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.

ORIGINAL	SCHEMATIC	FINAL

REVISIONS

◇ PRE-BID SET ISSUE DATE △ POST BID SET ISSUE DATE

DATE		DESCRIPTION

LITTLE
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615 S. COLLEGE ST., SUITE 1600 Charlotte, NC 28202
T: 704.525.6350 F: 704.561.8700

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LOWE'S

SITE LAYOUT PLAN ENLARGEMENTS

LOWE'S #0063 - MIDLAND
3315 N. LOOP 250 W
MIDLAND, TEXAS 79707

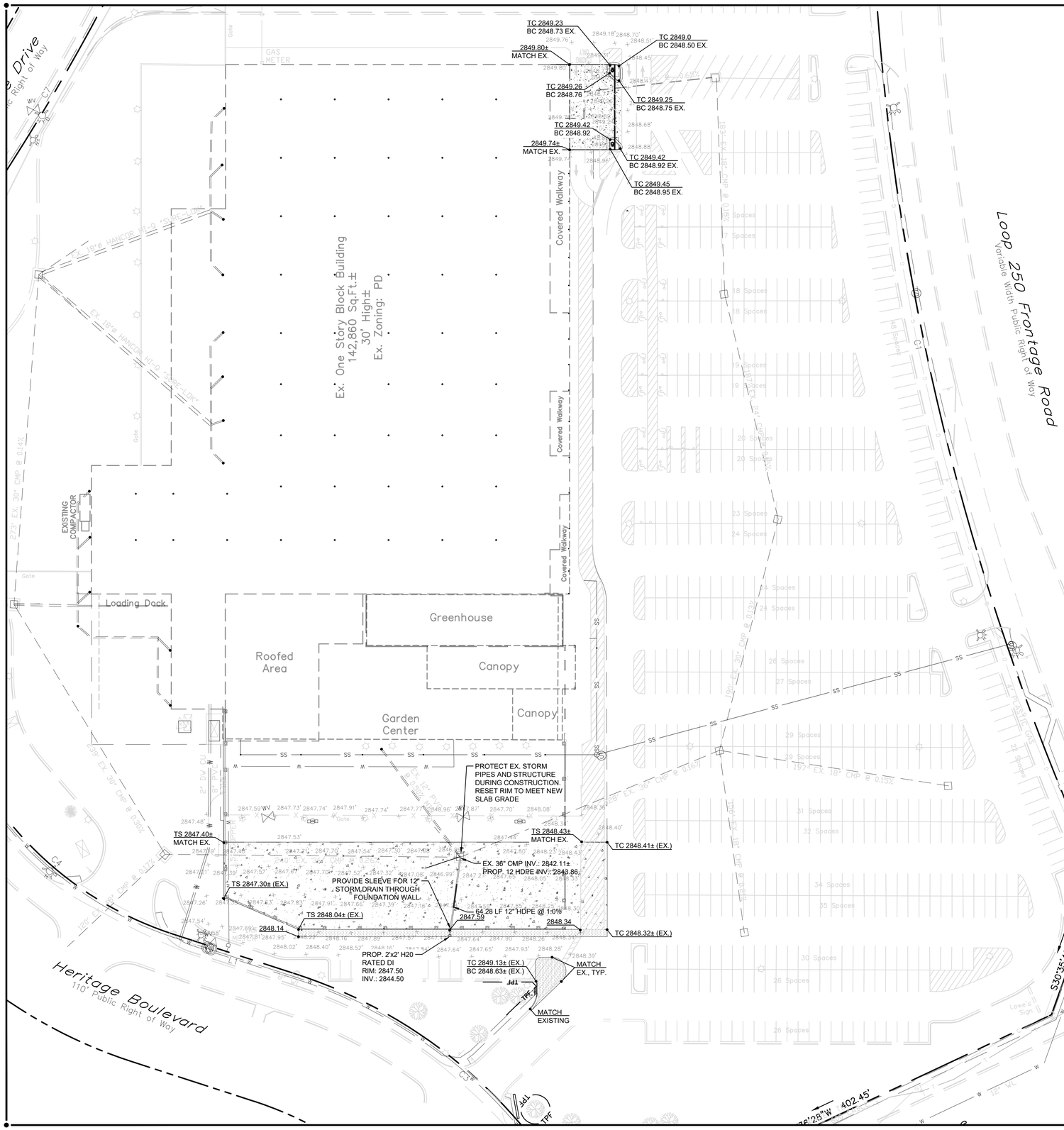
PROJECT No: 121.17282.00 DRAWN BY: CHECKED BY:

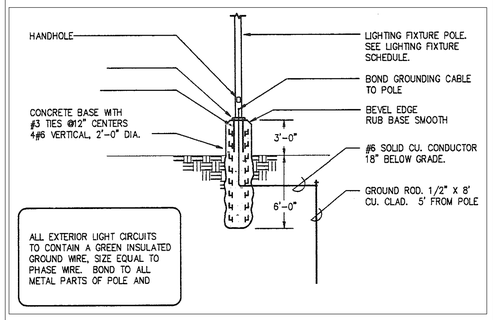
FOR REVIEW

PLANNING ISSUE DATE: 04/13/22

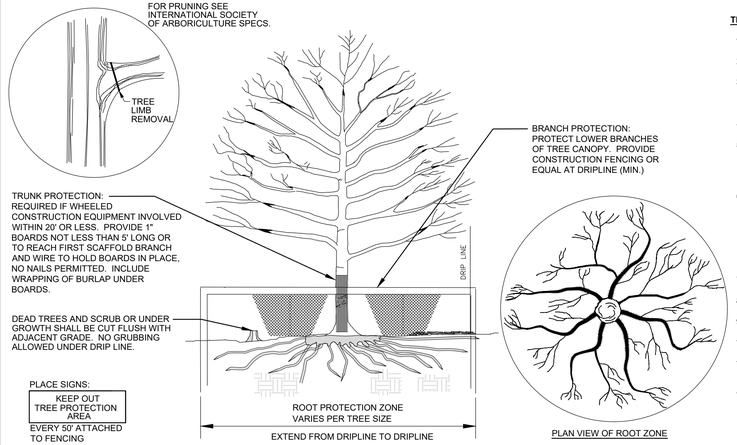
DRAWING NUMBER:

C301


Loop 250 Frontage Road
Variable Width Public Right of Way
Heritage Boulevard
110' Public Right of Way
Ex. One Story Block Building
142,860 Sq.Ft.±
30' High±
Ex. Zoning: PD
Loading Dock
Greenhouse
Roofed Area
Canopy
Garden Center
Canopy
Covered Walkway
Covered Walkway
Covered Walkway
EXISTING CONCRETE
GAS METER
Gate
TC 2849.23
BC 2848.73 EX.
TC 2849.0
BC 2848.50 EX.
2849.80±
MATCH EX.
TC 2849.26
BC 2848.76
TC 2849.25
BC 2848.75 EX.
TC 2849.42
BC 2848.92
2849.74±
MATCH EX.
TC 2849.42
BC 2848.92 EX.
TC 2849.45
BC 2848.95 EX.
PROTECT EX. STORM PIPES AND STRUCTURE DURING CONSTRUCTION. RESET RIM TO MEET NEW SLAB GRADE
TS 2847.40±
MATCH EX.
TS 2848.43±
MATCH EX.
TC 2848.41± (EX.)
EX. 36" CMP INV.: 2842.11±
PROP. 12 HDPE INV.: 2843.86
PROVIDE SLEEVE FOR 12" STORM DRAIN THROUGH FOUNDATION WALL
TS 2847.30± (EX.)
TS 2848.04± (EX.)
64.28 LF 12" HDPE @ 1.0%
2847.59
2848.34
2848.14
TC 2848.32± (EX.)
PROP. 2'x2' H20 RATED DI
RIM: 2847.50
INV.: 2844.50
TC 2849.13± (EX.)
BC 2848.63± (EX.)
MATCH EX., TYP.
MATCH EXISTING
TPF
S3°35'49"W 117.83'
N86°36'29"W 402.45'
Lowe's Sign
SWBT MH
C1
C2
C3
C4
L1
L2
Ex. 18"ø HANCOR HI-Q CPP CL IV
Ex. 18"ø HANCOR HI-Q CPP CL IV
Ex. 12"ø RCP
Ex. 30" CMP @ 0.14%
Ex. 30" CMP @ 0.30%
Ex. 30" CMP @ 0.27%
Ex. 30" CMP @ 0.67%
Ex. 18" CMP @ 0.15%
Ex. 24" CMP @ 0.15%
Ex. 18" CMP @ 0.67%
Ex. 12" RCP
Ex. 12" RCP
Ex. 12" RCP



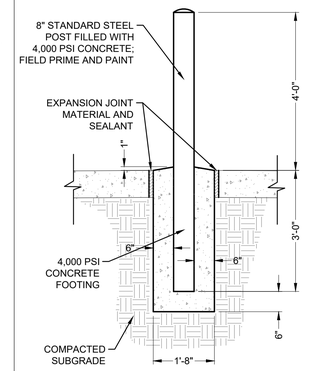
12 LIGHT POLE BASE DETAIL
NOT TO SCALE



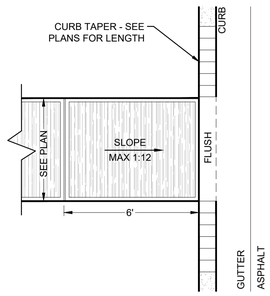
TREE PROTECTION NOTES:

1. ALL TREES AND SHRUBS TO BE PROTECTED AND PRESERVED SHALL BE PER DETAIL.
2. TREES AND SHRUBS TO BE PROTECTED AND PRESERVED SHALL BE IDENTIFIED ON THE TRUNK WITH WHITE SURVEY TAPE.
3. TO PREVENT ROOT SMOTHERING, SOIL STOCKPILES, SUPPLIES, EQUIPMENT OR ANY OTHER MATERIAL SHALL NOT BE PLACED OR STORED WITHIN THE DRIP LINE OR WITHIN 15' OF A TREE OR SHRUB TRUNK, WHICHEVER IS GREATER.
4. TREE AND SHRUB ROOTS SHALL NOT BE CUT UNLESS CUTTING IS UNAVOIDABLE
5. TRENCHES SHALL BE HAND DUG WITHIN THE DRIP LINE IN AREAS WHERE ROOTS TWO INCHES IN DIAMETER AND GREATER ARE PRESENT, OR WHEN IN CLOSE PROXIMITY TO LOW BRANCHING TREES. WHENEVER POSSIBLE, ROOTS TWO INCHES OR GREATER IN DIAMETER SHALL BE TUNNELED OR BORED UNDER AND SHALL BE COVERED TO PREVENT DEHYDRATION.
6. WHEN ROOT CUTTING IS UNAVOIDABLE, A CLEAN SHARP CUT SHALL BE MADE TO AVOID SHREDDING OR SMASHING. ROOT CUTS SHOULD BE MADE BACK TO A LATERAL ROOT. WHENEVER POSSIBLE. ROOTS SHOULD BE CUT BETWEEN LATE FALL AND BUD OPENING, WHEN ROOT ENERGY SUPPLIES ARE HIGH AND CONDITIONS ARE LEAST FAVORABLE FOR DISEASE CAUSING AGENTS. EXPOSED ROOTS SHALL BE COVERED IMMEDIATELY TO PREVENT DEHYDRATION. ROOTS SHALL BE COVERED WITH SOIL OR BURLAP AND KEPT MOIST.
7. WATERING OF PROTECTED TREES IN WHICH ROOTS WERE CUT SHALL BE PROVIDED BY THE CONTRACTOR.
8. AUGER TUNNELING RATHER THAN TRENCHING SHOULD BE USED FOR UTILITY PLACEMENT WITHIN THE DRIP LINE.
9. FENCING MATERIAL SHALL ENCIRCLE ANY TREE OR SHRUB WHOSE OUTER DRIP LINE EDGE IS WITHIN 20 FEET OF ANY CONSTRUCTION ACTIVITIES.
10. FENCING MATERIAL SHALL BE BRIGHT, CONTRASTING COLOR, DURABLE AND A MINIMUM OF FOUR FEET IN HEIGHT.
11. FENCING MATERIAL SHALL BE SET AT THE DRIP LINE OR 15 FEET FROM TREE TRUNK, WHICHEVER IS GREATER, AND MAINTAINED IN AN UPRIGHT POSITION THROUGHOUT THE DURATION OF CONSTRUCTION ACTIVITIES.
12. ANY GRADE CHANGES (SUCH AS THE REMOVAL OF TOPSOIL OR ADDITION OF FILL MATERIAL) WITHIN THE DRIP LINE SHOULD BE AVOIDED FOR EXISTING TREES TO REMAIN. RETAINING WALLS AND TREE WELLS ARE ACCEPTABLE ONLY WHEN CONSTRUCTED PRIOR TO GRADE CHANGE.

11 TREE PROTECTION BARRICADE
NOT TO SCALE



10 PIPE BOLLARD
NOT TO SCALE



NOTE: CURB TAPER TO BE PAINTED YELLOW

9 SIDEWALK RAMP
NOT TO SCALE

NOTES:

A. ALL DETECTABLE WARNING DEVICES USED IN NEW CONSTRUCTION SHALL BE OF A RIGID PRECAST OR EMBEDDED PRODUCT APPROVED BY THE DESIGNER OF RECORD. RETRO FIT MATS WILL ONLY BE ALLOWED ON EXISTING RAMPS WITH PRIOR APPROVAL OF THE CITY ENGINEER FOR MATERIAL TYPE AND INSTALLATION (I.E. RESURFACING).

B. RAMP AND DETECTABLE WARNING AREA SHALL BE A MIN. OF 4'-0" IN WIDTH, BUT NOT LESS THAN THE WIDTH OF SIDEWALK LEADING TO BACK OF RAMP.

C. DETECTABLE WARNING SURFACES SHALL EXTEND 2'-0" MIN. IN THE DIRECTION OF PEDESTRIAN TRAVEL.

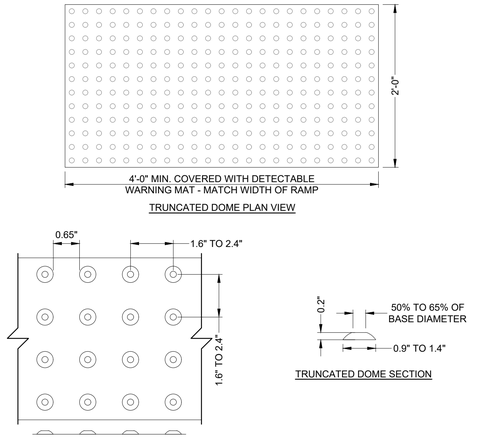
D. DETECTABLE WARNING AREA CAN BE PLACED SQUARE WHERE USED IN A CURB RADIUS.

E. THE ROWS OF TRUNCATED DOMES IN DETECTABLE WARNING SURFACES SHOULD BE ALIGNED PERPENDICULAR TO THE GRADE BREAK BETWEEN THE RAMP RUN AND THE STREET. WHERE DETECTABLE WARNING SURFACES ARE PROVIDED ON A SURFACE WITH A SLOPE THAT IS LESS THAN 5%, DOME ORIENTATION IS LESS CRITICAL.

F. DETECTABLE WARNING AREA SHALL CONTRAST VISUALLY WITH ADJACENT GUTTER, STREET OR HIGHWAY, OR PEDESTRIAN ACCESS ROUTE SURFACE; EITHER LIGHT-ON-DARK OR DARK-ON-LIGHT.

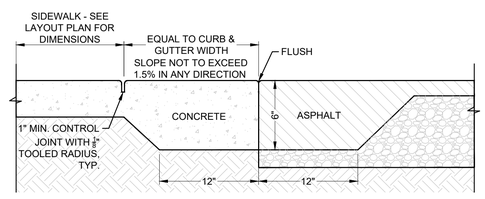
G. IF PAVERS ARE TO BE USED, PAVERS SHOULD BE MINIMUM 8000 PSI CONCRETE WITH A 2" MIN. THICKNESS, SET ON A THIN-SET MORTAR ON TOP OF 4" THICK 3600 PSI CONCRETE BASE.

H. MATS ARE TO BE RIGID WITH TURNED-DOWN EDGES EMBEDDED IN CONCRETE TO ELIMINATE TRIP HAZARD.

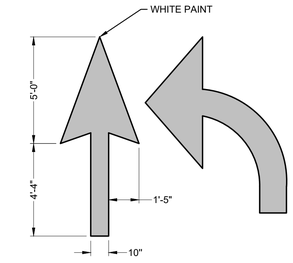


8 TRUNCATED DOMES
NOT TO SCALE

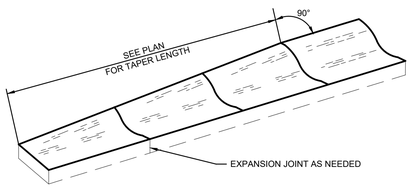
NOTE: ALL NEW CONCRETE SURFACES TO MEET FLUSH WITH ALL NEW AND EXISTING ASPHALT OR CONCRETE SURFACES.



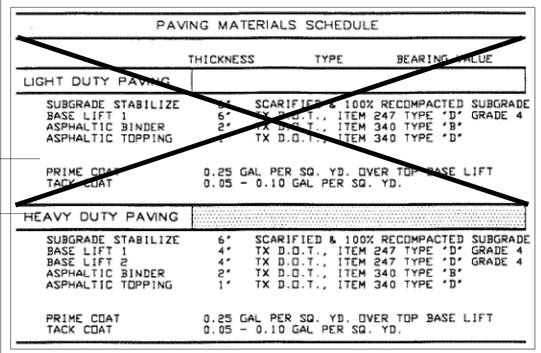
7 ACCESSIBLE FLUSH CURB
NOT TO SCALE



6 PAINTED ARROWS
NOT TO SCALE



5 CURB TAPER
NOT TO SCALE



PAVING MATERIALS SCHEDULE

	THICKNESS	TYPE	BEARING VALUE
LIGHT DUTY PAVING			
SUBGRADE STABILIZE	6"	SCARIFIED & 100% RECOMPACTED SUBGRADE	
BASE LIFT 1	6"	TX D.O.T., ITEM 247 TYPE 'D'	GRADE 4
ASPHALTIC BINDER	2"	TX D.O.T., ITEM 340 TYPE 'B'	
ASPHALTIC TOPPING	1"	TX D.O.T., ITEM 340 TYPE 'D'	
PRIME COAT		0.25 GAL PER SQ. YD. OVER TOP BASE LIFT	
TACK COAT		0.05 - 0.10 GAL PER SQ. YD.	
HEAVY DUTY PAVING			
SUBGRADE STABILIZE	6"	SCARIFIED & 100% RECOMPACTED SUBGRADE	
BASE LIFT 1	4"	TX D.O.T., ITEM 247 TYPE 'D'	GRADE 4
BASE LIFT 2	4"	TX D.O.T., ITEM 247 TYPE 'D'	GRADE 4
ASPHALTIC BINDER	2"	TX D.O.T., ITEM 340 TYPE 'B'	
ASPHALTIC TOPPING	1"	TX D.O.T., ITEM 340 TYPE 'D'	
PRIME COAT		0.25 GAL PER SQ. YD. OVER TOP BASE LIFT	
TACK COAT		0.05 - 0.10 GAL PER SQ. YD.	

3 ASPHALT PAVEMENT
NOT TO SCALE

CONCRETE NOTES:

A. UNLESS NOTED OTHERWISE, ALL CONCRETE SHALL ATTAIN A MIN. COMPRESSIVE STRENGTH OF 3000 PSI AT 28 DAYS.

B. AGGREGATES SHALL BE NATURAL SAND AND ROCK CONFORMING TO ASTM C33.

C. CEMENT SHALL BE PORTLAND CEMENT CONFORMING TO ASTM C-150, TYPE I OR II, LOW ALKALI OR AS REQUIRED TO SATISFY SITE SOIL CONDITIONS AS DETERMINED BY THE PROJECT SOILS ENGINEER.

D. WATER SHALL BE POTABLE, CLEAN AND FREE FROM INJURIOUS AMOUNTS OF OIL, ACIDS, ALKALIS, SALTS, ORGANIC MATERIALS, OR OTHER SUBSTANCES THAT MAY BE DELETERIOUS TO CONCRETE OR REINFORCEMENT.

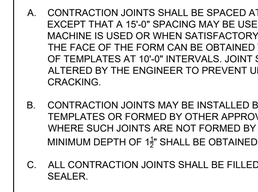
E. ADMIXTURES TO BE USED IN CONCRETE SHALL BE SUBJECT TO PRIOR APPROVAL BY THE ENGINEER.

F. MAX. PERMISSIBLE WATER-CEMENT RATIOS FOR CONCRETE WHEN STRENGTH DATA FROM TRIAL BATCHES ARE NOT AVAILABLE SHALL CONFORM TO TABLE 4.5 OF ACI STANDARD 318-77 OR BASED ON SULFATE CONTENT OF THE SITE SOILS, AS DETERMINED BY THE SOILS ENGINEER. THE LOWER WATER-CEMENT RATIO SHALL GOVERN.

G. CONCRETE SHALL BE CURED WHILE IN A MOIST CONDITION FOR AT LEAST THE FIRST 7 DAYS AFTER PLACEMENT. METHODS FOR ACCELERATED CURING SHALL HAVE PRIOR APPROVAL OF THE ENGINEER.

H. THE FOLLOWING MINIMUM CLEAR DISTANCES BETWEEN REINFORCING STEEL AND FACE OF CONCRETE SHALL BE MAINTAINED UNLESS NOTED OTHERWISE:
SLABS ON GRADE.....CENTER OF SLAB
CONCRETE BELOW GRADE, FORMED.....2"
CONCRETE BELOW GRADE, UNFORMED (POURED AGAINST EARTH).....3"
CONCRETE EXPOSED TO WEATHER.....1-1/2"

2 CONCRETE NOTES
NOT TO SCALE



2'-0" CURB AND GUTTER - REVERSE SLOPE

NOTES:

A. CONTRACTION JOINTS SHALL BE SPACED AT 10'-0" INTERVALS, EXCEPT THAT A 15'-0" SPACING MAY BE USED WHEN A MACHINE IS USED OR WHEN SATISFACTORY SUPPORT FOR THE FACE OF THE FORM CAN BE OBTAINED WITHOUT THE USE OF TEMPLATES AT 10'-0" INTERVALS. JOINT SPACING MAY BE ALTERED BY THE ENGINEER TO PREVENT UNCONTROLLED CRACKING.

B. CONTRACTION JOINTS MAY BE INSTALLED BY THE USE OF TEMPLATES OR FORMED BY OTHER APPROVED METHODS. WHERE SUCH JOINTS ARE NOT FORMED BY TEMPLATES, A MINIMUM DEPTH OF 1½" SHALL BE OBTAINED.

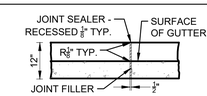
C. ALL CONTRACTION JOINTS SHALL BE FILLED WITH JOINT SEALER.

D. EXPANSION JOINTS SHALL BE SPACED AT 90'-0" INTERVALS AND ADJACENT TO ALL RIGID OBJECTS.

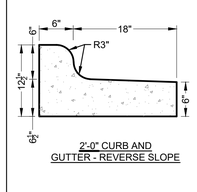
E. JOINTS SHALL MATCH LOCATIONS WITH JOINT IN ABUTTING SIDEWALK.

F. CONCRETE SHALL BE 3600 PSI IN 28 DAYS.

G. TOP 6" OF SUBGRADE BENEATH CURB AND GUTTER SHALL BE COMPACTED TO 100% STANDARD PROCTOR DENSITY.



TRANSVERSE EXPANSION JOINT IN CURB AND GUTTER



2'-0" CURB AND GUTTER

1 CURB AND GUTTER
NOT TO SCALE

DESIGNED	DRAWN	CHECKED	FINAL

REVISIONS

DATE	DESCRIPTION

◇ PRE-BID SET ISSUE DATE △ POST BID SET ISSUE DATE

LITTLE DIVERSIFIED ARCHITECTURAL CONSULTING
615 S. COLLEGE ST., SUITE 1600 Charlotte, NC 28202
T: 704.525.6350 F: 704.561.8700

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LOWE'S HOME CENTERS, LLC
1000 LOWE'S BOULEVARD
MOORESVILLE, NC 28117
704.758.1000 (PH.)

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LOWE'S

SITE DETAILS

LOWE'S #0063 - MIDLAND
3315 N. LOOP 250 W
MIDLAND, TEXAS 79707

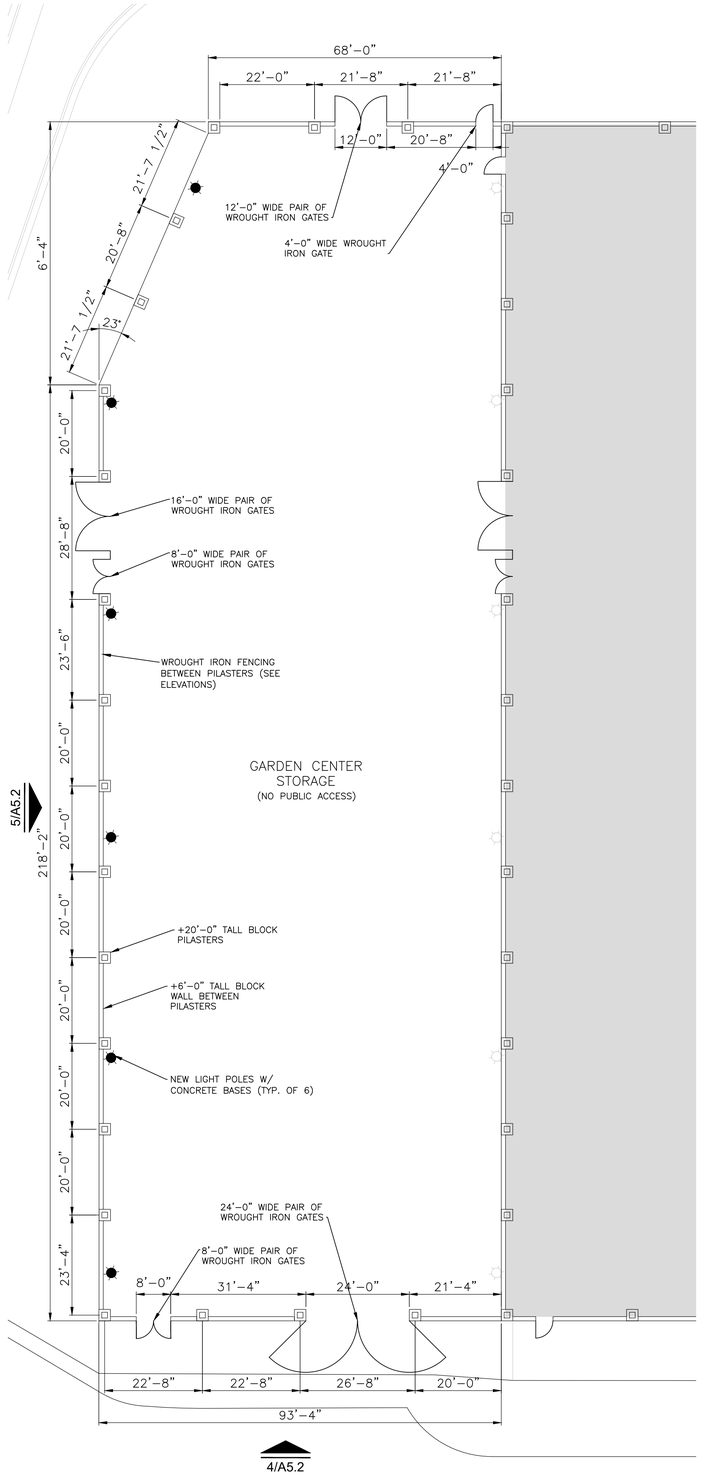
PROJECT No: 121.17282.00 | DRAWN BY: | CHECKED BY:

FOR REVIEW

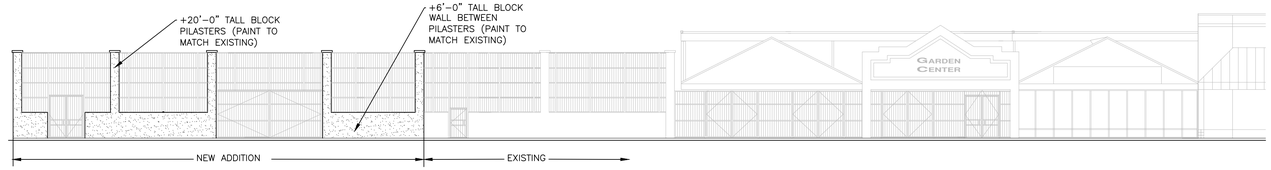
PLANNING ISSUE DATE: 04/13/22

DRAWING NUMBER:

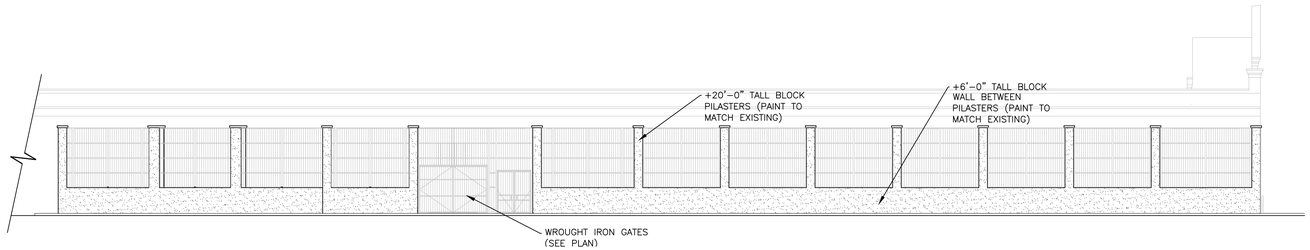
C500



2 ENLARGED GARDEN CENTER STORAGE PLAN
SCALE: 1/16"=1'-0"



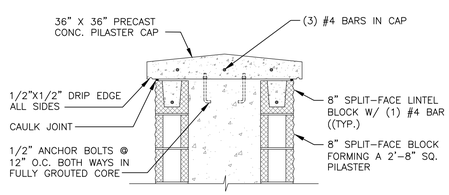
4 ENLARGED FRONT ELEVATION
SCALE: 1/16"=1'-0"



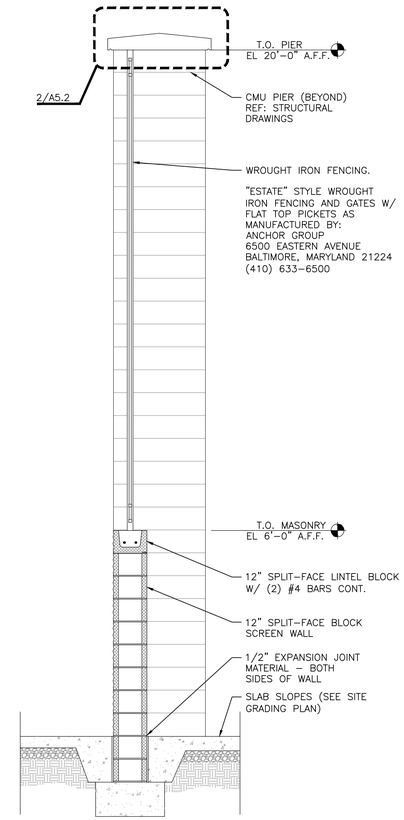
5 ENLARGED SIDE ELEVATION
SCALE: 1/16"=1'-0"

GENERAL NOTES

1. INSTALL JOINT SEALANT OVER 1/2" EXPANSION JOINT FILLER AT ALL EXTERIOR PAVEMENT JOINTS AND AT ALL CUTS AND HOLES THROUGH PAVEMENT.
2. REFER TO STRUCTURAL FOR LOCATION OF REINFORCEMENT AND STRUCTURAL CONNECTIONS.
3. REFER TO SHEET A3.0 FOR EXTERIOR FINISHES.



3 PILASTER CAP DETAIL
SCALE: 3/4"=1'-0"



1 SECTION AT GARDEN CENTER WALL
SCALE: 1/2"=1'-0"

ORIGINAL
SECOND
FINAL

PROJECT N MAGNETIC N

REVISIONS
PRE-BID SET ISSUE DATE / POST BID SET ISSUE DATE

DATE		DESCRIPTION

LITTLE
DIVERSIFIED ARCHITECTURAL CONSULTING
615 S. COLLEGE ST., SUITE 1600 Charlotte, NC 28202
T: 704.525.6350 F: 704.561.8700

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704.758.1000 (PH.)

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LOWE'S®

PLAN, SECTIONS & DETAILS - GARDEN CENTER

LOWE'S #0063 - MIDLAND
3315 N. LOOP 250 W
MIDLAND, TEXAS 79707

PROJECT No: 121.17230.00 | DRAWN BY: | CHECKED BY:

FOR REVIEW

PLANNING ISSUE DATE: 04/07/22

DRAWING NUMBER:
A5.2

MIDLAND Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: Z-22-0293

Case Number:

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: David Powlen, Little Diversified Architectural Consulting		Phone (704) 561-3472 Email david.powlen@littleonline.com	
Address 615 S. College Street, Suite 1600	City Charlotte	State NC	Zip 28202

Property Owner Printed Name: Lowe's #63 (Lowe's Home Centers, LLC)		Phone (704) 632-5849 Email Tom.cross@lowes.com	
Address 1000 Lowe's Boulevard	City Mooresville	State NC	Zip 28117

Representative *(if different from Applicant or Property Owner)* Firm: Lowe's Printed Name: Thomas M. Cross		Phone (704) 632-5849 Email tom.cross@lowes.com	
Address 1000 Lowes Blvd	City Mooresville	State NC	Zip 28117

Street Address: 3315 N. Loop 250 W

Legal Description
Lot: 0020 Block: 002 Subdivision: 41500

Current Zoning: PD

Proposed Zone: PD
(List by tracts if more than one district is requested)

Reason for Zone Change Request: No change

Present Use of Property: Retail

Proposed Use of Property: Retail

How would this zone change affect the public health, safety and welfare? No change

Describe how conditions affecting the property have changed since present zoning designation: No change

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

RECEIVED
APR 21 2022
BY: CF

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature):	Date:
Applicant (printed):	
Property Owner (signature): Thomas M. Cron	Date: 4/19/22
Property Owner (printed) : Thomas M. Cross	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

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

David Fowler
Authorized Agent (*signature*)

Subscribed and sworn to before me, this 19th day of April, 2022, to certify which witness my hand and seal of office.

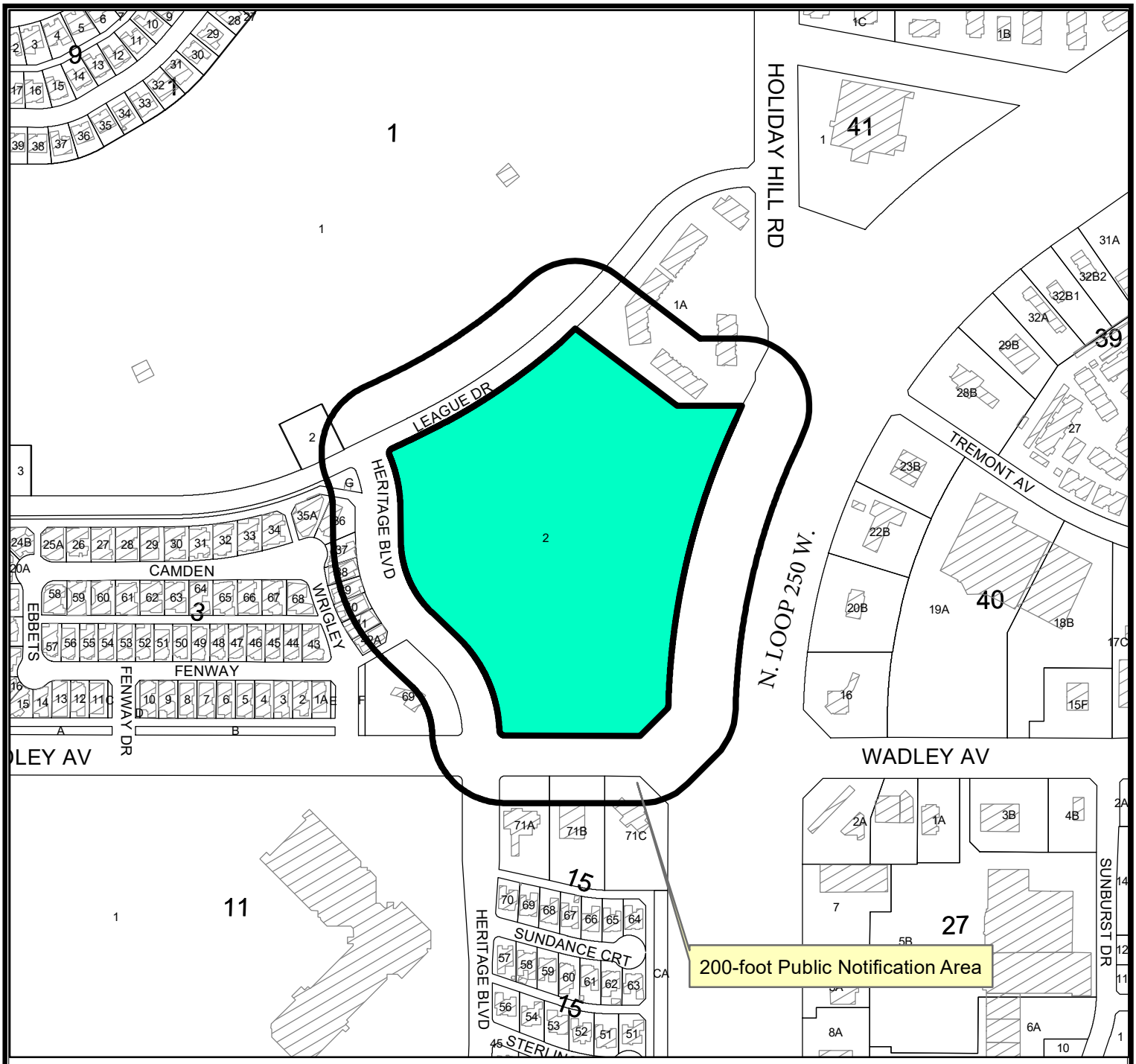
JUDITH M. YARBOROUGH
NOTARY PUBLIC
Iredell County
North Carolina
My Commission Expires July 4, 2026

Judith M Yarborough
NOTARY PUBLIC

FOR OFFICE USE ONLY

☑ Property Owner Authorization	☑ Dimensioned Site Plan
☑ Application Fee	☑ Plans in Digital Format (PDF/JPEG)
Check # 184062	
Received By: Julie Fuqua	Date: 4-21-22

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



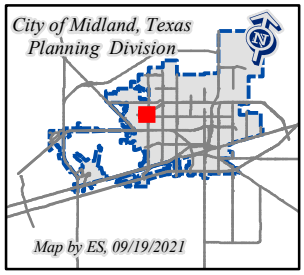
LOCATION MAP

SUD-22-0126 **Scale: 1" = 200'**

Request by David Powlen, for a Zone Change From a PD, Planned Development District for a Shopping Center to an Amended PD, Planned Development District for a Shopping Center on Lot 2, Block 2, Grandridge Park Addition, Section 1, City and County of Midland Texas.
Generally located on the northwest corner fo the intersection of N. Loop 250 W. and Wadley Avenue- (Council District 4)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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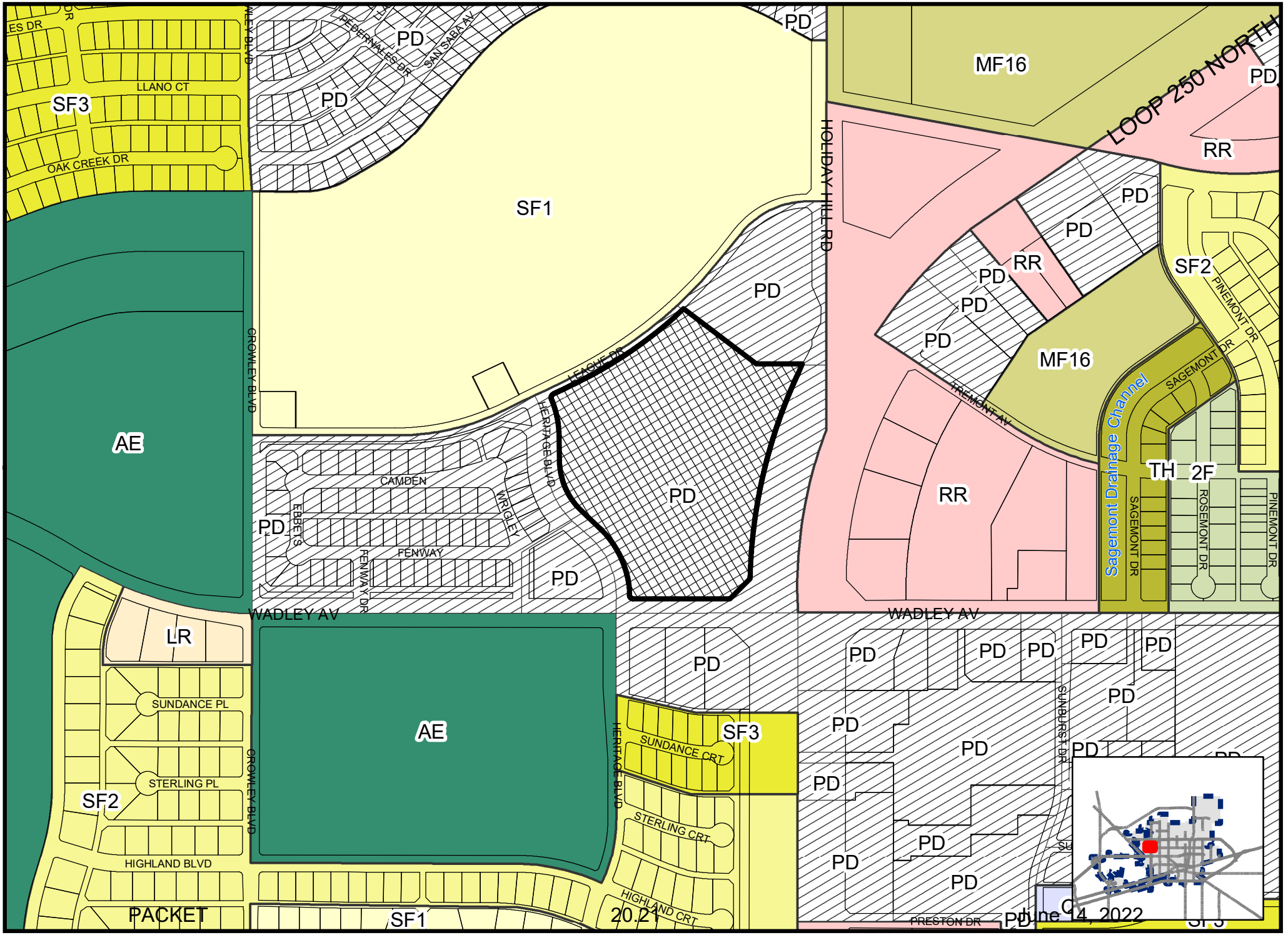
June 14, 2022



Map By ES, 7/8/2021

Z-22-0293

Scale: 1" = 200'

ZONING MAP

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LOWE'S
4X4

432.978.3310
432.978.3310

LOWE'S
GARDEN CENTER

GARDEN
CENTER
214

ORDINANCE NO. 9333

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 2, BLOCK 2, GRANDRIDGE PARK ADDITION, SECTION 1, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF NORTH LOOP 250 WEST AND WEST WADLEY AVENUE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter and the State law with reference to the creation of "Planned Districts" under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by the creation of 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:

Case Number: Z-14-042

CITY OF MIDLAND
Planning Division

APPLICATION TO AMEND A PLANNED DISTRICT

Applicant: LOWE'S HOME CENTERS, LLC

Address: 3315 N LOOP 250 W
Street Address (Phone/e-mail)

MIDLAND TX 79707
City State Zip Code

Property Owner: LOWE'S HOME CENTERS, LLC

Address: 1605 CURTIS BRIDGE ROAD
Street Address (Phone/e-mail)

WILKESBORO, NC 28697
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 2, BLOCK 2 GRANDRIDGE PARK ADDITION SECTION 1

Current PD Classification: PLANNED DISTRICT FOR A SHOPPING CENTER

Requested PD Classification: _____
(List by tracts if more than one zoning district is requested)

Reason for amendment request: TO ALLOW STORAGE OF PRODUCT IN STRATEGIC LOCATIONS AROUND THE BUILDING

Describe how conditions affecting the property have changed since it was designated its present zone: ENTRANCE VESTIBULES WERE ADDED IN APRIL 2001 GARDEN CENTER WAS EXPANDED IN SEPTEMBER 2009

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: 8/14/2014

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

STATE of TEXAS
COUNTY OF MIDLAND

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

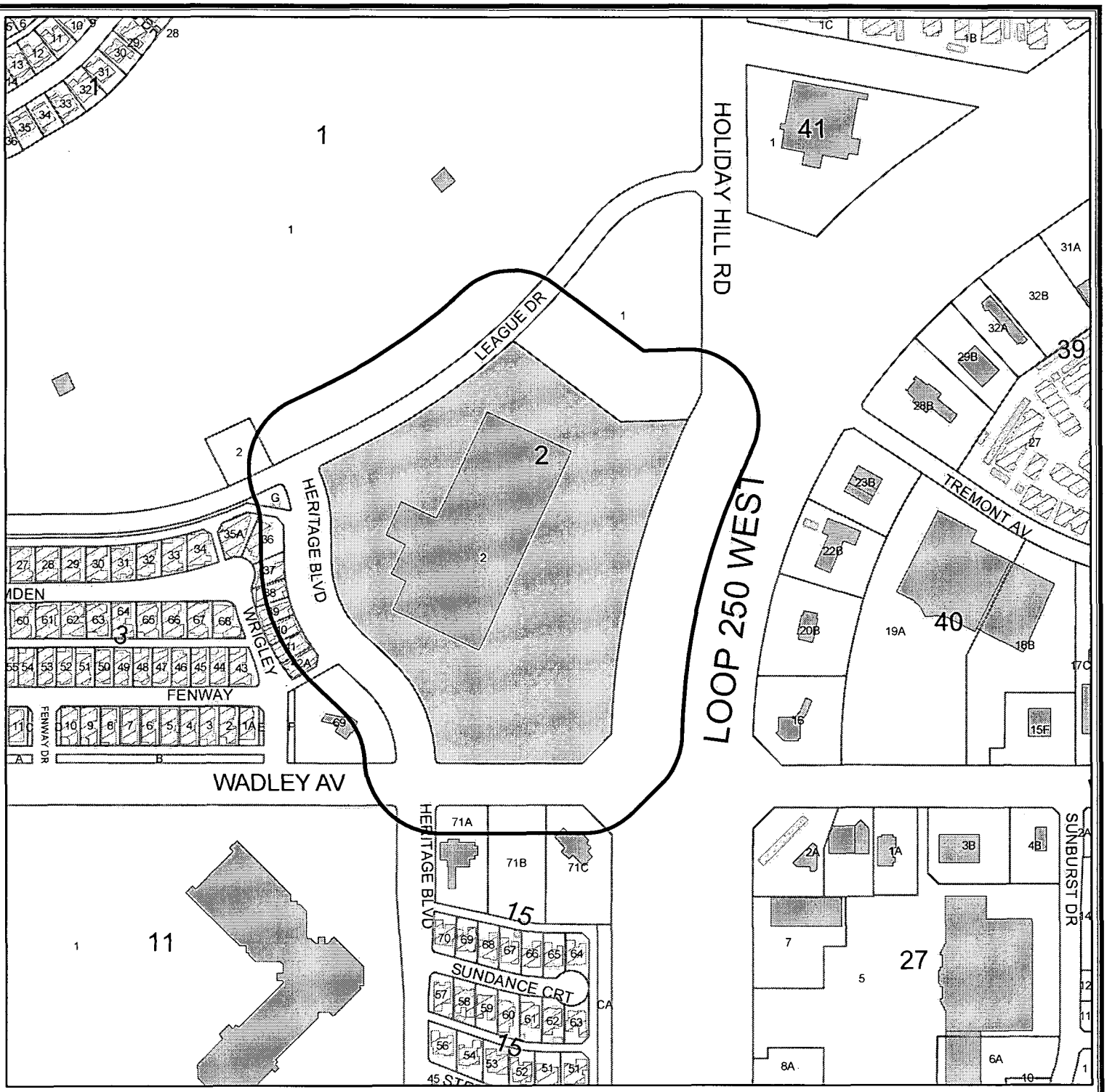
_____
Authorized Agent (*signature*)

Subscribed and sworn to before me, this _____ day of _____, 20 ___, to certify which witness my hand and seal of office.

_____
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY
Rec'd By: ✓ Date: 8/15/14
Assigned: KC
For: PTZ On: 9/15/14

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



LOCATION MAP

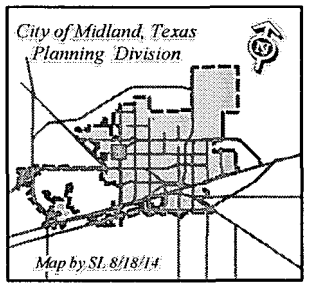
Z - 14 - 042 **Scale: 1" = 400'**

Consider a request for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District for a Shopping Center, on Lot 2, Block 2, Grandridge Park Addition, Section 1, City and County of Midland, Texas.

Generally located northwest of the intersection of W. Loop 250 West and W. Wadley Avenue. (Council-District-4)

LEGEND

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



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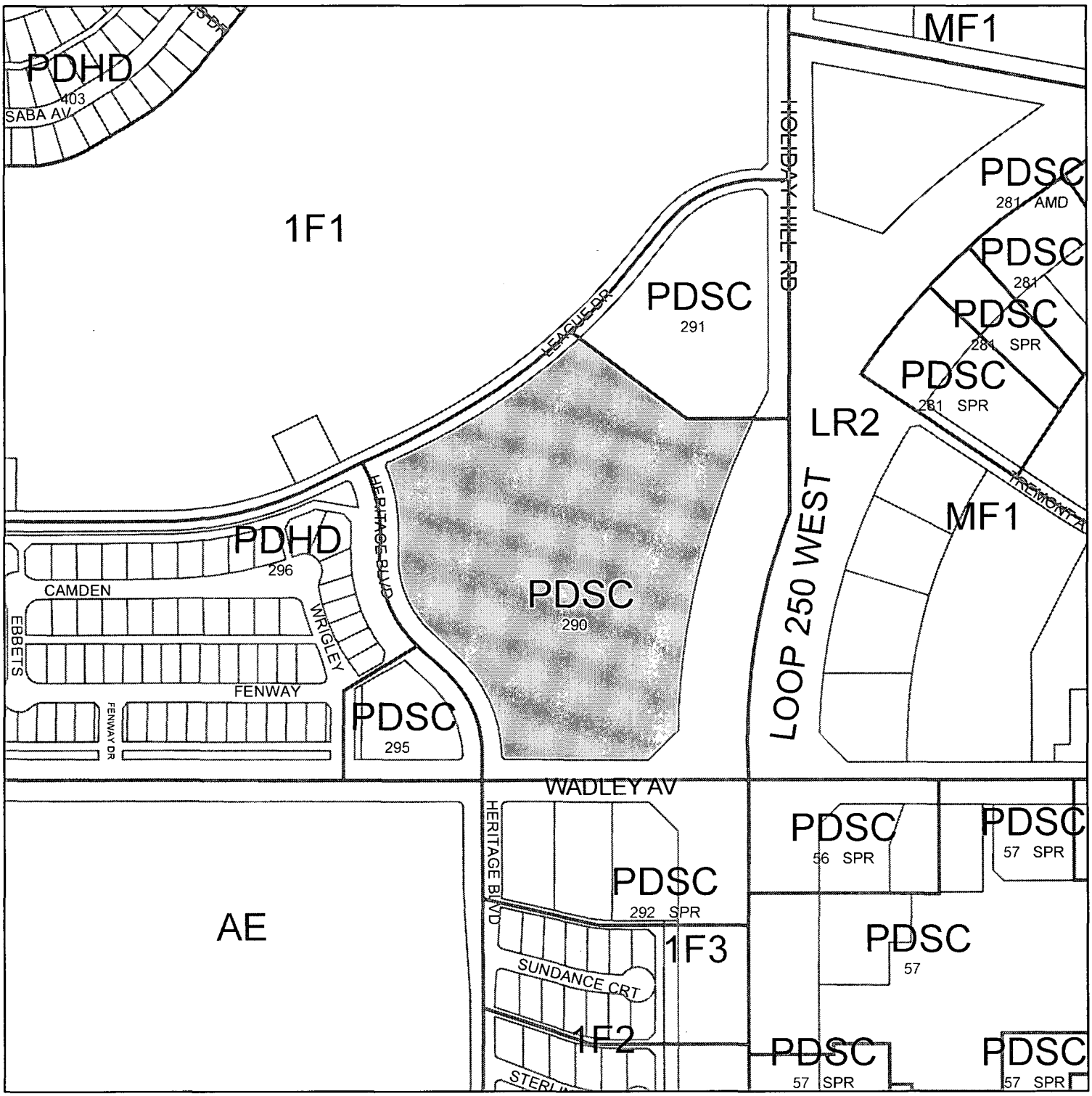

ZONING MAP

Map by SL 8/18/14

Z - 14 - 042 **Scale: 1" = 400'**

Consider a request for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District for a Shopping Center, on Lot 2, Block 2, Grandridge Park Addition, Section 1, City and County of Midland, Texas.

Generally located northwest of the intersection of W. Loop 250 West and W. Wadley Avenue. (Council-District-4)

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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REVISIONS
DATE
DESCRIPTION
THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF CRITERIA REVIEW AND UNDER THE AUTHORITY OF
DANIEL W. MASON, P.E.
TX LICENSE #: 105878
ON THE DATE SHOWN. IT IS NOT TO BE USED FOR BIDDING OR CONSTRUCTION.
JOHNSON & PACE INCORPORATED
LOWE'S HOME CENTERS, INC.
1605 CURTIS BRIDGE ROAD
WILKESBORO, NC 28697
336.658.4000 (V) 336.658.3257 (F)
LOWE'S
EXISTING CONDITIONS MAP
LOT 2, BLOCK 2, GRANDRIDGE PARK ADDITION SECTION 1
LOWE'S OF
MIDLAND
MIDLAND, TEXAS
PROJECT No: 2722-011
DRAWN BY: DPB
CHECKED BY: DPB
ORIGINAL ISSUE DATE: AUGUST 3, 2014
PERMIT SET
ISSUE DATE:
CONSTRUCTION SET
ISSUE DATE:
DRAWING NUMBER:
C2.0
LEGEND
EXISTING FIRE HYDRANT
EXISTING WATER VALVE
EXISTING SIGN
EXISTING LIGHT POLE
EXISTING UTILITY MANHOLE
EXISTING ELECTRICAL BOX
EXISTING TELEPHONE BOX
EXISTING MAILBOX
EXISTING TREE
EXISTING CONCRETE
EXISTING ASPHALT
EXISTING BUILDING
EXISTING COVERED GARDEN CENTER
EXISTING CURB & GUTTER
EXISTING LANDSCAPE
EXISTING SIDEWALK
NOTES:
THE EXISTING CONDITIONS SHOWN HEREON REFLECT CURRENT CONDITIONS AS OF JULY 14, 2014 PER PHOTOSHOT BLOCK 2 GRANDRIDGE PARK ADDITION SECTION 1.
EXISTING PARKING DATA
STANDARD PARKING SPACES PROVIDED 164 SPACES
ADA PARKING SPACES PROVIDED 16 SPACES
TOTAL PARKING SPACES PROVIDED 225 SPACES
PARKING SPACES EXCHANGING CART CORRALS 11 SPACES
PARKING SPACES ADJACENT TO GARDEN CENTER USED FOR SEASONAL SALES 21 SPACES
TOTAL LESS ALT PARKING SPACES 192 SPACES
LOT 1, BLOCK 2, GRANDRIDGE PARK ADDITION SECTION 1
LEAGUE DRIVE
HERITAGE BLVD.
STATE HIGHWAY 250 FRONTAGE ROAD
WADLEY AVENUE
GARDEN CENTER 16,248 SF
COVERED AREA
CURB CUT
CONCRETE PICK-UP CANOPY
LISTING SF BUILDING 111,414 SF AREA
0
80'
320'

Lot 2, Block 2, Grandridge Park Addition, Section 1, City and County of Midland, Texas.

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

1. That City of Midland Ordinance No. 7463 shall remain in full force and effect except as otherwise stated below.

2. That the use and development of this property shall conform to the regulations of the LR-2, Local Retail District, except as otherwise stated below.

3. That the development shall significantly conform to the conditions shown on Exhibits "A" and "B", which are attached hereto and incorporated herein.

4. That a 26 foot fire lane shall be striped in the outdoor storage area and kept clear at all times.

5. That the gates to the outdoor storage area shall have emergency overrides for emergency services.

6. That the covered outdoor storage area shall be fire sprinkled.

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 7th day of October, A.D., 2014; and passed to second reading on motion of Council member Lacy, seconded by Council member Hotchkiss, by the following vote:

Council members voting "AYE": Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett

Council members voting "NAY": None

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member Lacy, seconded by Council member Sparks, on the 21st day of October, A.D., 2014, at a regular meeting of the City Council:

Council members voting "AYE": Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett

Council members voting "NAY": None

PASSED AND APPROVED THIS 21st day of October, A.D., 2014.

Jerry F. Morales, Mayor

ATTEST:

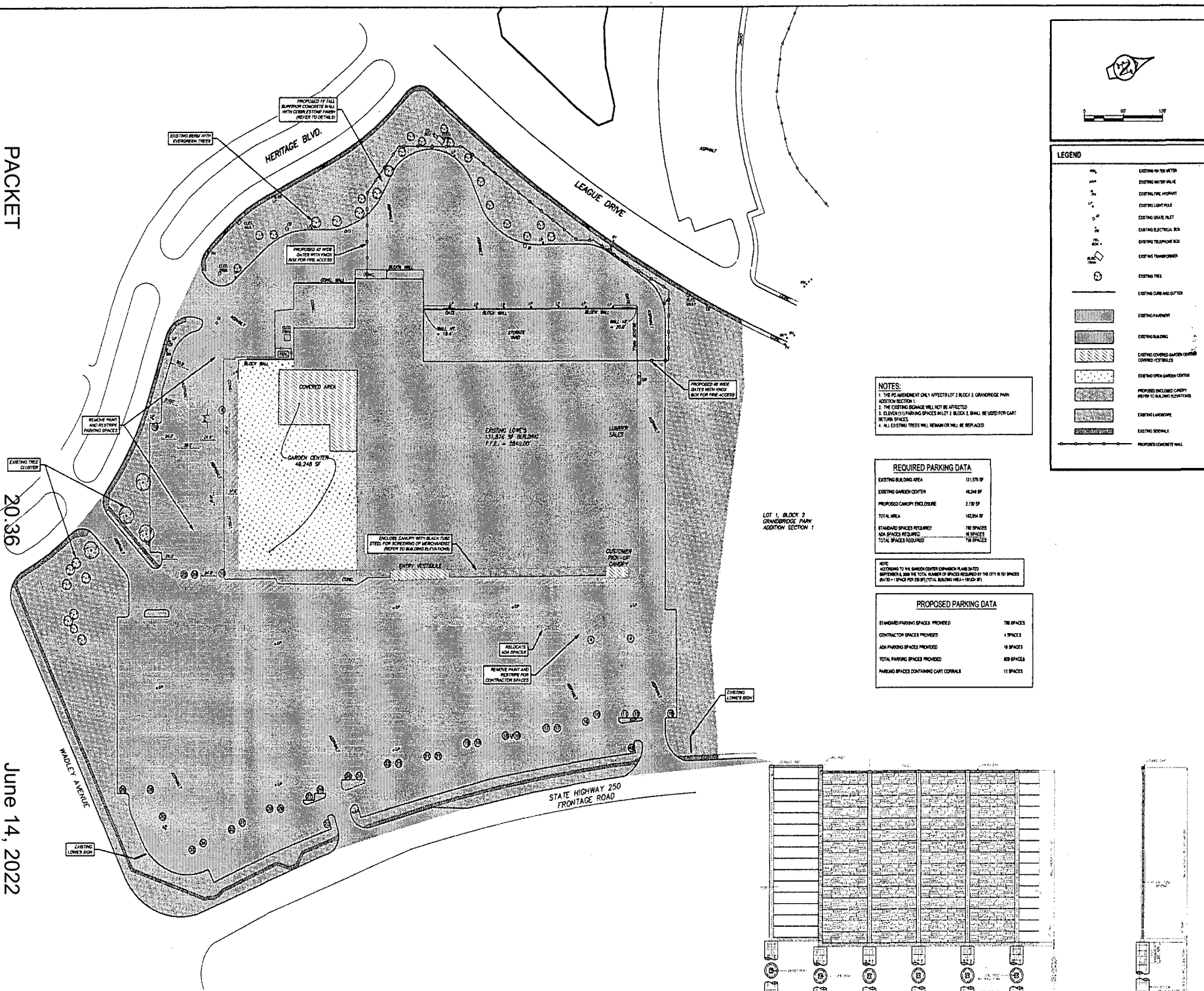
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

Keith Stretcher, City Attorney



NOTES:
1. THE PD AMENDMENT ONLY AFFECTS LOT 2 BLOCK 2, GRANDRIDGE PARK ADDITION SECTION 1
2. THE EXISTING SIGNAGE WILL NOT BE AFFECTED
3. ELEVEN (11) PARKING SPACES IN LOT 2 BLOCK 2, SHALL BE USED FOR CART RETURN SPACES
4. ALL EXISTING TREES WILL REMAIN OR WILL BE REPLACED

REQUIRED PARKING DATA

EXISTING BUILDING AREA	131,576 SF
EXISTING GARDEN CENTER	49,248 SF
PROPOSED CANOPY ENCLOSURE	2,130 SF
TOTAL AREA	182,954 SF
STANDARD SPACES REQUIRED	780 SPACES
ADA SPACES REQUIRED	16 SPACES
TOTAL SPACES REQUIRED	796 SPACES

NOTE:
ACCORDING TO THE GARDEN CENTER EXPANSION PLANS DATED SEPTEMBER 8, 2009 THE TOTAL NUMBER OF SPACES REQUIRED BY THE CITY IS 781 SPACES (RATIO = 1 SPACE PER 235 SF) (TOTAL BUILDING AREA = 183,624 SF)

PROPOSED PARKING DATA

STANDARD PARKING SPACES PROVIDED	786 SPACES
CONTRACTOR SPACES PROVIDED	4 SPACES
ADA PARKING SPACES PROVIDED	18 SPACES
TOTAL PARKING SPACES PROVIDED	808 SPACES
PARKING SPACES CONTAINING CART CORRALS	11 SPACES

LEGEND

EXISTING WATER METER
EXISTING WATER VALVE
EXISTING FIRE HYDRANT
EXISTING LIGHT POLE
EXISTING GRATE INLET
EXISTING ELECTRICAL BOX
EXISTING TELEPHONE BOX
EXISTING TRANSFORMER
EXISTING TREE
EXISTING CURB AND GUTTER
EXISTING PAVEMENT
EXISTING BUILDING
EXISTING COVERED GARDEN CENTER COVERED VESTIBULES
EXISTING OPEN GARDEN CENTER
PROPOSED ENCLOSED CANOPY (REFER TO BUILDING ELEVATIONS)
EXISTING LANDSCAPE
EXISTING SIDEWALK
PROPOSED CONCRETE WALL

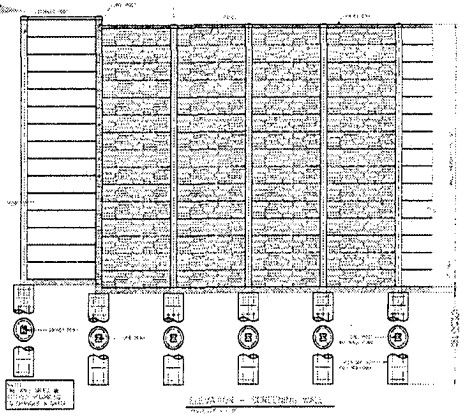


EXHIBIT A

REVISIONS
PRE-AIS 54 = ISSUE DATE POST BID S = ISSUE DATE

DATE	DESCRIPTION

THIS DOCUMENT IS RELEASED FO THE PURPOSE OF INTERIM REVIEW AND UNDER THE AUTHORITY OF
DANIEL REANOW, P.E.
TX LICENSE #: 106676
ON THE DATE SHOWN. IT IS NOT TO BE USED FOR THE PURPOSE O BIDDING OR CONSTRUCTION

JOHNSON & PACE INCORPORATED
ENGINEERING - ARCHITECTURE - SURVEYING
111 LANDMARK DRIVE EAST, SUITE 215, CEDAR PARK, TEXAS 78613
(512)918-0544 FAX (512)918-0545
www.johnsonpace.com

LOWE'S HOME CENTERS, IN
1605 CURTIS BRIDGE ROA
WILKESBORO, NC 28697
336.658.4000 (V) 336.658.3257

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LOWE'S

PROPOSED PD SITE PLAN
LOT 2, BLOCK 2, GRANDRIDGE PARK ADDITION SECTION 1

LOWE'S OF MIDLAND
MIDLAND, TEXAS

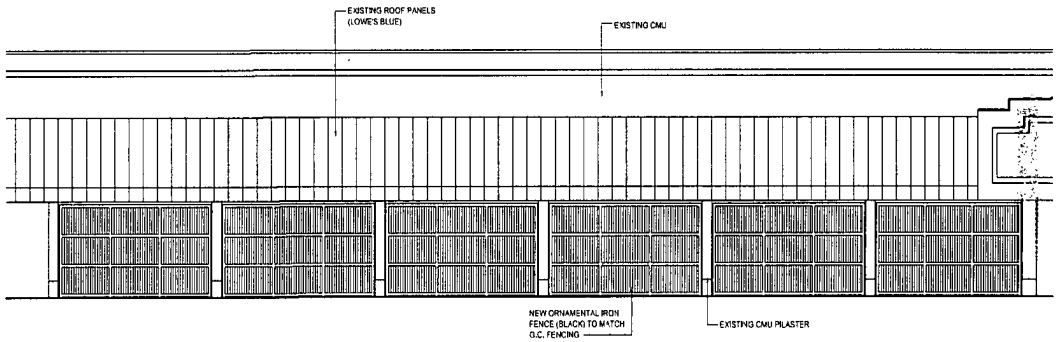
ORIGINAL ISSUE DATE: AUGUST 5, 20
PERMIT SET ISSUE DATE:
CONSTRUCTION SET ISSUE DATE:
DRAWING NUMBER:

C3.0

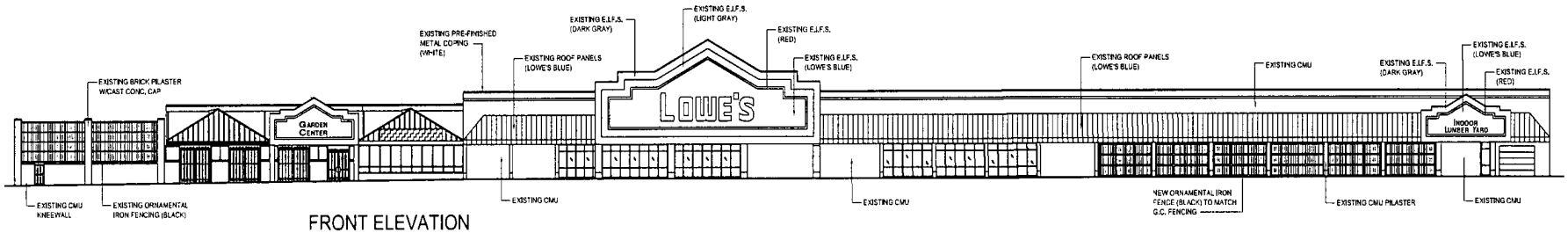
PACKET

EXHIBIT B
20.37

June 14, 2022



ENLARGED ELEVATION
SCALE: 1/8"=1'-0"



FRONT ELEVATION
SCALE: 1"=20'-0"

AUGUST 1, 2014

LOWE'S OF MIDLAND, TEXAS
3315 NORTH LOOP 250 WEST

B|R|R architecture

Ord # 9333

City Council Agenda

MIDLAND
Feel the Energy!

Approved for Agenda:
FSalvato
City Manager's Office

MEETING DATE: October 21, 2014

TO: CITY COUNCIL/CITY MANAGER

FROM: Robert Baronti, Jr., AICP, Planning Division Manager

SUBJECT: **Consider an ordinance on second reading on a request by Lowe's Home Centers, LLC for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on Lot 2, Block 2, Grandridge Park Addition, Section 1, City and County of Midland, Texas. (Generally located northwest of the intersection of N. Loop 250 West and W. Wadley Avenue) – District 4.**

Purpose:

Consider an ordinance on second reading on a request by Lowe's Home Centers, LLC 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 to process this application.

Discussion:

The property is currently zoned PD, Planned District for a Shopping Center. The Lowe's at this location has a need for additional outdoor storage and as such has chosen to pursue changing their site plan in order to incorporate a large screened outside storage area at the back of the property. A small screened storage area will be added to the front of the property as well. The fence is proposed to be 15 feet in height. A gate with overrides for Emergency Services will be provided at both ends, and a 26 foot striped fire lane will be provided and kept clear at all times. No product storage will be permitted to be visible above the fence. The proposed covered area will also need to be fire sprinkled. City Council approved this request on first reading on October 7, 2014. This ordinance is now ready to be considered for second and final reading.

PLANNING AND ZONING COMMISSION

September 15, 2014

CASE: Z-14-042, Lowe's Home Centers, LLC

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: Lowe's Home Centers, LLC

LEGAL DESCRIPTION: Lot 2, Block 2, Grandridge Park Addition, Section 1, City and County of Midland, Texas.

LOCATION: Generally located northwest of the intersection of W. Loop 250 West and W. Wadley Avenue.

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

DETAILS OF REQUEST:

1. The property is currently zoned PD, Planned District for a Shopping Center. The Lowe's at this location has a need for additional outdoor storage and as such has chosen to pursue changing their site plan in order to incorporate a large screened outside storage area at the back of the property. A small screened storage area will be added to the front of the property as well.

SURROUNDING ZONING AND LAND USE:

2. This property is located northwest of the intersection of W. Wadley Avenue and N. Loop 250 West. The property is bounded on the west by a PD, Planned District for a Housing Development. To the south is a PD, Planned District for a Shopping Center. To the northwest is a 1F-1, One-Family Dwelling District that is a park. To the north is a PDSC that will be a shopping center.

ANALYSIS:

3. The applicant's proposed site plan adds a large outdoor storage area behind a screening fence to the rear of the property. Exhibit A shows the proposed site plan as well as the elevation for the screening fence. The fence will be 15 feet in height. A gate with overrides for Emergency Services will be provided at both ends, and a 26 foot striped fire lane will be provided and kept clear at all times. No product storage will be permitted to be visible above the fence. Exhibit B shows the front elevation of the building including the screened area for storage on the front of the building. The proposed covered area will also need to be fire sprinkled. Exhibit C shows the current conditions for reference.

STAFF RECOMMENDATION:

Staff recommends 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 ordinance 7463 will remain in effect except for the conditions stated below.**

B. **That the use and development of this property shall conform to the regulations of the LR-2, Local Retail District, except as stated below:**

C. **That the development shall significantly conform to the attached Exhibits A and B.**

D. **That a 26 foot Fire Lane shall be striped in the proposed outdoor storage area and kept clear at all times**

E. **That the gates to the outdoor storage area shall have emergency overrides (Knox Box) for Emergency Services.**

F. **That the proposed covered outdoor storage area shall be Fire Sprinkled.**

Robert Baronti, Jr., AICP
Planning Division Manager
Department of Development Services

Kevin Crosby, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A – B
Illustrative Exhibit C

City Council Meeting

Item Number: 21

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Paul Rodriguez, Planner

Subject: AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 1, BLOCK 1, CLAYDESTA PLAZA NORTH, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND WEST LOOP 250 NORTH), BY PERMITTING (1) THE USE OF ALTERNATIVE BUILDING MATERIALS FOR THE DUMPSTER SCREENING WALL AND (2) A DEVIATION FROM OFF-STREET PARKING REQUIREMENTS; 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 (DISTRICT 3) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Sean Elphick, is requesting a Special Exception from the City of Midland Zoning Ordinance, Section 6.01(G) - Screening of Outdoor Waste Storage for Nonresidential, Single-Family Attached, and Multiple Family Residential Properties, for an alternative building material for the dumpster screening wall and denial of a deviation from Section 6.02(B) - General Requirements, a deviation from off-street parking requirements, for the property located at 4401 North Big Spring Street.

Recommended City Council Action:

Deny

Fiscal Impact:

No City funds are required to process this request.

Current Zoning:

RR, Regional Retail District.

Surrounding Zoning and Land Use:

The property north is zoned PD, Planned Development District for a Recreation Center and the location of MISD softball fields. The property to the east is zoned RR, Regional Retail District and the location of a shopping center. The property to the south is zoned PD, Planned Development District for an Office Center and the location of vacant land. The property to the west is zoned 2F, Two-Family Dwelling District and the location of the Midland Executive Airpark.

Discussion:

The applicant's property is located at 4401 North Big Spring Street and the location Tailgate. The applicant is requesting a special exception to deviate from parking pavement material requirement and to alter the type of material of a trash dumpster enclosure.

Per our City of Midland Zoning Ordinance, Section 6.01(G) - Screening of Outdoor Waste Storage for Nonresidential, Single-Family Attached, and Multiple Family Residential Properties

2. Screening Required
   a. The container shall be screened by the masonry wall capable of screening the area.

Also, per Section 6.02(B) - General Requirements:

1. Parking Areas and Driveways
   Unless otherwise noted, parking areas and driveways shall be curbed, paved and maintained to the City specifications.

The property currently in operation and has been for the past year. The floor plan as shown in Exhibit A indicated that the property would have a total of 54 parking spaces, in which two are accessible parking spaces. Upon a final inspection of the project. It was identified that the surface of this parking lot consisted of asphalt millings for pavement. As shown in the attached photos, the striping does not remain intact. The applicant proposed to restripe every month. From the staff's viewpoint, this method of constructing a parking lot is unacceptable. In the past, we have denied this type of construction for many developments. This could set a precedence whereby other projects might seek similar special exceptions. The staff offered to allow them to apply an emulsion that would better solidify the base material as an alternative.

In addition to the parking deviation, the applicant is proposing an alternative material (metal) other than the required masonry wall enclosure for the trash dumpsters.

This request has been circulated to all pertinent City departments for review. Below are the departments' comments.

Engineering: (Approved)

No objections.

Transportation: (Approved)

No objection.

Fire: (Approved)

No objections.

Building: (Approved)

No objection.

Planning Analysis:

As this request represents a deviation from the existing Zoning Ordinance and no hardship has been shown, staff recommends denial of this request for a Special Exception to the City of Midland Zoning Section 6.01(G) - Screening of Outdoor Waste Storage for Nonresidential, Single-Family Attached, and Multiple Family Residential Properties, for an alternative building materials for the dumpster screening wall and denial of a deviation from Section 6.02(B) - General Requirements, a deviation from off-street parking requirements.

Should the City Council approve this request, the property shall be subject to conditions A and B:

Conditions:

A. **That the dumpster screening wall shall be constructed with metal building material.**

B. **That the parking lot shall be paved with asphalt millings. No other deviation from the Zoning Ordinance's off-street parking requirements is permitted.**

As of May 6, 2022, staff has not received any letters of objection.

Attachments:

Application
Site Plan (Exhibit A)
Maps

Morris Williams Jr
City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 1, BLOCK 1, CLAYDESTA PLAZA NORTH, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND WEST LOOP 250 NORTH), BY PERMITTING (1) THE USE OF ALTERNATIVE BUILDING MATERIALS FOR THE DUMPSTER SCREENING WALL AND (2) A DEVIATION FROM OFF-STREET PARKING REQUIREMENTS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

WHEREAS, the City Council modified the authority of the Board of Adjustment in Title XI, Chapter 1, Section 7 ("Section 11-1-7") of the Midland City Code; and

WHEREAS, Section 11-1-7 provides for the consideration of requests for special exceptions to the Midland Zoning Ordinance; and

WHEREAS, the Council finds that satisfactory evidence has been presented that the use to be authorized by the granting of the special exception will not be detrimental to the health, safety, comfort and welfare of the occupants of the land area near the tract on which the use to be allowed by special exception will be located; and

WHEREAS, the Council finds that it is clearly and specifically authorized by the terms of Section 11-1-7 to grant such a special exception, and said exception will be in harmony with the general purposes and intent of the zoning provisions of the Midland City Code; and

WHEREAS, after a full and fair public hearing at which all parties in interest were offered an opportunity to be heard, all pursuant to law, the Council finds it to be in the public interest to grant a special exception to the Zoning Ordinance, pursuant to Section 11-1-7, for the purposes herein stated, subject to special conditions;

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

CITY OF MIDLAND, TEXAS:

SECTION ONE. That a special exception is hereby granted for the property described as Lot 1, Block 1, Claydesta Plaza North, Section 4, City and County of Midland, Texas. Said special exception shall allow (1) the use of alternative building materials for the dumpster screening wall and (2) a deviation from off-street parking requirements.

SECTION TWO. Said special exception is subject to the following special conditions:

A. That the dumpster screening wall shall be constructed with metal building materials.

B. That the parking lot shall be paved with asphalt millings. No other deviation from the Zoning Ordinance's off-street parking requirements is permitted.

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., 2022; 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., 2022, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2022.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

MIDLAND
Planning Division

Special Exception Application

Project Number: E-22-0078

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Sean Elphick		Phone (432) 553-9250 Email sean-elphick@yahoo.com
Address 11 marchelle ct.	City midland	State TX Zip 79705

Property Owner Printed Name: Sean Elphick		Phone ( ) Email
Address	City	State Zip

Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name:		Phone ( ) Email
Address	City	State Zip

Street Address: 4401 N. Big Spring St. Midland, TX 79705

Legal Description
Lot: Block: Subdivision:

Current Zoning:

This property qualifies as an exception to the City Code because:

- ☐ It is an expansion of a nonconforming use.
- ☐ There are existing nonconforming structures in the area.
- ☐ The addition of architectural or other projections of a minor extent.

Reason for Request: parking pavement and garbage enclosure

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan showing:
  - Parking
  - Building Footprint
- Digital Copies of Site Plan (PDF/JPEG)

RECEIVED
MAY 25 2022

Signatures	
Applicant (signature):	Date: May 25, 2022
Applicant (printed): Sean Elphick	
Property Owner (signature):	Date: May 25, 2022
Property Owner (printed): Sean Elphick	

The Special Exception shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

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

STATE OF TEXAS
COUNTY OF MIDLAND

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

Authorized Agent (*signature*)

Subscribed and sworn to before me, this 26th day of May, 2022 to certify which witness my hand and seal of office.

DALIA SALINAS
My Notary ID # 129541568
Expires March 3, 2023

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☐ Property Owner Authorization	☑ Dimensioned Site Plan
☐ Application Fee	☑ Plans in Digital Format (PDF/JPEG)
Check #_____	
Received By: ES	Date: 5/26/22

MAY 26 2022

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

City Council Meeting

Item Number: 21

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Paul Rodriguez, Planner

Subject: AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 1, BLOCK 1, CLAYDESTA PLAZA NORTH, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND WEST LOOP 250 NORTH), BY PERMITTING (1) THE USE OF ALTERNATIVE BUILDING MATERIALS FOR THE DUMPSTER SCREENING WALL AND (2) A DEVIATION FROM OFF-STREET PARKING REQUIREMENTS; 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 (DISTRICT 3) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Sean Elphick, is requesting a Special Exception from the City of Midland Zoning Ordinance, Section 6.01(G) - Screening of Outdoor Waste Storage for Nonresidential, Single-Family Attached, and Multiple Family Residential Properties, for an alternative building material for the dumpster screening wall and denial of a deviation from Section 6.02(B) - General Requirements, a deviation from off-street parking requirements, for the property located at 4401 North Big Spring Street.

Recommended City Council Action:

Deny

Fiscal Impact:

No City funds are required to process this request.

Current Zoning:

RR, Regional Retail District.

Surrounding Zoning and Land Use:

The property north is zoned PD, Planned Development District for a Recreation Center and the location of MISD softball fields. The property to the east is zoned RR, Regional Retail District and the location of a shopping center. The property to the south is zoned PD, Planned Development District for an Office Center and the location of vacant land. The property to the west is zoned 2F, Two-Family Dwelling District and the location of the Midland Executive Airpark.

Discussion:

The applicant's property is located at 4401 North Big Spring Street and the location Tailgate. The applicant is requesting a special exception to deviate from parking pavement material requirement and to alter the type of material of a trash dumpster enclosure.

Per our City of Midland Zoning Ordinance, Section 6.01(G) - Screening of Outdoor Waste Storage for Nonresidential, Single-Family Attached, and Multiple Family Residential Properties

2. Screening Required
   a. The container shall be screened by the masonry wall capable of screening the area.

Also, per Section 6.02(B) - General Requirements:

1. Parking Areas and Driveways
   Unless otherwise noted, parking areas and driveways shall be curbed, paved and maintained to the City specifications.

The property currently in operation and has been for the past year. The floor plan as shown in Exhibit A indicated that the property would have a total of 54 parking spaces, in which two are accessible parking spaces. Upon a final inspection of the project. It was identified that the surface of this parking lot consisted of asphalt millings for pavement. As shown in the attached photos, the striping does not remain intact. The applicant proposed to restripe every month. From the staff's viewpoint, this method of constructing a parking lot is unacceptable. In the past, we have denied this type of construction for many developments. This could set a precedence whereby other projects might seek similar special exceptions. The staff offered to allow them to apply an emulsion that would better solidify the base material as an alternative.

In addition to the parking deviation, the applicant is proposing an alternative material (metal) other than the required masonry wall enclosure for the trash dumpsters.

This request has been circulated to all pertinent City departments for review. Below are the departments' comments.

Engineering: (Approved)

No objections.

Transportation: (Approved)

No objection.

Fire: (Approved)

No objections.

Building: (Approved)

No objection.

Planning Analysis:

As this request represents a deviation from the existing Zoning Ordinance and no hardship has been shown, staff recommends denial of this request for a Special Exception to the City of Midland Zoning Section 6.01(G) - Screening of Outdoor Waste Storage for Nonresidential, Single-Family Attached, and Multiple Family Residential Properties, for an alternative building materials for the dumpster screening wall and denial of a deviation from Section 6.02(B) - General Requirements, a deviation from off-street parking requirements.

Should the City Council approve this request, the property shall be subject to conditions A and B:

Conditions:

A. **That the dumpster screening wall shall be constructed with metal building material.**

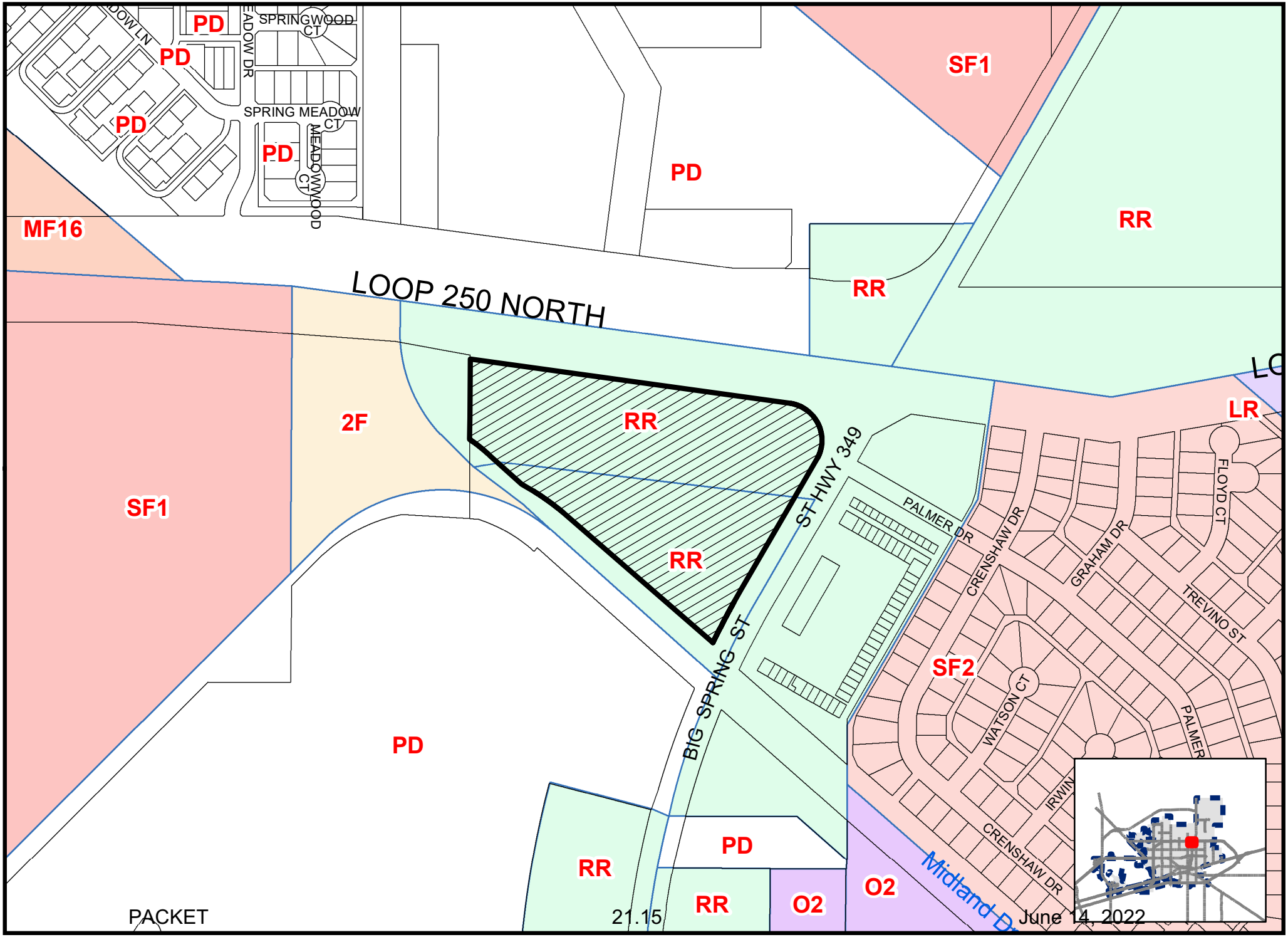
B. **That the parking lot shall be paved with asphalt millings. No other deviation from the Zoning Ordinance's off-street parking requirements is permitted.**

As of May 6, 2022, staff has not received any letters of objection.

Attachments:

Application
Site Plan (Exhibit A)
Maps

City Manager's Office



Map By ES, 06/01/2022

E-22-0078

Scale: 1" = 400'

ZONING MAP

© THE CITY OF MIDLAND - 2020: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

HAYASHI
JAPANESE HIBACHI & SUSHI

SOUTHBOUND
TRUCKS MUST
USE LOOP 250
ENTRANCE

City Council Meeting

Item Number: 22

Meeting Date: June 14, 2022

To: City Council / City Manager

From: Isaac Garnett, Manager, Community Development

Subject: Hold a public hearing in order for the City of Midland and the CDBG Prioritization Committee to receive public comments, guidance and recommendations regarding the 2022-2023 CDBG grant application submissions and the Third Year Action Plan in accordance with the Five-Year Consolidated Plan goals. (DISTRICT: ALL) (DEVELOPMENT SERVICES)

Purpose:

Hold a public hearing in order for the City of Midland and the CDBG Prioritization Committee to receive public comments, guidance and recommendations regarding the 2022-2023 CDBG grant application submissions and the Third Year Action Plan in accordance with the Five-Year Consolidated Plan goals. This is a Public Hearing Only, No Action Will Be Taken.

Recommended City Council Action:

Directional / Informational

Fiscal Impact:

No fiscal impact to the City of Midland Budget.

Discussion:

The purpose of the public hearing is to allow the citizens to participate in the development of the City's 2022/2023 Community Development Program and the Third-Year Action Plan. Past usage of Community Development Block Grant (CDBG) funds, community development and housing needs, and proposed uses of 2022/2023 CDBG funds will be discussed. The City will receive a grant of approximately $1,083,648 for 2022/2023 and $500,000 in CDBG CV-19 unappropriated fund balance from the U.S. Department of Housing and Urban Development. The City also expects to receive $70,000 in program income which is included in the CDBG

program-year (PY 2022-2023) allocation. A minimum 70% of CDBG funds must be allocated to projects that benefit low and moderate-income persons. Examples of activities eligible for CDBG funding are housing rehabilitation, sidewalk and street improvement, park improvements, code enforcement, lot clearance, economic development and public services.

Morris William Jr.

Robert Patrick

City Manager's Office

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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II. Summary of Special Authorities Under the CARES Act
III. CDBG-CV Grants
III.A. Allocations of CDBG-CV Funds
III.B. CDBG-CV Grant Rules, Waivers, and Alternative Requirements
IV. Fiscal Year 2019 and Fiscal Year 2020 CDBG Grants
IV.A. General Requirements
IV.B. Flexibilities, Waivers, and Alternative Requirements

I. Overview and Background

Q: Will the Notice be published in the Federal Register?
A: Yes. The Notice was published in the Federal Register with the Docket Number FR-6218-N-01 on August 20, 2020, https://www.govinfo.gov/content/pkg/FR-2020-08-20/pdf/2020-18242.pdf.

Q: Is the Notice effective before it is published in the Federal Register?
A: Yes. The Notice was effective August 7, 2020, when it was signed.

Q: What programs are covered by the Notice?
A: Most of the Notice is about Community Development Block Grant coronavirus (CDBG-CV) grants, as well as annual FY2019 and FY2020 Community Development Block Grant (CDBG) grants. The HOME, Emergency Solutions Grant (ESG) and Housing Opportunities for Persons With AIDS (HOPWA) programs are addressed in the Consolidated Plan section.

Q: Why have a Federal Register (FR) Notice?
A: The FR Notice puts all the CDBG-CV waivers and alternative requirements in one place so grantees and stakeholders can more easily find, use, and understand them. Although the Notice is necessarily technical, HUD did try to use plain language wherever possible to speed understanding and implementation.

II. Summary of Special Authorities Under the CARES Act

Q: Which requirements apply to CDBG-CV grants?
A: CDBG-CV grants are subject to the Coronavirus Aid, Relief and Economic Security Act (CARES Act), the authorities and conditions imposed on fiscal year 2020 CDBG grants, the Notice and except as provided in the Notice, the statutory and regulatory provisions governing the CDBG program. The CDBG regulations, at 24 CFR part 570, implement Title I of the Housing and Community Development Act of 1974, as amended. The CARES Act modifies some CDBG program rules and authorizes the Secretary of HUD to grant waivers and alternative requirements. Accordingly, the Notice describes how certain requirements of the CDBG

program are modified for CDBG-CV grants, fiscal year 2020 CDBG grants under the Department of Housing and Urban Development Appropriations Act, 2020 (Public Law 116-94), and fiscal year 2019 CDBG grants under the Department of Housing and Urban Development Appropriations Act, 2019 (Public Law 116-6). Unless the Notice states otherwise, the CARES Act statutory flexibilities, waivers, and alternative requirements do not apply to other sources of CDBG funds. A grantee's CDBG-CV grant agreement has conditions binding the grant to the program requirements.

Q: I am a citizen who may be affected by CDBG-CV. Where can I get more information and who should I contact with questions?
A: CDBG-CV grantees make the local project or activity funding decisions. You can find your grantee's contact information here: https://www.hudexchange.info/grantees/contacts/ (and click the "CDBG: Community Development Block Grant Program" box). Also, HUD has field offices all over the country. You can find your Community Planning and Development (CPD) field office here: https://www.hud.gov/program_offices/comm_planning/staff#fieldoffices. Finally, questions regarding the CDBG-CV program may be submitted to CPDQuestionsAnswered@hud.gov. Interested parties may also visit HUD's website at https://www.hud.gov/program_offices/comm_planning for updated information and resources.

Q: How big is CDBG-CV and when was it appropriated?
A: The CARES Act, enacted March 27, 2020, appropriated $5 billion in CDBG-CV funds to be allocated to about 1,250 States, local governments, and insular areas. HUD anticipates that grantees will fund tens of thousands of activities to prevent, prepare for, and respond to coronavirus with this funding. To address these challenges, CDBG-CV and CDBG grants are a flexible source of funding that can be used to pay costs that are not covered by other sources of assistance, particularly to benefit persons of low and moderate income.

Q: What are the main changes the CARES Act makes to the CDBG requirements?
A: The CARES Act modifications are:

- Permits a public comment period of no less than 5 days when citizen participation is required.
- Permits grantees to develop expedited citizen participation procedures and to hold virtual public hearings when necessary for public health reasons.
- Eliminates the public services cap for coronavirus-related activities.
- Allows states and local governments to reimburse allowable costs of eligible activities regardless of the date the costs were incurred.

III. CDBG-CV Grants

III.A. Allocations of CDBG-CV Funds

Q: How much did my city or state receive in the first and second CDBG-CV allocations?
A: HUD made the first CDBG-CV allocation on April 2, 2020, 24 days before the 30-day allocation deadline in the CARES Act, in the amount of $2 billion. HUD made the second round of CDBG-CV allocations on May 11, 2020, in the amount of $1 billion. The allocations are

available on HUD's website at https://www.hud.gov/program_offices/comm_planning/budget/fy20/.

Q: How much is in the third allocation and when is it coming?
A: HUD will publish additional third round allocations and a description of the allocation formulas on HUD's website at https://www.hud.gov/program_offices/comm_planning/budget/fy20/ and will provide a link to this site in any press release announcing an allocation.

III.B. CDBG-CV Grant Rules, Waivers, and Alternative Requirements

Q: Should grantees use their normal CDBG funding distribution procedures for CDBG-CV?
A: Grantees should consider how to expedite use of funds, and not assume that their normal CDBG funding distribution procedures are adequate to swiftly distribute and use CDBG-CV grants. For example, if a grantee's existing policies mandate lengthy processes to select activities or complete procurements, grantees should try to expedite actions with local waiver authorities or emergency procedures that may be available without state or local rulemaking.

Q: What transparency and accountability measures is HUD taking for CDBG-CV?
A: In addition to HUD's normal CDBG monitoring and oversight, measures to increase transparency and accountability include:

- regular reporting on the use of CDBG-CV funds, including reporting required by the CARES Act; and
- a requirement that grantees prevent the duplication of benefits that is caused when a person, household, business, or other entity receives financial assistance from multiple sources for the same purpose, and the total assistance is more than the total need.

Q: My jurisdiction received a CDBG-CV allocation. How can the jurisdiction apply for the grant?
A: The Chief Elected Official will designate an agency to apply for the grant using a substantial amendment to an existing FY2019 CDBG Action Plan or by adding information to a new FY2020 Action Plan. The following procedures apply:

- All grantees may adopt and use expedited procedures to draft, propose, modify, or amend consolidated plans for CDBG-CV and fiscal year 2019 and 2020 CDBG grants. These expedited procedures amend the grantee's citizen participation plan and require it be published for no less than 5 calendar days to solicit public comment. Expedited procedures may include virtual public hearings.
- The grantee must publish its application for CDBG-CV funds for no less than 5 calendar days to solicit public comment. The comment period can run concurrently with the comment period on changes to add expedited procedures to the citizen participation plan. The grantee must respond to public comments.
- The grantee must submit its application for CDBG-CV funds to HUD for review. To receive a CDBG-CV grant, a grantee must also submit certain forms and certifications.
- HUD and the grantee will enter a grant agreement and HUD will establish the grantee's line of credit.

- The grantee may draw funds from the line of credit after any applicable steps for the environmental review(s) process are completed.

Q: When may a grantee hold a virtual public hearing rather than an in-person hearing?
A: For as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, the CARES Act authorizes the grantee to hold virtual hearings in lieu of in-person public hearings for CDBG-CV grants and for fiscal year 2019 and 2020 CDBG grants. The Notice expands this to include virtual hearings for other consolidated plan formula programs.

Q: Do grantees have to inform citizens how to join virtual hearings, answer their questions, and see the hearing records?
A: Virtual hearings shall provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses.

Q: What kind of online platforms or apps can host virtual hearings?
A: Grantees may use online platforms to hold virtual hearings that facilitate public access to all questions and responses and provide timely responses from local officials. Additionally, grantees must take appropriate actions to encourage the participation of all residents, including the elderly, minorities, persons with limited English proficiency, as well as persons with disabilities, consistent with the jurisdiction's citizen participation plan. The CARES Act does not modify nondiscrimination requirements.

Q: Do expedited procedures also apply to non-entitlement units of government funded by States?
A: Yes. HUD and the CARES Act authorized States to use expedited procedures and virtual public hearings for citizen participation by units of general local government that receive CDBG-CV funds from a state through a method of distribution. Expedited procedures must still describe how units of local governments receiving funds from the state will meet the citizen participation requirements in 24 CFR 570.486.

Q: Do the expedited procedures also apply to insular areas?
A: Yes. HUD waived the requirement that an insular area must hold a public hearing on a substantial amendment. Instead, HUD is imposing an alternative requirement to permit the insular area to adopt expedited requirements by modifying its citizen participation plan to replace the hearing if it provides community residents with reasonable notice and an opportunity to comment on substantial amendments to the consolidated plan or annual action plan.

Q: Do expedited amendment and action plan procedures also apply to other programs covered by the Consolidated Plan?
A: Yes. In the FR Notice, HUD consolidated and extended prior waivers by issuing waivers and alternative requirements to expedite procedures to modify citizen participation plans for *all* 2020 fiscal year consolidated plan and annual action plan submissions that pertain to ESG, HOME, HTF, and HOPWA formula programs. Specifically:

- CDBG, HOME, HTF, HOPWA, and ESG grantees may modify their citizen participation plans to adopt expedited procedures that apply when the grantees prepare, propose, modify, or amend any consolidated plan submissions that contain uses of CDBG-CV funds or uses of fiscal year 2019 or 2020 CDBG funds to prevent, prepare for, and respond to coronavirus. The expedited procedures must, at a minimum, provide citizens with notice and a reasonable opportunity to comment of no less than 5 days.

- For as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, CDBG, ESG, HOME, HTF, and HOPWA grantees, and units of general local government receiving CDBG funds from state or insular area CDBG grantees, may hold virtual hearings in lieu of in-person public hearings to fulfill public hearing requirements or the grantee's citizen participation plan.

Q: Can citizen participation be eliminated for CDBG or CDBG-CV?
A: No. HUD cannot modify requirements for CDBG grantees to mirror the elimination of citizen participation for substantial amendments and new consolidated plan submissions for ESG-CV funds because HUD cannot waive the minimum requirements the CARES Act imposed on CDBG grantees. Therefore, the CDBG-CV Notice does not alter or expand the authority for ESG grantees to omit the citizen participation and consultation requirements for consolidated plan submissions that only pertain to ESG CARES Act (ESG-CV) funding.

Q: Do housing activities funded with CDBG-CV have to be consistent with the strategic plan portion of the Consolidated Plan?
A: Temporarily, no. As part of the application submission, HUD is temporarily waiving the requirements that grantees certify that housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan portion of the consolidated plan. HUD is imposing a related alternative requirement that allows grantees to submit those certifications when the grantee submits its next full (3-5 year) consolidated plan due after the 2020 program year.

Q: Where are the instructions for applying through a plan amendment?
A: Section III.B.4.(b)(i). of the Notice and https://www.hud.gov/sites/dfiles/CPD/documents/Setting-Up-a-Substantial-Amendment-for-CARES-Act-Funding.pdf on HUD.gov.

Q: Does a CDBG-CV substantial amendment have to be submitted to HUD for review prior to receiving a CDBG-CV grant?
A: Yes. HUD created an alternative requirement to require submission of a CDBG-CV substantial amendment and to provide for expedited HUD review.

Q: What must be included in a substantial amendment to apply for CDBG-CV funds?
A: In general, the substantial amendment must include the CDBG-CV allocation as an available resource for the year. The amendment must include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus. (There are some additional specific requirements for States.) HUD granted a range of waivers in the Notice to permit grantees to prepare substantial amendments to their most recent annual action plan

(including their 2019 annual action plan). To receive a CDBG-CV grant, a grantee must also submit a SF-424, SF-424D, and the certifications at 24 CFR 91.225(a) and (b) (entitlements) or 24 CFR 91.325(a) and (b) (states).

Q: What must an insular area include when it is applying for CDBG-CV?
A: The substantial amendment must include the CDBG-CV allocation as an available resource for the year. The amendment must include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus. To receive a CDBG-CV grant, it must submit a SF-424, SF-424D and the certifications at 24 CFR 570.440(e).

Q: Do existing cooperation agreements between a local government and an urban county cover CDBG-CV grants?
A: Yes. These cooperation agreements will continue to apply to the use of CDBG-CV funds for the duration of the CDBG-CV grant.

Q: May a grantee apply for a CDBG-CV grant through a new annual action plan submission?
A: Yes. The action plan submission procedures in 24 CFR part 91 (*including consultation and a public hearing*), as modified by the Notice, apply to grantees that choose to submit CDBG-CV applications by including CDBG-CV funds in a new annual action plan submission.

Q: When did HUD grant the initial action plan waivers for CDBG-CV?
A: The waivers and alternative requirements in the April 9, 2020, memorandum apply to all allocations of CDBG-CV funds. The CDBG-CV Notice includes and expands on the April 9 memorandum. The April 9 memo can be found here: https://www.hud.gov/sites/dfiles/CPD/documents/CARES-Act-Flexibilities-CDBG-Funds-Used-Support-Coronavirus-Response.pdf.

Q: Should grantees wait to apply until all allocation rounds are announced?
A: No. HUD strongly encourages grantees to apply for allocations of CDBG-CV funds as they are announced by submitting substantial amendments to their most recent annual action plan. Grantees are advised that an application for an additional allocation of CDBG-CV funds should be submitted as a substantial amendment to the annual action plan that describes the first CDBG-CV allocation.

Q: May States carry out activities directly, rather than distributing almost all funds to non-entitlement units of general local government?
A: Yes. States may act directly for their CDBG-CV grant.

Q: Must a State distribute any funds to nonentitlement UGLGs?
A: Yes, the FR Notice provides for a set-aside for funds to be distributed to UGLGs for their use.

Q: If a State acts directly, what must it include in its CDBG-CV application?
A: A state shall submit a description of a method of distribution and include a list of the use of all funds for activities it will carry out directly, and how the use of the funds will prevent, prepare for, and respond to coronavirus. A state that has already submitted its application for CDBG-CV funds may amend its annual action plan that describes the use of CDBG-CV funds to

modify its description of a method of distribution and include a list of the use of all funds for activities it will carry out directly, and how the use of the funds will prevent, prepare for, and respond to coronavirus.

Q: What is the deadline for a grantee to apply to HUD for CDBG-CV and FY2020 CDBG grants?
A: Under the CARES Act, the deadline is August 16, 2021, for grantees to submit their CDBG-CV action plan and the annual Action Plan for fiscal year (FY) 2020 CDBG funds. (This deadline supersedes the August 16, 2020 deadline established by 24 CFR 91.15 in accordance with section 116(b) of the HCD Act.)

Q: What can CDBG-CV funds be used for?
A: The grantee is required to use all CDBG-CV funds for CDBG-eligible activities that are carried out to prevent, prepare for, and respond to coronavirus. CDBG-CV grants cannot be used for any other purpose.

Q: CDBG funds may not be used to supplant local financial support for community development activities. What if extra costs of dealing with the pandemic coupled with the economic downturn have caused a community to shift funding?
A: HUD weighed the purpose of the CARES Act to prevent, prepare for, and respond to coronavirus with the intent of Congress expressed in the HCD Act (42 U.S.C. 5301(c) that CDBG funds not be used to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance. Given the extreme and unexpected downturn in local and national economic conditions, local resources are strained. Jurisdictions must provide new and expanded support with fewer resources. Therefore, HUD has concluded that when CDBG funding is used for purposes of the CARES Act, it is not considered to substantially replace the amount of local financial support previously provided to community development activities.

Q: May CDBG-CV funds reimburse any costs prior to grant execution?
A: Yes. The CARES Act provides that CDBG-CV funds may be used to cover or reimburse allowable costs of activities to prevent, prepare for, and respond to coronavirus incurred by a state or locality regardless of the date on which such costs were incurred. This authority is broader than the authority to reimburse costs with other CDBG funds.

The FR Notice permits reimbursement of pre-application costs of subrecipients, units of general local government, and the grantee, in addition to pre-agreement and pre-award costs. However, an environmental review must be performed and a release of funds must be obtained in accordance with 24 CFR part 58 prior to committing CDBG-CV funds to reimburse such costs. After the grantee signs a CDBG-CV agreement it may reimburse a unit of general local government or subrecipient for costs incurred before the unit of general local government or subrecipient applies to the grantee for assistance.

Q: For purposes of CDBG-CV reimbursement, what is a “locality”?

A: The term "locality" is not defined by the CARES Act, the HCD Act, or the CDBG program regulations. The FR Notice says that for purposes of CDBG-CV grants, a "locality" shall mean units of general local government, as defined in section 102 of the HCD Act.

Q: For purposes of reimbursement, what CDBG-CV costs are "allowable"?
A: In addition to the normal allowability requirements applicable to grants, grantees shall not reimburse costs incurred before January 21, 2020, without written approval from HUD. To safeguard allowable use of funds, HUD imposed a presumption that costs of activities undertaken before January 21, 2020, the date the CDC confirmed the first case of coronavirus in the United States in the State of Washington, are highly unlikely to be eligible for reimbursement because they likely are not costs to prevent, prepare for, and respond to coronavirus.

Q: If a grantee wants to use CDBG-CV funds for costs incurred prior to January 21, 2020, what should it consider and do?
A: The FR Notice cautions that HUD will only consider granting written approval in extraordinary cases where the clear link to the purposes of the CARES Act is documented by substantial evidence provided to HUD by the grantee. Inquiries related to this requirement can be submitted to the assigned local field office or to the contact provided in the FR Notice.

Q: How will pre-award costs be handled for entitlement communities?
A: For grantees subject to the entitlement CDBG regulation at 24 CFR 570.200(h), in lieu of the effective date described at 570.200(h), the grantee shall use the date in box 4 of form HUD-7082, Funding Approval/Agreement. The activity for which costs were incurred must be included in the grantee's CDBG-CV application before CDBG-CV funds are used to reimburse those costs. Or, if the use of CDBG-CV funds for reimbursements is not included in the CDBG-CV application, this use may be included in a subsequent amendment to the annual action plan that describes the use of the CDBG-CV funds (following the grantee's citizen participation plan procedures for amendments).

The FR Notice waived the time limitation and the monetary limitation on reimbursements in 24 CFR 570.200(h)(1)(v) and (vi) and related provisions at 24 CFR 570.200(h)(2). The Notice did not waive the requirement at 24 CFR 570.200(h)(1)(iii) to comply with the environmental review procedures stated in 24 CFR Part 58.

Q: May subrecipients incur pre-award costs?
A: All grantees may authorize subrecipients to incur pre-award costs in accordance with pre-agreement cost authority under 24 CFR 570.489(b) (states) and pre-award cost authority under 24 CFR 570.200(h) (entitlements) (as modified by the Notice).

Q: Does the waiver to act directly affect how States deal with pre-agreement costs?
A: Yes. The FR Notice authorized a state to charge to the grant pre-agreement costs of its subrecipients in addition to the pre-agreement costs of units of general local government, in accordance with procedures established by the state and subject to the requirements that apply to pre-agreement costs of units of general local government in 24 CFR 570.489(b), and the requirements that apply to the use of CDBG-CV funds.

While provisions of 24 CFR 570.489(b) requiring compliance with 24 CFR Part 58 do not apply prior to an application for CDBG-CV funds, a unit of general local government or state must document compliance with the environmental review requirements at 24 CFR Part 58 following the application to the state or unit of general local government for funding and prior to reimbursement of pre-application costs, per 24 CFR 570.200(h)(1)(iii) and 24 CFR 570.489(b). If a grantee cannot meet all requirements at 24 CFR Part 58 and cannot demonstrate there was no environmental harm committed, the pre-application costs cannot be reimbursed with CDBG-CV or other HUD funds.

Q: Does the CDBG eminent domain limitation apply to CDBG-CV funds?
A: Yes. The CARES Act provides that a grantee shall ensure that no CDBG-CV funds are used to support any Federal, state, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107-118) shall be considered a public use for purposes of eminent domain.

Q: May a grantee transfer or trade its funds with another grantee? For example, an urban county and a metro city located within its boundaries?
A: No. The CARES Act includes the same statutory limitation for CDBG-CV as applies to CDBG. Therefore, a grantee or unit of general local government that directly or indirectly receives CDBG-CV funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the HCD Act or permitted by waiver and alternative requirements that apply to the use of CDBG-CV funds.

Q: Will HUD waive the underwriting requirements for special economic development assistance to small businesses affected by the pandemic?
A: HUD cannot waive this CARES Act and HCD Act requirement. CDBG-CV funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the HCD Act (as implemented at 24 CFR 570.203(b) for entitlements) unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 - “Guidelines and Objectives for Evaluating Project Costs and Financial Requirements.”

Given the likelihood that CDBG-CV funds will be used to assist businesses needing working capital financing for everyday operations, such as payroll costs, HUD intends to provide advice or technical assistance on the application of the guidelines and objectives set forth in Appendix A to such assistance.

Q: Given the current public health emergency, will HUD please provide guidance on documenting how an activity that prepares for, prevents, or responds to the coronavirus meets the Urgent Need national objective?
A: The FR Notice goes into greater detail about the existing certification and recordkeeping requirements before providing the records HUD will accept to support the required grantee and/or state grant recipient certification. To demonstrate each criteria of the Urgent Needs national objective:

Criteria 1. Is the activity designed to alleviate existing conditions?
Use the same records used to show that grant funds were used to prevent, prepare for, and respond to coronavirus, as required by the CARES Act.

Criteria 2. Does the condition pose a serious and immediate threat to the health or welfare of the community that is of recent origin or that recently became urgent? Use one of the below:

- Referral to a U.S. Department of Health and Human Services issued press release declaring a public health emergency for the entire United States found at https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html. The declaration was retroactive to January 27, 2020;
- Referral to the President's declaration of the ongoing Coronavirus Disease 2019 (COVID-19) pandemic as an emergency of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"). (The President subsequently approved additional major disaster declarations for states); or
- Referral to the effective dates of a grantee's own local or state emergency declaration.

Criteria 3. Is the grantee or unit of general local government unable to finance the activity on its own, and are other sources of funds are not available to carry out the activity? Use the documentation that the activity will prevent, prepare for, and respond to the coronavirus to demonstrate that a grantee or unit of general local government is unable to finance the activity on its own. Use the required records of compliance with mandatory duplication of benefits requirements to demonstrate that no other funds are available for an activity.

Q: How was the location-based presumption for LMI benefit for job creation/retention changed by the FR Notice?
A: HUD removed the higher poverty rate (30%) required in some cases for census tracts that contain at least a portion of a central business district. Instead, the FR Notice applies an alternative requirement that such a census tract qualifies for the same presumptions available to other tracts under the criteria established in regulations at 24 CFR 570.208(a)(4)(v) and 24 CFR 570.483(b)(4)(v) if the poverty rate is at least 20 percent and if the area evidences pervasive poverty and general distress using the criteria described in 24 CFR 570.208(a)(4)(v)(C) (entitlement) and 24 CFR 570.483(b)(4)(v)(C) (states).

Q: Why did HUD decrease the percentage associated with the central business district presumption for LM jobs?
A: HUD has determined that eliminating the 30 percent requirement for tracts that contain central business districts will standardize the required poverty rate to meet the presumption regardless of where the persons or the business is located, which facilitates the use of grant funds to assist desperate businesses. Central business districts are hubs that contain many coronavirus-affected businesses and facilitating assistance to businesses that seek to retain jobs is consistent with the purposes of the CARES Act. Standardizing the poverty rate for the LMI benefit presumption may help to avoid wholesale collapse of central business districts at a time when many businesses have closed or are at risk of closing due to insufficient revenues.

Q: How does the FR Notice simplify recordkeeping requirements for the LM Jobs national objective?
A: The normal job creation and retention recordkeeping requirements consider family income when determining whether a beneficiary is a person of low or moderate income, but these requirements are likely to be burdensome during a time when unemployment has surged and family income is more difficult to document. Collection of income information directly from assisted businesses can streamline assistance.

For activities that prevent, prepare for, and respond to coronavirus, grantees and employers may considers individuals that apply for or hold jobs to be members of one-person families. HUD has also modified related recordkeeping requirements at 24 CFR 570.506(b)(7) (entitlement) and the jointly agreed upon requirements referenced in 24 CFR 570.490 (state) by adding the following additional presumption: the recipient may substitute records showing the type of job and the annual wages or salary of the job in lieu of maintaining records showing the person's family size and income to demonstrate that the person who filled or held/retained the job was a low- or moderate-income person. HUD will consider the person income-qualified if the annual wages or salary of the job is equal to or less than the Section 8 low-income limit established by HUD for a one-person family. Under this alternative requirement, a grantee will have substantially reduced documentation requirements because they will be working with assisted businesses rather than each person, and potentially their households, who received a job.

Q: Does the overall benefit requirement apply to CDBG-CV? If yes, how?
A: Yes, the overall LMI benefit requirement applies to each CDBG-CV grant. However, the FR Notice establishes an alternative requirement to modify the calculation of overall LMI benefit. A grantee must demonstrate compliance with the overall benefit requirement separately for a grantee's total CDBG-CV grant allocation and not in combination with annual formula CDBG funding or commitments under the Section 108 Loan Guarantee program.

CDBG-CV grants are subject to the requirement that 70 percent of funds are for activities that benefit LMI persons. The grantee is required to ensure that 70 percent of its CDBG-CV grant is expended for activities that benefit LMI persons.

There is no option for grantees to select the timeframe for compliance. HUD previously instructed grantees to submit certifications required by 24 CFR 91.225 (entitlements) or 24 CFR 91.325 (states). The regulations at 24 CFR 91.225(b)(4)(ii) and 24 CFR 91.325(b)(4)(ii) require

grantees to certify that the aggregate use of CDBG funds will comply with the overall benefit requirement during a period specified by the jurisdiction, consisting of one, two, or three specific consecutive program years. As of the effective date of the FR Notice, grantees are not required to carry out the CDBG-CV grant consistent with the mandatory overall benefit certification because HUD has changed the requirement related to overall benefit.

Q: What changes does the FR Notice make to the aggregate Public Benefit test for economic development activities?
A: The FR Notice waives the standard for aggregate public benefit that applies to economic development activities described in 24 CFR 570.209(b)(1)-(2) (entitlement) and in 24 CFR 570.482(f)(2)-(3) (state). This applies to CDBG-CV grants and to FY2019 and FY2020 CDBG activities to prevent, prepare for, or response to coronavirus.

Q: What changes does the FR Notice make to the individual Public Benefit standards for economic development activities?
A: Certain economic development activities described in 24 CFR 570.209 (entitlement) and in 24 CFR 570.482(f)(1) (state) are subject to individual public benefit standards at 24 CFR 570.209(b)(3) (entitlement) and 24 CFR 570.482(f)(4) (state).

The FR Notice provides that for CDBG-CV activities (and for FY2019 or FY2020 activities to prevent, prepare for, and respond to coronavirus) subject to the public benefit standards, grantees must document that:

a. the activity will create or retain at least one full-time equivalent, permanent job per $85,000 of CDBG funds used;
b. the activity will provide goods or services to residents of an area such that the number of LMI persons residing in the area served by the assisted businesses amounts to at least one LMI person per $1,700 of CDBG funds used; OR
c. the assistance was provided due to business disruption related to coronavirus (in which case, no monetary standard applies because HUD has determined that there is sufficient public benefit derived from the provision of assistance to stabilize or sustain businesses in the grantee's jurisdiction that suffer disruption due to coronavirus, and that facilitation of business assistance for this purpose may help to avoid complete economic collapse within the grantee's jurisdiction).

Q: Will HUD waive the CARES Act requirement that CDBG-CV funds must be used only for those activities carried out to prevent, prepare for, and respond to coronavirus?
A: By law, use of funds for any other purpose is unallowable and HUD is not authorized to grant a waiver of this provision. To satisfy these purposes, grantees may assist activities that respond to direct effects, such as the need to rehabilitate a building to add isolation rooms for recovering coronavirus patients. A grantee may also undertake activities to address indirect effects of the virus, such as the economic and housing market disruptions caused by social distancing measures and stay at home orders implemented to prevent the spread of coronavirus. HUD cautions grantees that the recordkeeping requirements of the Notice require clear documentation that all uses of funds satisfy the statutory purposes of the CARES Act.

Q: Are all of the activity types listed as eligible in the HCD Act still eligible for CDBG-CV?
A: Some activities clearly tie back to the purposes of the CARES Act, such as public services, economic development and microenterprise assistance, public facilities, and the rehabilitation of private buildings to provide housing. However, HUD is not prohibiting grantees from carrying out any particular CDBG eligible activity described in the HCD Act and the 24 CFR part 570 regulations, because other CDBG eligible activities, such as acquisition, can justifiably be used to fulfill the CARES Act purposes depending upon the circumstances.

Q: What if our CDBG program has never included emergency payments or health services? Does HUD have program models and technical assistance?

A: The current needs to prevent, prepare for, and respond to coronavirus may require use of CDBG-CV funds for uncommon activities. HUD is preparing a series of technical assistance products that describe opportunities to quickly deploy CDBG-CV funds to address immediate needs. As this technical assistance is developed, it will be posted on the CDBG-CV page on the https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19.

Q: Will HUD extend the duration allowed for emergency payments beyond three months?
A: The FR Notice extends the period that grantees can make emergency grant payments on behalf of individuals and families from three consecutive months to six consecutive months.

Q: What are the requirements related to an emergency payments activity in addition to meeting a national objective?
A: As a public services activity designed to prevent, prepare for, or respond to coronavirus:

- Activity may be assisted with CDBG-CV or FY2019 or FY2020 grant funds.
- Funds may be used to provide emergency payments for individuals or families impacted by coronavirus for items such as food, clothing, housing (emergency rental assistance or mortgage assistance) or utilities for up to six consecutive months.
- Emergency payments must be made to the provider of such items or services on behalf of an individual or family, and not directly to an individual or family in the form of income payments, debit cards, or similar direct income payments.
- Grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible.
- Grantees using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable.

HUD will be providing more technical assistance related to emergency payments, such as questions regarding payment of arrearages as part of such an activity in the near future.

Q: What is the difference between an “income payment” and an “emergency payment” in the CDBG regulations?
A: Normally, CDBG funds may not be used for income payments, which are not included among eligible activities in section 105(a) of the HCD Act for states, and which are expressly prohibited by 24 CFR 570.207(b)(4) in the Entitlement CDBG regulations. The phrase income payments means a series of subsistence-type grant payments made to an individual or family for items such

as food, clothing, housing (rent or mortgage) or utilities, but excludes emergency payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

Q: May funds assist an economic development activity by being passed through a for-profit entity to a financing mechanism?
A: In the FR Notice, HUD provided a clarification about financing mechanisms. Grantees may provide assistance to an economic development project through a for-profit entity that passes the funds through a financing mechanism (e.g., Qualified Opportunity Funds and New Markets Tax Credit (NMTC) investment vehicles). The regulations at 24 CFR 570.203(b) already list forms of support by which grantees can provide assistance to private, for-profit businesses where the assistance is appropriate to carry out an economic development project. HUD has previously interpreted this provision to allow for CDBG assistance to NMTC investment vehicles. This clarification makes clear that such assistance through any financing mechanism (which is not limited to NMTC investment vehicles) is eligible under 24 CFR 570.203(b). The regulation also does not apply to states, but states may consider 24 CFR 570.203(b), as clarified by the following alternative requirement, as guidance in the same way that they may consider other Entitlement CDBG regulations.

Q: May funds assist an economic development activity by being passed through a nonprofit organization to a financing mechanism?
A: The FR Notice establishes an alternative requirement that expands the authority in section 105(a)(15) of the HCD Act and 24 CFR 570.204 to permit grantees subject to entitlement CDBG regulations to assist nonprofit organizations serving the development needs of their jurisdiction by carrying out community economic development projects through a financing mechanism. The qualified nonprofit may pass assistance through a financing mechanism to another entity based on the language in section 105(a)(15) of the HCD Act. Grantees subject to entitlement regulations must document that the assisted nonprofit is serving the development needs of the jurisdiction and that the assistance is used for a community economic development project that is necessary to prevent, prepare for, and respond to coronavirus.

Q: Does the 15 percent public services limitation apply to CDBG-CV grants?
A: No. The CARES Act provides that there shall be no per centum limitation for the use of funds for public services activities to prevent, prepare for, and respond to coronavirus. The CARES Act provides this flexibility for all CDBG-CV funds.

Q: Does the 15 percent public services limitation apply to FY2019 and FY2020 CDBG grants?
A: The public services limitation does not apply to CDBG funds appropriated in fiscal years 2019 and 2020, or program income for FY2019 and FY2020, to the extent that grantees use these funds to carry out public service activities to prevent, prepare for, and respond to coronavirus. For fiscal years 2019 and 2020, the cap shall still be calculated and shall apply to public service activities carried out for activities that do NOT prevent, prepare for, and respond to coronavirus.

Q: Can CDBG-CV assist existing public services?
A: CDBG and CDBG-CV funds may only be used for those public service activities that are new or that represent a quantifiable increase above the level of an existing service that has been

provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the state in which it is located) in the 12 calendar months before the submission of the action plan, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government.

Q: Is it eligible to use grant funds to purchase personal property or equipment?
A: Purchase of personal property and equipment is generally ineligible. However, the entitlement CDBG regulation at 24 CFR 570.207(b)(1) (which may be used as guidance by state grantees), allows grantees to purchase or to pay depreciation in accordance with 2 CFR part 200, subpart E, for personal property, fixtures, and equipment when necessary when such items constitute all or part of a public service.

Thus, it is important for the grantee to define the public service activity and the role of the equipment in providing it. Examples of use of equipment that constitute all or part of a public service include equipment and supplies owned by the grantee or subrecipient that provides the public service, e.g., ventilators or other medical equipment and supplies that will be used in providing health care at a field clinic, or a vehicle outfitted with medical equipment to provide mobile health care.

Q: How will program income be treated under CDBG-CV?
A: The receipt and expenditure of program income that is generated by the use of CDBG-CV funds shall be treated as annual formula CDBG program income and recorded as part of the financial transactions of the annual formula CDBG grant program. Any program income generated from the use of CDBG-CV funds will be receipted in HUD's Integrated Disbursement and Information System (IDIS) as program income to the annual formula CDBG grant program. This provision paired with the requirement that 80 percent of a CDBG-CV grant be expended within three years facilitate expeditious use of funds.

Q: May CDBG-CV funds be used for float-funded activities?
A: Grantees shall not use CDBG-CV funds for float-funded activities or guarantees.

Q: May CDBG-CV subrecipients retain program income?
A: A grantee may permit subrecipients (including units of general local government receiving funds from a state) to retain program income from the use of CDBG-CV funds under this paragraph if the amount held does not exceed the subrecipient's projected cash needs for CDBG activities including activities to prevent, prepare for, and respond to coronavirus.

Q: May States act directly to carry out CDBG-CV activities rather than passing nearly all funds through to local governments?
A: States are significant coordinators of statewide and regional activities to prevent, prepare for, and respond to coronavirus. The FR Notice provides waivers and alternative requirements that permit a state grantee to use a portion of its funds to act directly to carry out activities through employees, contractors, and subrecipients in all geographic areas within its jurisdiction, including entitlement areas and tribal populations.

Q: When are the waivers and alternative requirements to act directly available?

A: They are only available to a state if it complies with the "conforming changes" and with the following alternative requirements:

- *Nonentitlement set aside*: A state must set aside a portion of its grant for use by nonentitlement units of general local government.
- *Inclusion in CDBG-CV Application*: A state's proposal to act directly and to distribute or use CDBG-CV funds in entitlement areas must be published for public comment in its application for CDBG-CV funds or in a subsequent substantial amendment to the annual action plan that includes the CDBG-CV funds.
- *Activities carried out in tribal areas*: A state grantee may carry out activities in tribal areas. States carrying out projects in tribal areas through employees, contractors, or subrecipients must obtain the consent of the Indian tribe with jurisdiction over the tribal area.

Q: What is the amount of the nonentitlement set aside?
A: The nonentitlement set aside must be no less than an amount equal to the state's first CDBG-CV allocation and may be from any portion of the state's additional CDBG-CV allocation. The nonentitlement set aside fulfills the intent reflected by the formula to address needs in urban and rural areas, while giving states the flexibility to determine how to expend each allocation as it is made based on needs within its jurisdiction.

Q: What are the "conforming changes" and alternative requirements made for States that act directly?

A: The following are the "conforming changes" and alternative requirements for States that choose to carry out some or all CDBG-CV activities directly:

- *Carry out.* A state may carry out eligible activities directly, consistent with the entitlement program requirement of 24 CFR 570.200(f), through its employees, through procurement contracts, or through assistance provided under agreements with subrecipients. Pursuant to section 102(c) of the HCD Act, one or more public agencies may be designated by the chief executive officer of a state to undertake activities assisted under this chapter. A state is responsible for ensuring that CDBG-CV funds are used in accordance with all program requirements. The use of interagency agreements, subrecipient agreements (including agreements with Indian tribes and designated public agencies, as described in section III.B.6.(b)(ii)) or contracts does not relieve the state of this responsibility. States are responsible for determining the adequacy of performance under subrecipient agreements and procured contracts, and for taking appropriate action when performance problems arise. State grantees continue to be responsible for civil rights, labor standards, and environmental protection requirements, for compliance with all applicable requirements, including conflict of interest provisions in 24 CFR 570.489(g) and (h).
- *National objective*. The national objective criteria in 24 CFR 570.483 are modified by the following alternative requirement when states carry out activities directly: the state must fulfill all requirements that 570.483 imposes on units of general local government to demonstrate compliance with national objective criteria.

- *Recordkeeping*. The recordkeeping requirements at 24 CFR 570.490(b) are waived when states carry out activities directly, and the following alternative requirement shall apply: the state shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the state's administration of CDBG-CV funds, under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other Federal requirements, the content of records maintained by the state shall be sufficient to: (1) enable HUD to make the applicable determinations described at 24 CFR 570.493; (2) make compliance determinations for activities carried out directly; and (3) show how activities funded are consistent with the descriptions of activities proposed for funding in the CDBG-CV application. For fair housing and equal opportunity (FHEO) purposes, as applicable, such records shall include data on the race, ethnicity, and sex of persons who are applicants for, participants in, or beneficiaries of the activity.
- *Change of use*. The change of use of real property rule at 24 CFR 570.489(j) is modified to include instances when a state carries out activities directly. All references to "unit of general local government" shall be read as "state, unit of general local government (UGLG) or state subrecipient."
- *Reviews and audits*. To include instances when a state carries out activities directly, 24 CFR 570.492 is waived and the following alternative requirement applies: the state shall make reviews and audits, including on-site reviews of any subrecipients and local governments, as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the HCD Act, as amended. In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The state shall establish remedies for noncompliance by any subrecipients or local governments.
- *Procurement*. To include instances when a state carries out activities directly in accordance with the waiver in this paragraph, 24 CFR 570.489(g) is modified to revise the requirement that "[t]he state shall establish requirements for procurement policies and procedures for units of general local government" so that it applies to "units of general local government and subrecipients." To facilitate grant administration by adopting state-wide procurement policies, a state agency designated to oversee the use of all its CDBG-CV funds pursuant to section 102(c) of the HCD Act may impose its procurement requirements on all uses of CDBG-CV funds by the state, including by other state agencies that administer a portion of the CDBG-CV grants, so long as those requirements comply with 24 CFR 570.489(g).
- *Subrecipients*. States carrying out activities through subrecipients must comply with 24 CFR 570.489(m) relating to monitoring and management of subrecipients. The definition of subrecipient at 24 CFR 570.500(c) applies when states carry out activities through subrecipients, and the requirements of 24 CFR 570.489(g) (as modified by section III.B.6.(b)(i)) shall apply. For purposes of this alternative requirement, the definition of subrecipients at 24 CFR 570.500(c) is modified to expressly include Indian tribes. Indian tribes that receive CDBG-CV funding from a state grantee must comply with the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968, 25 U.S.C. 1301 et seq.). This conforming requirement is necessary because the state CDBG regulations do not

anticipate states distributing funds through means other than a method of distribution to units of general local government.

- *Entitlement share not required.* States, either directly or through units of general local government, may use CDBG-CV funding for activities located in entitlement areas without contribution from the entitlement jurisdiction.
- *Exception criteria.* If the area in which an activity is carried out would benefit from the "exception criteria" that permit a grantee to use a percentage less than 51 percent to qualify activities under the LMI area benefit criteria, those exception criteria apply to the use of CDBG-CV funds by a state the same way that they apply to the use of CDBG funds by the entitlement grantee in the same area. CDBG-CV grantees are required to use the most recent data available in implementing the exception criteria. For more information on the data set, please visit https://www.hudexchange.info/programs/acs-low-mod-summary-data/acs-low-mod-summary-data-exception-grantees/.

Q: Are States required to provide match for State administration for their CDBG-CV grant?
A: The FR Notice waived program requirements to the extent necessary to eliminate the state match requirement for general administrative costs.

Q: What administrative cap requirements apply to State CDBG-CV grants?
A: A state and its funded units of general local government and subrecipients are, in aggregate, permitted to expend no more than 20 percent of the CDBG-CV grant for planning, management, and administrative costs. A state may use up to 7 percent of its CDBG-CV grant combined for general administration and technical assistance costs; of that 7 percent, a state may use up to 5 percent of CDBG-CV funds for general administration costs and up to 2 percent of the grant for technical assistance activities. The remainder of the amount may be used by units of general local government for administrative and technical assistance costs, provided that a state and its funded units of general local government and subrecipients expend no more than 20 percent of the CDBG-CV grant for planning, management, and administrative costs. A grantee must meet this alternative requirement over the life of its grant, as amended to incorporate additional allocations of CDBG-CV funds.

Q: Are there any circumstances under which a State's CDBG-CV grant may be used to pay administrative costs of the annual formula CDBG program?
A: CDBG-CV grant funds shall not be used to pay planning and program administrative costs allocable to another grant under the CDBG annual formula program; however, CDBG-CV funds may be used to pay costs that benefit both the CDBG-CV grant and another CDBG award and can be distributed between the grants in proportions that may be reasonably approximated.

Q: How much can CDBG-CV entitlements and counties of the State of Hawaii use for planning and program administrative costs and how will the cap be calculated?
A. For grants subject to subpart D (entitlement grants and grants to the nonentitlement counties of the State of Hawaii): no more than 20 percent of the total CDBG-CV grant shall be expended for planning and program administrative costs. There is no program year obligation test for planning and administrative costs of CDBG-CV grants. Additionally, CDBG-CV funds shall not be included in the compliance determination of the program year obligation test applicable to annual formula CDBG funds. Additionally, program income, regardless of the source funding of

the activity that generated the income, shall be included in the compliance determination of the administrative and planning cost cap applicable to annual formula CDBG grants and program income, separately from CDBG-CV funds.

Q: Are there any circumstances under which an entitlement's CDBG-CV grant may be used to pay administrative costs of the annual formula CDBG program?
A: CDBG-CV grant funds shall not be used to pay planning and program administrative costs allocable to another grant under the CDBG annual formula program; however, CDBG-CV funds may be used to pay costs that benefit both the CDBG-CV grant and another CDBG award and can be distributed between the grants in proportions that may be reasonably approximated.

Q: When a State carries out activities directly, does this change its environmental review responsibilities?
A: Yes. Usually, a state distributes CDBG funds to local governments and takes on HUD's role in receiving environmental certifications from the grant recipients and approving releases of funds. Because the FR Notice will allow a State CDBG-CV grantee to carry out activities directly in addition to distributing funds to subrecipients, per 24 CFR 58.4, when a state carries out activities directly, the state must submit the Certification and Request for Release of Funds to HUD for approval.

Q: Are there any ways to streamline environmental review for CDBG-CV?
A: The FR Notice clarifies that environmental review regulations in 24 CFR part 58 include two provisions that may be relevant for activities to prevent, prepare for, and respond to coronavirus.

1. 24 CFR 58.34(a)(10) provides an exemption for certain activities undertaken in response to a national or locally declared public health emergency. Except for the applicable requirements of 24 CFR 58.6, a responsible entity does not have to comply with the requirements of part 58 or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in 24 CFR 58.5 for exempt activities or projects consisting solely of exempt activities. Exempt activities include assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from imminent threats to public safety.
2. A streamlined public notice and comment period is in the regulation at 24 CFR 58.33, which may apply in some cases for emergency activities undertaken to prevent, prepare for, and respond to coronavirus. The application of these two provisions following a presidentially-declared or locally-declared public health emergency is discussed in the FR Notice, Guidance on conducting environmental review pursuant to 24 Part 58 for activities undertaken in response to the public health emergency as a result of COVID-19 (CPD-20-07) posted at https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf.

Q: Can HUD waive Davis-Bacon for CDBG-CV?
A: CDBG-CV grants are subject to the Davis-Bacon prevailing wage requirements imposed by section 110(a) of the HCD Act. HUD cannot waive this or other labor laws.

Q: Do the Davis-Bacon requirements apply to reimbursements? Is so, how?

A: Under regulations of the Department of Labor (DOL) at 29 CFR 1.6(g), where Federal assistance is not approved prior to contract award (or the beginning of construction if there is no contract award), Davis-Bacon wage rates apply retroactively to the beginning of construction and must be incorporated retroactively in the contract specifications. However, if there is no evidence that the owner intended to apply for the CDBG-CV assistance prior to the contract award or the start of the construction, HUD may request that DOL allow prospective, rather than retroactive, application of the Davis-Bacon wage rates. DOL may allow prospective application of Davis-Bacon requirements where it finds that it is necessary and proper in the public interest to prevent injustice or undue hardship and it finds no intent to apply for the federal assistance before contract award or the start of construction. The CDBG-CV Grantee should contact a HUD Labor Relations Specialist if such a situation arises.

Q: Do the CDBG-CV grants affect a grantee's borrowing authority in the Section 108 Loan Guarantee Program.
A: No. Under the Section 108 Loan Guarantee Program, CDBG grantees can borrow up to five times their most recent CDBG grant by issuing federally guaranteed notes. The Notice provides that CDBG-CV funds shall not be factored into a grantee's Section 108 borrowing authority.

Q: May a grantee use CDBG-CV funds to make a Section 108 payment?
A: Yes, in some cases. A grantee may use CDBG-CV funds to make a direct payment of principal, interest, or any fees due under a Section 108 note only if the use of funds is to prevent, prepare for, and respond to coronavirus. The necessity of such use shall be documented by the grantee or the subrecipient that provided the assistance (e.g., if Section 108 funds were used by the grantee to provide assistance to a for-profit business in the form of a loan and the business is unable to make a payment due to the reduction in revenue caused by coronavirus, any restructuring of that loan must be supported by modification to loan documents that document the relationship to coronavirus). When CDBG-CV funds are used to subsidize or replace principal, interest, or fees due under a loan previously made with guaranteed loan funds as part of an activity to assist a for-profit or a subrecipient, and the CDBG-CV assistance is necessary to respond to the impact of coronavirus (e.g., a third-party business borrower whose loan is the intended source for repayment of a Section 108 loan is not collecting sufficient revenue due to local public health conditions), the documentation that the original assisted activity satisfies national objective criteria shall be sufficient to demonstrate that the use of the guaranteed loan funds and the additional CDBG-CV assistance meet a CDBG national objective.

Q: What is the period of performance of a CDBG-CV grant?
A: A CDBG-CV grantee must expend all CDBG-CV funds (including CDBG-CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) within the 6-year period of performance established by the CDBG-CV grant agreement. Grant funds are not available for expenditure after the period of performance.

Q: What is the expedited expenditure requirement for a CDBG-CV grant?
A: Each CDBG-CV grantee must expend at least 80 percent of all CDBG-CV funds (including CDBG-CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) no later than the end of the third year of the period of performance established by the CDBG-CV grant agreement.

Q: What is the corrective action or sanction for failure to meet the 80 percent expenditure requirement?
A: If this three-year requirement is not met, and evidence meeting the criteria for extension described in the FR Notice is not provided, an amount equivalent to the difference between the total amount expended at the end of the third year and 80 percent of all CDBG-CV funds will be recaptured from the CDBG-CV grant.

Q: Do the annual formula CDBG timeliness requirements apply to CDBG-CV?
A: No. CDBG-CV grants are available for limited purposes under the CARES Act. They are subject to a shortened period of performance. CDBG-CV funds will not be included in determining compliance with the requirements of 24 CFR 570.902 and 570.494. (Note that income generated from CDBG-CV activities will be included in timely expenditure compliance determinations for each entitlement grantee's annual formula CDBG program. Grantees should consider the potential effects of additional program income to compliance with timeliness requirements applicable to their annual formula CDBG grant program when they select and design CDBG-CV assisted activities.)

Q: What are the applicable grant closeout requirements?
A: For grantees subject to entitlement regulations, HUD will close out grants in accordance with grant closeout requirements of 2 CFR 200.343. This approach is consistent with the state regulation at 24 CFR 570.489(o). Grantees subject to this alternative requirement must submit all financial, performance, and other reports as required by 24 CFR 91.520.

Q: What if a grantee cannot meet the expenditure requirement or the period of performance?
A: In general, HUD expects all grantees to comply with all grant requirements and fully close out a grant at the end of the period of performance. However, HUD recognizes that there are many things that could disrupt a grantee's intended timeline for activity completion: litigation, disasters, limited construction seasons due to weather, or other extenuating circumstances. Therefore, HUD may authorize an extension of the three-year expenditure requirement or the overall period of performance if the grantee provides evidence of such extenuating circumstances that would warrant the extension and that they could demonstrate they would meet all program requirements within the extended expenditure period or period of performance.

Q: What reporting requirements apply to CDBG-CV?
A: The reporting requirements that apply to the use of annual formula CDBG grants also apply to CDBG-CV grants. This includes the annual CAPER (for entitlements) or PER (for States). In addition, the CARES Act requires that recipients of $150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing: information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient.

Existing reporting requirements are anticipated to meet the CARES Act requirements, but the content and format for this reporting is still under development and will need to be reviewed

against current program practices. The Department will work in coordination with OMB to ensure that this requirement can be fulfilled by recipients of CARES Act funding in a manner that utilizes to the greatest extent possible existing reporting streams, providing the necessary transparency and accountability with minimal additional burden. If additional reporting is necessary, further advice or technical assistance will be provided by the Department.

Q: Can a grantee combine funds from multiple sources in a single activity?
A: It is possible. However, a grantee is required to develop and maintain adequate procedures to prevent a duplication of benefits that address (individually or collectively) each activity or program. A grantee's policies and procedures are not adequate unless they include, at a minimum: (1) a requirement that any person or entity receiving CDBG-CV assistance (including subrecipients and direct beneficiaries) must agree to repay assistance that is determined to be duplicative; and (2) a method of assessing whether the use of CDBG-CV funds will duplicate financial assistance that is already received or is likely to be received by acting reasonably to evaluate need and the resources available to meet that need.

Q: How does CDBG-CV define duplication of benefits?
A: Duplication of benefits occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs.

Q: What does the FR Notice say about citizenship requirements?
A: Please note that the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services provides that the Immigration Reform and Control Act, 8 U.S.C. 1324a et seq. prohibits employers from hiring and employing an individual for employment in the U.S. knowing that the individual is not authorized with respect to such employment. This generally applicable law also applies to CDBG grantees and their subrecipients and/or contractors/subcontractors (including relating to employees recruited under Section 3). For more information, please see https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/10-why-employers-must-verify-employment-authorization-and-identity-of-new-employees and https://www.uscis.gov/i-9-central/legal-requirements-and-enforcement.

IV. Fiscal Year 2019 and Fiscal Year 2020 CDBG Grants

IV.A. General Requirements

Q: What requirements apply to FY 2019 and FY2020 CDBG annual formula grants other than the FR Notice?
A: Except as described in the FR Notice or other applicable waivers and alternative requirements (in memos), the normal statutory and regulatory provisions governing the CDBG program apply to fiscal year 2019 and 2020 CDBG grants, including regulations at 24 CFR part 570 subpart I (states), 24 CFR part 570 subparts A, C, D, E, J, K, and O (entitlements), and 24 CFR subpart F (insular areas and Hawaii counties).

Q: Is HUD aware that some grantees may struggle with timely expenditures for annual formula CDBG grants in 2020?
A: Because of the coronavirus many local governments are operating under extenuating circumstances and may need additional time for certain administrative requirements, so HUD is suspending for fiscal year 2020 all corrective actions, sanctions, and informal consultations for timeliness effective January 21, 2020. Grantees are advised that this suspension does not eliminate the timely expenditure requirements set forth in 24 CFR 570.902 (entitlements). HUD will continue to run expenditure reports and will continue to notify grantees of deficiencies.

Going forward, HUD will monitor changing conditions. Before the end of the fiscal year, HUD will determine whether to extend this suspension for all or a portion of fiscal year 2021. HUD may consider regional and local conditions when determining when to begin scheduling informal consultations.

IV.B. Flexibilities, Waivers, and Alternative Requirements

Q: What is the deadline set by the CARES Act for grantees to submit FY2019, FY2020, and CDBG-CV action plans?
A: The deadline for grantees to submit action plans and other updates to their consolidated plans submissions for fiscal years 2019 and 2020 to include CDBG-CV funds is August 16, 2021.

Q: Has HUD extended the deadline for submitting the annual Consolidated Annual Performance and Evaluation Report (Performance Report (CAPER)?
A: On May 7, 2020, Acting Assistant Secretary John Gibbs issued a memorandum to all Community Planning and Development Field Office Directors, Deputy Directors and Program Managers with the subject "Availability of a Waiver and Alternate Requirement for the Consolidated Annual Performance and Evaluation Report (Performance Report) for Community Planning and Development (CPD) Grant Programs in Response to the Spread of Coronavirus." This memorandum authorized a waiver of the regulatory requirement at 24 CFR 91.520(a) that grantees submit a performance report known as the Consolidated Annual Performance and Evaluation Report (CAPER) within 90 days of the end of a jurisdiction's program year. Under this memorandum, for program year 2019 CAPERs, the requirement that grantees submit a performance report within 90 days after the close of a jurisdiction's program year is waived, subject to the condition that within 180 days after the close of a jurisdiction's program year the jurisdiction shall submit its performance report.

Q: Do a grantee's CDBG activities to prevent, prepare for, and respond to coronavirus need to be consistent with its Consolidated Plan?
A: The Notice temporarily waived the requirement for consistency with the consolidated plan when fiscal year 2019 and 2020 CDBG funds are used to prevent, prepare for, and respond to coronavirus, because grantees may not have considered the needs associated with this special purpose funding when developing their current consolidated plan strategic plan and needs assessment. In conjunction, HUD is temporarily waiving 42 U.S.C. 5304(e) to the extent that it would require HUD to annually review grantee performance under the consistency criteria. These waivers apply only until the grantee submits its next full (3-5 year) consolidated plan due after the 2020 program year.

In addition, the regulations at 24 CFR 91.225(b)(5) (entitlements) and 24 CFR 91.325(b)(5) (states) require grantees to certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan portion of the consolidated plan. The Notice provided an alternative requirement that grantees are not required to carry out the portions of their fiscal year 2019 and 2020 annual formula CDBG grants that are used to prevent, prepare for, and respond to coronavirus in a manner consistent with the certifications in 24 CFR 91.225(b)(5) and 24 CFR 91.325(b)(5), because HUD has changed the requirement related to consistency.

Q: Will CDBG-CV grants be included in the base for calculating the annual formula program's public service cap compliance?
A: No. CDBG-CV grant funds shall not be included in the public service cap compliance determination which is applicable to annual formula CDBG funds used for activities not related to coronavirus.

Q: How will program income generated by the use of CDBG-CV grants affect the public services cap compliance calculation for the annual formula grants?
A: Program income generated by the use of CDBG-CV grants is considered program income to the grantee's annual formula CDBG program. Program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the public service cap applicable to the annual formula CDBG grants and program income, separately from CDBG-CV funds. For purposes of calculating the public services cap, the treatment of program income generated by the CDBG-CV grant and received (i.e., documented in IDIS) by the annual formula CDBG program shall be considered as any other program income received by the annual formula CDBG program.

Q: Do you have a quick list of the CDBG-CV requirements that ALSO apply to CDBG FY2019 and FY2020 grants?
A: These Section III provisions of the Notice apply to the use of fiscal year 2019 and 2020 CDBG funds for activities to prevent, prepare for, and respond to coronavirus; these provisions shall also apply to the use of Section 108 guaranteed loan funds when they are used together with fiscal year 2019 and 2020 CDBG funds for activities to prevent, prepare for, and respond to coronavirus. Where these paragraphs refer to CDBG-CV funds, they apply equally to fiscal years 2019 and 2020 CDBG grants.

- III.B.5.(d)(i) Use of Urgent Need National Objective.
- III.B.5.(d)(ii) Modification of Location-Based Presumption of LMI Benefit for Job Creation and Retention National Objective Criteria.
- III.B.5.(d)(iii) LMI Job Creation and Retention Records.
- III.B.5.(e)(i) Elimination of Aggregate Public Benefit Test.
- III.B.5.(e)(ii) Modification of Individual Public Benefit Standards.
- III.B.5.(f)(i) Extension of Emergency Payments.
- III.B.5.(f)(ii) Opportunity Zones and Related Flexibilities for Economic Development.
- III.B.5.(f)(iii) Public Services Cap.
- III.B.5.(f)(iv) Other Public Services Considerations.
- III.B.5.(f)(v) Clarification on Application of Cost Principles.

- III.B.6.(d)(iii) Clarifying note on emergency environmental review procedures.
- III.B.9. Duplication of Benefits (applies for programs and activities with annual formula CDBG funds when the grantee uses these funds to carry out programs to respond to losses caused by disasters and emergencies).
- III.B.10. Citizenship Requirements.

Q: Do you have a quick list of the CDBG-CV requirements that do **NOT** apply to CDBG FY2019 and FY2020 grants?
A: Waivers and alternative requirements and other provisions in the following paragraphs of Section III of the Notice do **not** apply to fiscal year 2019 CDBG Grants and fiscal year 2020 CDBG grants:

- III.A. Allocations of CDBG-CV Funds
- III.B.1. General Grant Requirements
- III.B.2. Responsible Use of CARES Act Funds
- III.B.3. Overview of Process to Receive CDBG-CV Grants
- III.B.4.(b) CDBG-CV Application Content and Submission
- III.B.5.(a) Use of Funds for CARES Act Purposes
- III.B.5.(b) Reimbursements
- III.B.5.(c) Terms and Conditions Made Applicable by the CARES Act
- III.B.5.(d)(iv) Overall Benefit to LMI Persons.
- III.B.6.(a) Program Income
- III.B.6.(b) Rules Applicable to State CDBG-CV Grants
- III.B.6.(c) Rules for Entitlements, Insular Areas, and Nonentitlement Hawaii Counties
- III.B.6.(d)(ii) Clarifying note on the process for environmental release of funds when a state carries out activities directly.
- III.B.6.(e) Compliance with Labor Laws
- III.B.6.(f) Relationship to Section 108 Loan Guarantees
- III.B.7. Period of Performance, Timeliness, and Closeout
- III.B.8. Reporting

STAFF REPORTS ON APPLICATIONS

RECEIVED FOR 2022-2023

CDBG/CDBG-CV-19 FUNDING

1
CDBG

NAME: Homebuyer Assistance Program **Request: $200,000**

APPLICANT: City of Midland Community Development

Description. The City's Community Development Office proposes to continue the City's Homebuyer Assistance Program (HAP). Through the HAP, low-income first-time homebuyers receive financial assistance to help purchase decent homes anywhere in the City. Depending on income, up to $15,000 assistance would be provided to a homebuyer as a zero interest, deferred forgivable loan.

Budget. The requested funds could assist 10 households during the year. The CD office staff will accept and verify applications, inspect the homes, coordinate the closings and process payments. Community Development Office staff conducts the HAP and is paid by the City's general fund.

Eligibility. Per 24 CFR 570.201(n), homeownership assistance is a basic CDBG eligible activity. In order to meet the CDBG Objective of benefit to low- and moderate-income persons, the City must document that each assisted household meets the low and moderate-income criteria.

Consolidated Plan. High priority is the need for more affordable homes to buy.

2
CDBG

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

APPLICANT: Casa de Amigos

Description: The Casa de Amigos requests funding for the nutrition programs at the Southeast Senior Citizen Center (1803 E Indiana) and at the Casa de Amigos (1101 E Garden Lane). Approximately 242 seniors are expected to benefit from the lunchtime meal program and take-home food boxes in order to supplement their nutritional needs. Meals are contracted daily with a local catering company and reviewed by a certified nutritionist.

Budget: SE Center and Casas de Amigos meals program has been CDBG supported. Sub recipient is including the Casa meals program in its application for the upcoming CDBG fiscal year. CDBG funds would be used to pay for an average 53 meals per day for the October 2021 to September 2022 period. The estimated $7.54 cost per meal includes all costs in providing the meals: personnel, supplies, transportation, food, equipment and administrative overhead.

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

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

Other Comments: As an ongoing program, this request is subject to the potential need for the operator to secure replacement funding. CDBG assistance has been provided continuously for senior citizen programming in Midland since 1986. Casa de Amigos has administered CDBG funds for the SE Nutrition Program since 2020.

3
CDBG

NAME: Home Cleaning Program **Request: $45,000**

APPLICANT: Casa de Amigos

Description: Casa de Amigos requests funds to support its Citywide Community Services' Home Cleaning Program. The program's objective is to maintain safe and sanitary living conditions for indigent senior citizens (60+ years of age) and disabled individuals. Services include an initial deep cleaning and subsequent routine weekly cleaning. It is expected that 100 clients will be assisted during the year.

Budget: The requested funds would be used to help pay the wages of the program's homemakers. CDBG funds are proposed to be 30% of the total Citywide Community Services budget. The Citywide Community Services budget for the next year will be $98,000. Grants from United Way also help fund the program.

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

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

Other Comments: As an ongoing program, this request is subject to the potential need for the operator to secure replacement funding. The home cleaning service has been continuously CDBG supported since 1991.

4
CDBG CV-19

NAME: The Salvation Army of Midland Request: $120,172

APPLICANT: The Salvation Army

Description: The Salvation Army of Midland requests funding for the nutrition programs at the 600 E. Wall St. Center (Homeless Shelter). Approximately 5,300 meals are expected to be served during the program year. three meals time will be available to persons wanting a hot meal.

Budget: CDBG funds would be used to pay for an average 150 meals per day with an estimated $7.54 cost per meal; personnel, transportation, equipment and administrative overhead are not included in the grant. The requested funds would be used to help pay for food and nonperishable item related to meal preparation. The Homeless and Indigent Program overall budget for the next year will be $729,835.00 primarily generated from contribution and federal grants for the homeless.

Eligibility: Per 24 CFR 570.201(e), Homeless service for citizens experiencing hardships and/or disabled persons is considered by HUD a high priority. Homeless service for indigent individuals is considered by HUD as a presumed benefit to low and moderate-income person's activity under its limited clientele provisions

Consolidated Plan: Homeless services is an area of high priority and concentration of community need. All hardship individuals will have an evidence-based needs assessment screening and a plan of care formulated toward each participants service plan.

Other Comments: COVID-19 funding has remaining term of 18 months till sunset provision requires return to Department of Treasury.

5
CDBG CV-19

NAME: Casa De Amigos Senior Resiliency Program Request: $46,610

APPLICANT: Casa de Amigos

Description: Casa de Amigos requests funds to support its Senior Resiliency Program. The program's objective is to provide coping skills and resiliency training for senior citizens to improve their overall mental health as our community continue to recover from the effects of COVID-19. Seniors are adapting to a host of life altering realities (lost friendships, changing living environment, physical capacity, etc.) which has a diminishing effect on mental and physical health. It is expected that 45 clients will be assisted during the year.

Budget: The requested funds would be used to help pay the wages of the licensed counseling PLLC. The Senior Resiliency Program Services budget for the next year will be $81,360.00. Casa De Amigos will also help fund the program staff.

Eligibility: Per 24 CFR 570.201(e), public services are eligible for CDBG-CV19 funding. A public service for senior citizens and disabled persons is considered by HUD as a presumed benefit to low- and moderate-income activity under its limited clientele provisions. This request will be subject to the 15% limitation on funds allocated for public services.

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

Other Comments: As an ongoing program, this request is subject to the potential need for the operator to secure replacement funding. COVID-19 funding has remaining term of 18 months till sunset provision requires return to Department of Treasury.

6
CDBG CV-19

NAME: Midland County Hospital District (Mental Health & Wellness Department)
Request: $240,000

APPLICANT: Midland Memorial Hospital

Description: Mental Health & Wellness Department requests funds to support its Community Referral and Indigent Program (CRISP) to help individuals of all ages to recover from the devastation of the pandemic and overcome barriers to restore and stabilize health and livelihood.

The Community Referral and Indigent Program (CRISP) program objective is to provide Personal services that follows participants at every point-of-service to assure connection with needed resources and supportive providers. The CRISP team will coordinate, make and follow up with participants/providers to ensure that integrated care is received thus preventing additional stress and cost on the hospital emergency room. All hardship individuals will have an evidence-based mental health screening and a plan of care formulated toward each participants service plan. It is expected that 1,700 participants will be connect with identified resources during the year.

Budget: The requested funds would be used to help pay the wages of the licensed counselors, social-workers and supportive staff. The Community Referral and Indigent Program (CRISP) program services budget for the next year will be $714,212.00. The Community Referral and Indigent Program (CRISP) will also help fund the program through the hospital grants contributions and fundraising.

Eligibility: Per 24 CFR 570.201(e), mental health services are eligible for CDBG-CV19 funding. Mental Health service for hardship citizens and disabled persons is considered by HUD.

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

Other Comments: As a start-up program, this request is subject to the potential need for the agency to secure replacement funding. COVID-19 funding has remaining term of 18 months till sunset provision requires return to Department of Treasury.

7
CDBG CV-19

NAME: Senior Life Midland (SLM) Program **Request: $45,000**

APPLICANT: Mission Center Adult Day Service

The objective of the Meals on Wheels is to promote better mental and physical health for older homebound persons through nutritious meals and socialization. The nutrition program will be provided each weekday by volunteer drivers. Senior Life Midland (SLM), with main offices at 3301 Sinclair St., will carry out the (COVID) relief program Monday through Friday (except on holidays). SLM, through its central kitchen at 3301 Sinclair (under construction), will provide meals which meet the nutritional guidelines set by the Texas Department on Aging and Texas Department of Human Services for elderly nutrition programs.

710 seniors (age 60 years and older) are expected to benefit from the program each month. Primarily, participants are all low and moderate-income persons. Funding will be used for local vendor meals as an alternate resource provider of homebound meal services. Documentation includes an initial nutritional assessment form and other verification forms, which are entered into a tracking system. Monthly performance and financial reports will be provided by SLM. For the CDBG Annual Report, SLM will report the number of households assisted as required by the HUD Performance Measurement System.

Budget: The requested funds would be used to help pay the local vendor meals when disruptions occur in meal preparation at the main kitchen and require vendor meals and PPE. The cost for the alternate meals program will cost $68,000.

Eligibility: Per 24 CFR 570.201(e), public services are eligible for CDBG-CV19 funding. A public service for senior citizens and disabled persons is considered by HUD as a presumed benefit to low- and moderate-income activity under its limited clientele provisions. This request will be subject to the 15% limitation on funds allocated for public services.

Consolidated Plan: Public services of benefit to the elderly and handicapped individuals are a priority community need. COVID-19 funding has remaining term of 18 months till sunset provision requires return to Department of Treasury.

8
CDBG

NAME: Take Home Terrific Program **Request: $35,000**

APPLICANT: Mission Center Adult Day Service

Description: Mission Center Adult Day Service requests funds to support the continuation of program – Take Home Terrific Program. Take Home is an evening meal delivery service for individuals who have some type of mobility dysfunction or health issue that would keep them from meeting their nutritional needs. After an initial assessment, participants will receive meals during the week with extra meals provided for weekend needs on request. Participants will also receive a monthly wellness check. It is expected that 53 clients will be assisted during the year.

Budget: The requested funds would be used to pay for food supplies and staff preparation time and wages. These CDBG funds are proposed to be 30% of the total Take Home Terrific program budget. The entire program budget for the 12-month period is projected to be $97,000.

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

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

Other Comments: As an ongoing program, this request is subject to the potential need for the operator to secure replacement funding.

9
CDBG

NAME: City of Midland Parks and Recreation Division Request: $84,000

APPLICANT: Parke & Recreation

Description: Gym (MLK), replace floor in Weight room, Install new security cameras, Pedestrian and Security Lighting at MLK: Installation would be completed by City of Midland Parks Construction crew and vendor contractors.

Budget: MLK multiple projects $84,000

Eligibility: Multi-Purpose Public Facility. Develop public facilities where youth programming, and other community services.

Consolidated Plan: Per 24 CFR 570.201(e), Multi-Purpose Public Facility are eligible for CDBG funding.

Other Comments: The City of Midland Parks and Recreation Divisions are working to provide improvements to the Martin Luther King Community Center and Parks Systems. Improvements to recreational facilities in low-income areas are a high priority objective, as a Community Development need.

10
CDBG

NAME: City of Midland Parks and Recreation Division Request: $200,000

APPLICANT: Parke & Recreation

Description: Create covered outdoor activity patio area at Southeast Senior Center to provide social distancing options. Installation would be completed by City of Midland Parks Construction crew and vendor contractors.

Budget: South East Center: $200,000

Eligibility: Multi-Purpose Public Facility; Develop public facilities where senior programming, and other community services are provided.

Consolidated Plan: Per 24 CFR 570.201(e), Multi-Purpose Public Facility are eligible for CDBG funding.

Other Comments: The City of Midland Parks and Recreation Divisions are working to provide improvements to the South East Community Center. Improvements to recreational facilities in low-income areas are a high priority objective, as a Community Development need.

11

NAME: Midland Parker Place Infrastructure Project Request: $75,000

APPLICANT: Midland Parker Place Senior Apartments

Description: Midland Parker Place Infrastructure Project plans would provide for the removal and replacement of current facility parking lot which is 25-year-old and needs major repairs. The objective of the project is to help revitalize the developments parking area for residents and prevent tripping hazards. The parking area is Located in the center of the property and is this the central hub for residents moving about.

Budget: Midland Parker Place Senior Apartments is asking the City of Midland Community Development Block Grant to assist in providing $75,000 to complete the resurfacing of the parking area for its 40 units facility. The total cost of project is $78,960.

Eligibility: Per 24 CFR 570.201(m), Parking facility repairs needed for a L/M income Housing development. (HUD) affordable rent development.

Consolidated Plan: Facility repairs needed for a L/M income Housing.

Other Comments: The infrastructure project is located within a low-moderate income census tract and the CDBG target area.

NOTE: The CDBG office has assessed the applications and recommend funding in the amounts above. Please examine this offices recommendation with the applicant's request sent last week. HUD has not announced the overall funding amounts for entitlement cities starting PY2022; therefore, program funding may be adjusted to entitlement grant appropriations.

NOTE: Matrix codes are used to indicate—but do not establish—activity eligibility. An activity must be eligible in accordance with the regulations at 24 CFR 570.201 – 570.207 for Entitlements, Grantees need to refer to the regulations to determine an activity's eligibility; the codes defined below are used in IDIS On-Line chiefly to categorize activities for reporting purposes:

050, Mental Health Services
05M, Health Services
05B, Services for Persons with Disabilities
05A, Senior Services
03C, Homeless Facilities (not operating costs)

City Council Meeting

Item Number: **23**

Meeting Date: **June 14, 2022**

To: **City Council / City Manager**

From: **Cole Furqueron, Senior Planner**

Subject: **MOTION APPROVING WITH STAFF'S RECOMMENDED CONDITIONS A PROPOSED PRELIMINARY PLAT OF MOCKINGBIRD HEIGHTS, SECTION 16, BEING A PLAT OF A 26.44-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF GREEN TREE BOULEVARD AND NORTH MIDLAND DRIVE) (DISTRICT 1) (DEVELOPMENT SERVICES)**

Purpose:

The applicant, Newton Engineering, is proposing to plat a 26.44-acre tract of land out of Section 8, Block X, H.P. Hilliard Survey, City and County of Midland, Texas for the purpose of a housing subdivision and an office center.

Recommended City Council Action:

☒ **Approve** ☐ **Deny** ☐ **Direction/Informational**

Fiscal Impact:

No City funds would be required for this project.

Discussion:

Current Zoning:

The property is zoned AE, Agricultural Estate District.

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

are below.

ENGINEERING: (Approved with Conditions)

IMPACT FEES: Okay as shown. [For the Applicant's information only.]

ROW: Okay as is. [For the Applicant's information only.]

PAVING: Midland Drive and Wood Drive okay as is. No public paving improvements required. Internal paving improvement plans have been submitted and are currently in review. Construct roads shown to City Standards for entire platted frontage. Public infrastructure must be installed and accepted prior to Final Plat. [Reference City Code Section 11-2-3(G)1 & 11-2-4(A)2(a)]

WATER: 16" water exists in Midland Drive west of tract, okay as is. 6" water exists in Midland Drive west of tract, okay as is. 16" water exists in Midland Drive south of tract, okay as is. 6" water exists in Valwood Drive southeast of tract, okay as is. 30" water exists in existing easement east of tract, okay as is. No public water improvements required. [Reference City Code Section 11-2-3(G)1 & 11-2-4(A)2(a)]

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

PRO RATA: Section 395.081 applies only to a city that has not adopted impact fees; the impact fee ordinance superseded this ordinance thus pro-rata is null for this area. [For the Applicant's information only.]

SEWER: 12" sewer exists in Midland Drive west of tract, okay as is. 6" sewer exists in Wood Drive south of tract, okay as is. No public wastewater improvements required. 6" water exists in Valwood Dr. west of tract, okay as is. Internal water improvement plans have been submitted and are currently in review. Construct roads shown to City Standards for entire platted frontage. Public infrastructure must be installed and accepted prior to Final Plat. [Reference City Code Section 11-2-3(G)1 & 11-2-4(A)2(a)]

DRAINAGE: Drainage report has been provided and a preliminary review has been conducted.

EASEMENTS: Show existing and proposed. [For the Applicant's information only.]

SIDEWALKS: Required with building permit. [For the Applicant's information only.]

DIMENSION: * * *

OTHER: * * *

TRANSPORTATION: (Approved with Conditions)

STREET NAME AND TRAFFIC CONTROL SIGN FEE – Estimated fee due at Final Plat submittal = 7 new intersections created at $500/intersection = $3,500. Fee shall be adjusted based on the number of intersections if Final Plat is phased. [Reference City Code Section 11-2-5(C)3(t).]

No additions or changes to site access are approved with plat or zoning review. Driveways or other access points are approved only with construction drawing review. [For the Applicant's information only.]

No objections to plat. [For the Applicant's information only.]

FIRE: (Approved)

Future development shall meet the requirements of IFC 2015 ed. and local ordinances

CODE COMPLIANCE: (Approved with Conditions)

The plat identifies the 500 ft. radius around the permitted Diamondback E&P well – D Evans #1 along with the requested variance of 250 ft. and minimum 135 ft. radius. Requested building variances to the permitted well were approved at the April 12, 2022, City Council meeting. The variances will need to be added to the plat including the resolutions and footage.

CODE ADMINISTATION: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2020 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary. Code versions are subject to change depending on time of new code edition adoption in the City of Midland and date of permit application.

GIS: (Approved with conditions)

The interior southeast corner was just 1.5 feet off. I did notice that Section 15 is the next available number unless there is already another one in review.

SURVEYOR: (Approved)

No comments.

PLANNING: (Approved with Conditions)

This property is zoned AE, Agricultural Estate District. The proposed lot sizes do not meet the current's zoning district minimum lot area of 2 acres. [Midland City Code 11-1-5.02, 11-15.04]

The proposed zone change to SF-3 must be approved or this plat is invalid.

Please re-name the Final Plat Mockingbird Heights, Section 15. [Applicant information only]

Staff recommends approval of the Preliminary Plat of Mockingbird Heights, Section 16 subject to conditions A and B.

Conditions:

A. That the Technical items listed above are addressed.

B. All plat comments, conditions, and requirements must be satisfied by all pertinent City departments before filling for recording with the County Clerk of Midland County, Texas.

Letters of Objection:

There were six objection letters that were filed before the Planning and Zoning Commission for the public hearing for a replat of a residential property.

Attachments:

Proposed Preliminary Plat
Application
Map
Letters of Objection

Robert Patrick

City Manager's Office

MIDLAND
Planning Division

Preliminary Plat Application

Project Number: SUB-22-0486
Case Number: P-22-1294

Proposed Subdivision Plat Name: Mockingbird Heights, Section 16

Legal Description (attached sealed Metes and Bounds): See attached

Property Owner Printed Name: Evans 1, LTD.		Phone (432) 559-5128 Email evansoneltd@gmail.com	
Address P.O. Box 7962	City Midland	State TX	Zip 79708

Developer *(if different than Owner)* Printed Name: Same as owner		Phone (432) 559-5128 Email	
Address	City	State	Zip

Representative *(if acting as Agent, see affidavit on page 2)* Firm: Newton Engineering, PC Printed Name: Chase Dunnam		Phone (432) 559-5128 Email	
Address 4501A Santa Rosa Dr.	City Midland	State TX	Zip 79707

Current Zoning: AE

Reason for Platting: Create lots for single family homes and one lot for office use.

Plat Information	Total Acreage:	26.44
Type: ■ Single-Family Residential ■ Commercial	☐ Multi-Family Residential ☐ Extraterritorial Jurisdiction (ETJ)	
Number of Lots: 74	Number of Multi-family Dwelling Units: 0	

Submittal and Fees

Items to be submitted with this application form:

- 1 FOLDED Copy of Dimensioned Plat
- 1 Extra Copy (11x17)
- Digital Files (JPEG & PDF)
- Application Fee – Payable to the 'City of Midland'

Request for a Development Agreement

Do you expect to request a development agreement with the City? ☐ Yes ■ No

If yes, contact the City Engineer at (432) 685-7286

Provisions

A plat application will not be considered filed pursuant to Section 212.009 of the Texas Local Government Code until all required documents and fees have been submitted and ***all of the terms and conditions of the Subdivision Ordinance, including all necessary studies, plans and supporting information are accepted and approved,*** or the applicant has filed a waiver request for sections from which the plat deviates. Once a plat meets the requirements to be considered filed with the City, the application will be placed on the Planning and Zoning Commission agenda for consideration under the time requirements set out in Section 212.009.

Signature *(by property owner only – authorized agent must sign affidavit below)*

Property Owner (signature): Jonathan Evans | Date: 3/8/22

Property Owner (printed): _____

The Preliminary Plat shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Subdivision Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Chase Dunham who, being by me duly sworn, upon oath says: That (s)he is the owner of _____ or is authorized by Jonathan Evans 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.

Chase Dunham
Authorized Agent (*signature*)

Subscribed and sworn to before me, this 9th day of March, 20 22 to certify which witness my hand and seal of office.

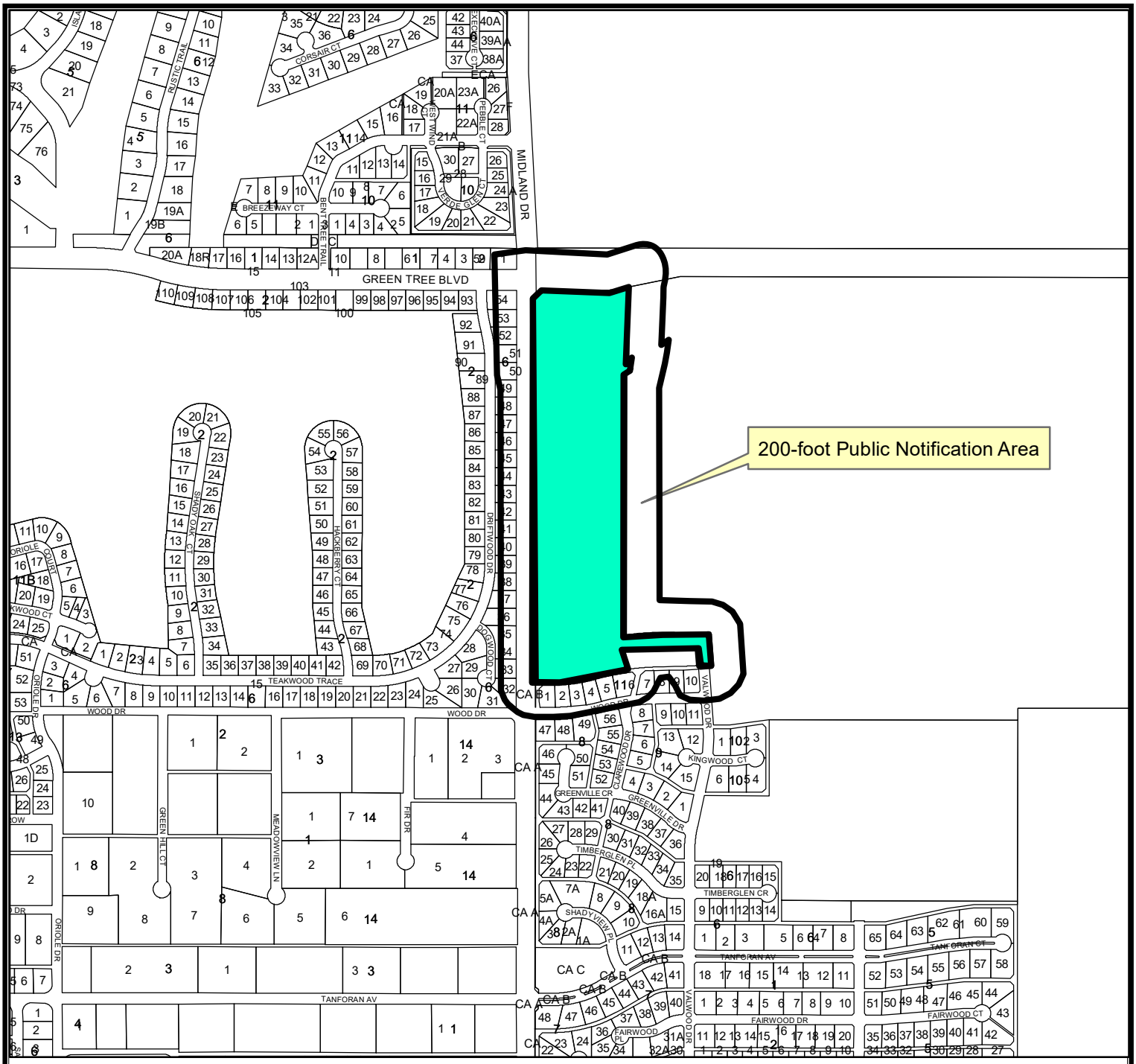
NATALIE SAWYER
Notary ID #131764447
My Commission Expires
October 18, 2022

Natalie Sawyer
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☒ Property Owner Authorization	☒ 1 Copy of Dimensioned Plat	☒ Plat in Digital Format (PDF/JPEG)
☒ Application Fee	☒ 1 Copy of Plat (11x17)	
Check # CC		
Received By: KM	Date: MAR 09 2022 By: KM	

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



LOCATION MAP

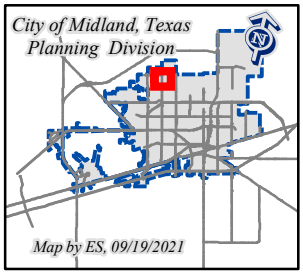
SUB-22-0486 **Scale: 1" = 200'**

Proposed plat of Mockingbird Heights, Section 16 being a plat of a 26.44-acre tract of land out of a 331.25-acre tract of land all out of Section 8, Block X, H.P. Hilliard Survey, City and County of Midland, Texas.

Generally located on the east side of Midland Drive, approximately 475 feet south of Greentree Boulevard - (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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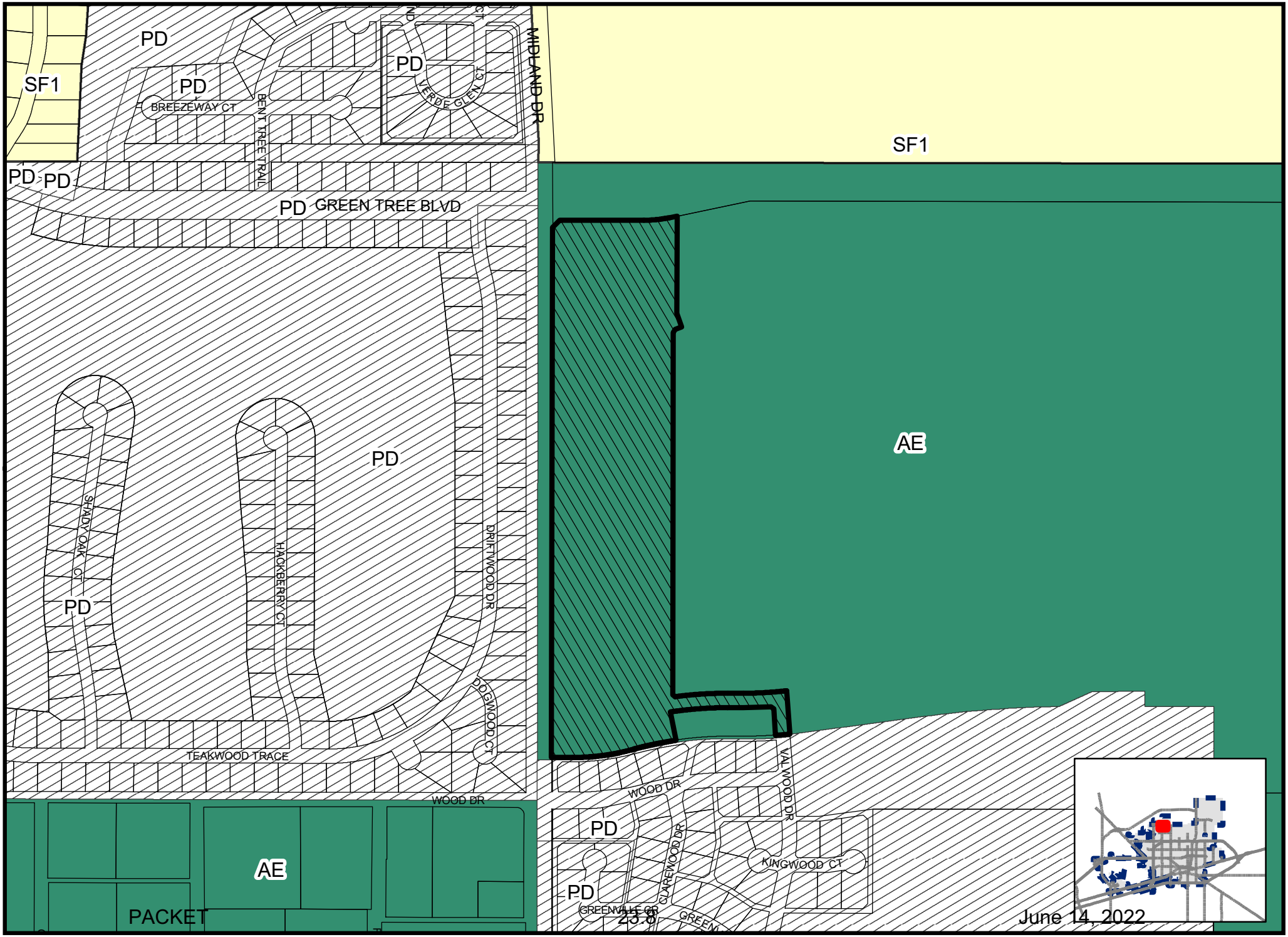
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map By ES, 7/8/2021

SUB-22-0486

Scale: 1" = 500'

ZONING MAP

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PRELIMINARY PLAT

MOCKINGBIRD HEIGHTS, SECTION 16

BEING A PLAT OF A 26.44 ACRE TRACT OF LAND OUT OF A 331.25 ACRE TRACT ALL BEING OUT OF SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY CITY AND COUNTY OF MIDLAND, TEXAS

Curve Table					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	190.93	1629.85	6.71	S63° 41' 08"W	190.82
C2	106.65	829.84	7.36	S64° 00' 40"W	106.57
C3	212.20	54.26	224.09	N58° 43' 37"W	100.58
C4	112.75	1689.85	3.82	S63° 19' 55"W	112.73
C5	102.50	794.15	7.40	S63° 21' 23"W	102.43
C6	16.09	1060.00	0.87	N75° 09' 38"E	16.09
C7	101.04	1060.00	5.46	N67° 39' 57"E	101.00
C8	114.38	1060.00	6.18	N60° 44' 31"E	114.32

LEGEND

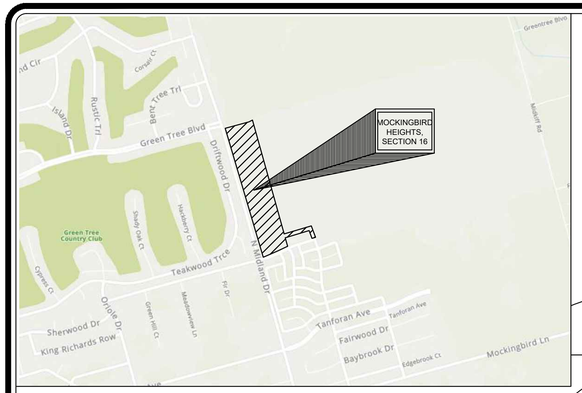
- 1/2" Iron rod found
- 1/2" Iron rod set
- Existing Water Line
- Existing Sewer Line
- Existing Overhead Electric
- Existing Underground Electric
- Existing Oil Flow Line
- Existing Power Pole

GRAPHIC SCALE

0 100' 200'

(IN FEET)

1 inch = 100 ft.



LOCATION MAP

N.T.S.

Line Table		
Line #	Length	Direction
L1	46.92	N75° 33' 02"E
L2	28.27	S59° 25' 37"E
L3	765.44	S14° 24' 16"E
L4	28.28	N30° 35' 44"E
L5	90.00	N75° 35' 44"E
L6	605.55	N14° 24' 16"W
L7	14.14	N30° 35' 44"E
L8	112.00	N75° 35' 44"E
L9	14.14	S59° 24' 16"E
L10	60.00	S14° 24' 16"E
L11	110.00	N75° 35' 44"E
L12	70.00	S14° 24' 16"E
L13	13.10	N63° 27' 57"W
L14	688.36	S14° 24' 16"E
L15	14.14	N30° 35' 44"E
L16	100.00	N75° 32' 31"E
L17	685.32	N14° 24' 16"W
L18	680.12	S14° 24' 16"E
L19	110.00	N75° 39' 17"E
L20	14.14	S59° 24' 16"E
L21	634.29	N14° 24' 16"W
L22	15.34	S25° 30' 15"W
L23	14.14	S59° 24' 16"E
L24	14.14	S30° 35' 44"W
L25	95.92	S75° 35' 44"W
L26	14.00	N59° 58' 28"W

Line Table		
Line #	Length	Direction
L27	60.20	N14° 24' 16"W
L28	110.00	N75° 35' 44"E
L29	69.88	S14° 24' 16"E
L30	70.00	S14° 24' 16"E
L31	110.00	S75° 35' 44"W
L32	60.00	N14° 24' 16"W
L33	14.14	N30° 35' 44"E
L34	112.00	N75° 35' 44"E
L35	28.28	N59° 24' 16"W
L36	521.81	S14° 24' 16"E
L37	28.28	N30° 35' 44"E
L38	90.00	N75° 35' 44"E
L39	561.81	N14° 24' 16"W
L40	90.00	S75° 35' 44"W
L41	14.14	N59° 24' 16"W
L42	725.19	S14° 24' 16"E
L43	14.74	N28° 07' 52"E
L44	759.98	N14° 24' 16"W
L45	100.00	S75° 35' 44"W
L46	763.95	N14° 24' 16"W
L47	11.73	S68° 30' 43"E
L48	776.38	S14° 24' 16"E
L49	14.14	S30° 35' 44"W
L50	110.00	S75° 35' 44"W
L51	14.14	S59° 24' 16"E

OWNER'S CERTIFICATE

STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS, Evans 1, LTD. is the record owner of a 26.46 acre tract out of a 331.25 acre tract all being out of Section 8, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas and being more particularly shown hereon.

Now, therefore, know all men by these presents:

That I, Jonathan J. Evans, do hereby adopt this plat designating the hereinabove described property as Mockingbird Heights, Section 16, an addition to the City of Midland, Texas, and hereby dedicate to the public use forever of the streets and easements shown hereon.

WITNESS our hands at Midland, Texas, this the _____day of _____, 2022

_____
Evans 1, LTD.
Jonathan J. Evans, President

ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF MIDLAND

This plat was acknowledged before me on _____, 2022 by Jonathan J. Evans.

_____
Notary Public, State of Texas

OWNER:

EVANS I, LTD.
PO BOX 7962
MIDLAND, TEXAS 79708
(432)557-4340

PLAT FILED FOR RECORD
MIDLAND COUNTY, TEXAS

NO._____CABINET_____

DATE_____PAGE _____

UTILITY COMPANY CERTIFICATE:
This plat has been checked for accessibility of utilities.

Signed: _____ Oncor Electric Delivery Company

Signed: _____ Suddenlink

Signed: _____ A. T. & T.

Signed: _____ Grande Communications

Signed: _____ Atmos Energy

SURVEYOR'S CERTIFICATE

THAT I, J. STAN PIPER, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT I PREPARED THIS PLAT FROM AN ACTUAL AND ACCURATE SURVEY OF THE LAND AND THAT THE CORNER MONUMENTS SHOWN THEREON WERE PROPERLY PLACED UNDER MY PERSONAL SUPERVISION, IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS OF THE CITY OF MIDLAND, TEXAS.

_____
J. STAN PIPER, R.P.L.S. #1974
PIPER SURVEYING COMPANY, INC.; P.O. BOX 60432; MIDLAND, TEXAS 79711
FIRM # 10155200

CERTIFICATE OF APPROVAL:
For approval by the Commission:

This is to certify that the above and foregoing plat of MOCKINGBIRD HEIGHTS, SECTION 16 was approved by proper action of the Planning and Zoning Commission of the City of Midland, Texas. on this _____ day of _____, 2022.

Signed: _____ Lucy Sisniega, Chairman

Signed: _____ Elizabeth Shaughnessy, Secretary

NOTE:
1. SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS MAY BE A VIOLATION OF CITY ORDINANCE AND STATE LAW AND SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.

2. APPROVAL OF A SITE PLAN BY THE CITY OF MIDLAND MAY BE REQUIRED BEFORE THE DEVELOPMENT OF ANY LOT AND BEFORE A BUILDING PERMIT MAY BE OBTAINED.

3. BEARINGS/DISTANCES/COORDINATES REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.

4. THE AREA SHOWN ON THIS PLAT IS IN FLOOD ZONE X ACCORDING TO FIRM MAP NUMBER 48329C0067F DATED SEPTEMBER 16, 2005.

5. INITIAL IMPACT FEES WILL BE ASSESSED DURING THE FINAL PLATTING PROCESS. IMPLEMENTATION AND COLLECTION OF IMPACT FEES WILL TAKE PLACE DURING THE BUILDING PERMIT PROCESS. ADDITIONAL IMPACT FEES OR INCREASES IN FEES MAY NOT BE ASSESSED AGAINST THE TRACT UNLESS THE NUMBER OF SERVICE UNITS TO BE DEVELOPED ON THE TRACT INCREASES.

MOCKINGBIRD HEIGHTS, SECTION 16	
SCALE: 1" = 100'	DRAWN BY: JMN
DATE: MARCH 2022	FILE NAME:

NEWTON ENGINEERING, PC
F-13856
4501A Santa Rosa Dr.
Midland, Texas 79707
(432)770-0499

PRELIMINARY PLAT | PROJECT NUMBER

MIDLAND
Planning Division

RECEIVED
MAR 18 2021
BY: .....

KAMRADT CURT F
4006 TANFORAN AV
MIDLAND TX 79707

PUBLIC NOTICE

The **Planning and Zoning Commission**, of the City of Midland, Texas, will hold a public hearing at 3:30 p.m. on **Monday, March 21, 2022**, in the Council Chamber, City Hall, 300 N. Loraine, Midland, TX 79702 and via videoconference on a request by **Newton Engineering** for approval of a **Residential Replat** on the following described property:

LEGAL DESCRIPTION: **Being a replat of Lot 12 and the E/2 of Lot 13, Block 1, Mockingbird Heights, Section 2, City and County of Midland, Texas.**

LOCATION: **Generally located on the on the south side of Tanforan Avenue, approximately 110 feet to the west of Rockwood Drive – (Council District 2)**

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above

I object to this request ✓ **Comments:** Subdividing this lot into two lots of approx. 0.285 acres each will result in two smaller houses being built with very little buffer. This will reduce my property value.

Required Information:

C. Kamradt — Property Owner's Signature
Curt F. Kamradt — Printed Name
4006 Tanforan Ave. — Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400. Si usted desea más información en Español sobre este caso, llame al: 685-7400.

Notices Mailed: 15
Date Mailed: 3/11/2022
Case Number: SUB-21-0472
Case Name: Mockingbird Heights, Section 15
CF : Planner's Initials

Elizabeth Shaughnessy
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989. The videoconference information can be found on the City's website: http://www.midlandtexas.gov/967/primegov-meetings.

MIDLAND
Planning Division

RECEIVED
MAR 18 2021
BY: .....

HUCKABEE JIMMIE M
4010 TANFORAN AVE
MIDLAND TX 79707-1440

PUBLIC NOTICE

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I object to this request X **Comments:** WE FEEL THIS AGAINST OUR HOMA RULES

Required Information:

[signature] JIM M. HUCKABEE 4010 TANFORAN
Property Owner's Signature Printed Name Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400. Si usted desea más información en Español sobre este caso, llame al: 685-7400.

Notices Mailed: 15
Date Mailed: 3/11/2022
Case Number: SUB-21-0472
Case Name: Mockingbird Heights, Section 15
CF : Planner's Initials

[signature]
Elizabeth Shaughnessy
Planning Division Manager
Department of Development Services

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MIDLAND
Planning Division

RECEIVED
MAR 1 4 2021
BY:.....

GRAHAM RICK E
4012 FAIRWOOD DR
MIDLAND TX 79707-1429

PUBLIC NOTICE

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I object to this request V **Comments:** Platted as a single home lot !!!

Required Information:

R. E. Graham — Rick E. Graham — 4012 Fairwood DR MIDLAND TX 79707

Property Owner's Signature | Printed Name | Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400. Si usted desea más información en Español sobre este caso, llame al: 685-7400.

Notices Mailed: 15
Date Mailed: 3/11/2022
Case Number: SUB-21-0472
Case Name: Mockingbird Heights, Section 15
CF : Planner's Initials

Elizabeth Shaughnessy
Planning Division Manager
Department of Development Services

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This replat will lower home values here

MIDLAND
Planning Division

JOHNSON DENNIS &
4100 TANFORAN AV
MIDLAND TX 79707

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I object to this request X **Comments:** Putting two small homes on this tract will diminish the value of existing homes on Tanforan Avenue.

Required Information:

Dennis R Johnson — Dennis R. Johnson — 4100 Tanforan Ave

Property Owner's Signature | Printed Name | Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400. Si usted desea más información en Español sobre este caso, llame al: 685-7400.

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Elizabeth Shaughnessy
Planning Division Manager
Department of Development Services

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MIDLAND
Planning Division

RECEIVED
MAR 17 2021

BY: .....

ALEXANDER CHASE
3930 FAIRWOOD CT
MIDLAND TX 79707

PUBLIC NOTICE

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I object to this request X **Comments:** SMALLER LOT WILL DEVALUE PROPERTIE AROUND

Required Information:

Chase Alexander — Property Owner's Signature
CHASE ALEXANDER — Printed Name
3930 FAIRWOOD CT — Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400. Si usted desea más información en Español sobre este caso, llame al: 685-7400.

Notices Mailed: 15
Date Mailed: 3/11/2022
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Elizabeth Shaughnessy
Planning Division Manager
Department of Development Services

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MIDLAND
Planning Division

RECEIVED
MAR 17 2021
BY: .....

RAMOS VICTOR RAUL
4011 TANFORAN AV
MIDLAND TX 79707

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I object to this request ✓ **Comments:** _____

Required Information:

Property Owner's Signature	Printed Name	Property Address (**No P. O. Boxes**)
[signature]	VICTOR R. RAMOS MD	4011 Tanforan Ave

If any further information is desired, please contact the Planning Division at 685-7400. Si usted desea más información en Español sobre este caso, llame al: 685-7400.

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Date Mailed: 3/11/2022
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[signature]
Elizabeth Shaughnessy
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Department of Development Services

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BOARDS AND COMMISSIONS OF THE CITY OF MIDLAND
April 26, 2022

AIRPORT PLANNING AND DEVELOPMENT BOARD

(Advisory)
(Membership-10; Terms - 3 Years expiring 3-3-4.)

	Appt Date	Term Expires	Eligibility Expires
Scooter Brown	09/16	Sept 30 2022	Sept 30 2022
Wes Reeves	08/15*	Sept 30 2023	Sept 30 2023
Justin Kuethe	09/19	Sept 30 2022	Sept 30 2025
Nick McClure	09/19	Sept 30 2022	Sept 30 2025
Gena Linebarger	09/20	Sept 30 2023	Sept 30 2026
James Linderman	04/26	Sept 30 2025	Sept 30 2028
Benjamin Fietz	09/20	Sept 30 2023	Sept 30 2026
Beverly Dillow	10/21	Sept 30 2024	Sept 30 2027
Dave Joyner	10/21	Sept 30 2024	Sept 30 2027
Robert Richards	10/21	Sept 30 2024	Sept 30 2027

Justine Ruff (Liaison)
Lori Blong (Council Liaison)

Ex-Officio members are Earl Erdman and Harry Spannaus, the City Manager and the City Attorney. The Secretary is the Director of Aviation.

Eligibility Requirements: Resident of Midland County

ANIMAL SERVICES ADVISORY COMMISSION

(Advisory)
(Membership - 7; Terms - 4 Years)

	Appt Date	Term Expires	Eligibility Expires
Leah Lewis (daily operations)	09/17	Sept 30 2025	Does not expire??
Dr. (Erickson) Lee (Veterinarian)	05/14	Sept 30 2022	Sept 30 2022
Alyson Dial	09/18	Sept 30 2022	Sept 30 2026
Dr. J. Annette Jensen (Veterinarian)	04/20	Sept 30 2024	Sept 30 2028
Tasha Sport	04/20	Sept 30 2024	Sept 30 2028
Sharla Hotchkiss	04/20	Sept 30 2024	Sept 30 2028
Robert “Robin” Donnelly (County)	11/13	Sept 30 2025	Sept 30 2025

Leah Lewis (Liasion)
Dan Corrales (Council Liaison)

Eligibility Requirements: 1 License Veterinarian, 1 Animal Shelter Employee, 1 Animal Welfare Organization Representative, 1 County or Municipal Official, 2 Citizens

BUILDING AND FIRE CODE REVIEW COMMITTEE/CONSTRUCTION BOARD OF ADJUSTMENTS & APPEALS

(Membership – 9; Terms – 6 Years)

Shall consist of two architects, a fire protection contractor or specialist, a general contractor, an electrical contractor, a homebuilder, a plumbing and mechanical contractor, a structural engineer, a City Council Liaison

	Appt Date	Term Expires	Eligibility Expires
Ryan Almand (Electrical Contractor)	12/18	Sept 30 2024	Sept 30 2030
Jay Bradford (Architect)	12/18	Sept 30 2024	Sept 30 2030
T.J. McClure (Architect)	12/18	Sept 30 2024	Sept 30 2030
Laurence Oeth (Structural Engineer)	12/18	Sept 30 2024	Sept 30 2030
Gary Glasscock (General Contractor)	12/18	Sept 30 2024	Sept 30 2030
Robert Anderson (Homebuilder)	12/18	Sept 30 2024	Sept 30 2030
Dean Kelly (Plumbing & Mechanical Contractor)	04/22	Sept 30 2028	Sept 30 2034
Kenneth Whiting (Fire Protection)	04/22	Sept 30 2028	Sept 30 2034
Jeff Pinkstaff (Liaison)	12/18	Sept 30 2024	Sept 30 2030
Dan Corrales (Council Liaison)			

Eligibility Requirements: Members shall reside within the City.

CAPITAL IMPROVEMENT ADVISORY COMMITTEE

(Advisory)

(Membership – 7)

A minimum of 40% must be representative of real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity.)

	Appt Date
Carl Craigo	10/19
Walter Pate	06/18
Mark Payne	06/18
Courtney Black	06/18
Brian Sales	06/18
Chuck Harrington	06/18
Jose Ortiz (Liaison)	06/18
Lori Blong (Council Liaison)	

CITIZENS DEVELOPMENT AND HOTEL/MOTEL ADVISORY BOARD

(Advisory)
(Membership - 7; Terms - 2 Years Staggered)

	Appt Date	Term Expires	Eligibility Expires
Joey Hopkins	10/18	Sept 30 2022	Sept 30 2022
Alex Singh	10/18	Sept 30 2022	Sept 30 2022
Becky Wisdom	10/18	Sept 30 2022	Sept 30 2022
Brandon Ofield	09/20	Sept 30 2022	Sept 30 2024
Clint Williamson	04/21	Sept 30 2023	Sept 30 2025
Ellen K. Ramsey	10/18	Sept 30 2023	Sept 30 2023
Vicky Hailey	09/21	Sept 30 2023	Sept 30 2025
Amy Turner (Liaison)			
Lori Blong (Council Liaison)			

Eligibility Requirements: Members shall be thoroughly familiar with Chapter 351, “Municipal Hotel Occupancy Taxes”, 1 Member Representative of Hotel/Motel Association.

MIDLAND CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS

Five Directors, Elected by Local Taxing Entities.
City Nominates/Cast Vote for one Director
(Terms - 2 Years)

	Appt Date	Term Expires
Robert McNaughton	11/15	Dec 31 2024

MIDLAND DEVELOPMENT CORPORATION

(Membership - 7; Terms -3 Years - Staggered)

	Appt Date	Term Expires	Eligibility Expires
Chase Gardaphe	01/22	Jan 14 2025	Jan 14 2025
Barry Simpson	01/22	Jan 14 2025	Jan 14 2025
Stephen Lowery	01/17	Jan 14 2023	Jan 14 2023
P Lourcey Sams	04/20	Jan 14 2023	Jan 14 2026
Jill Pennington	04/20	Jan 14 2023	Jan 14 2026
Brad Bullock	04/21	Jan 14 2024	Jan 14 2027
Lucy Sisniega	02/22	Jan 14 2025	Jan 14 2028

Amy Turner (Liaison)
Lori Blong (Council Liaison)

Eligibility Requirements: No director or employee shall be related to a current City Council member.

MIDLAND DOWNTOWN PARK CONSERVANCY BOARD

(Membership - 7; City Appoints 3 Seats; Terms -3 Years - Staggered)
(Resolution of appointment is made each February and each appointment must be ratified by the Conservancy Board in March at their annual meeting)

	Appt Date	Term Expires	Eligibility Expires
Barry Beal Jr.	08/18	Sep 30 2024	Sep 30 2024
David Byrd	08/18	Sep 30 2023	Sep 30 2023
Sharla Hotchkiss	07/20*	Sep 30 2025	Sep 30 2025

MIDLAND HIGHER EDUCATION FACILITIES CORPORATION

(Membership - 7; Terms - 2 Years Staggered)

	Appt Date	Term Expires	Eligibility Expires
Steve Jones	**09/08***	**Jan 1 2010**	**Jan 1 2012**
Cathy Oestmann	**11/05***	**Jan 1 2010**	**Jan 1 2010**
Vacancy		**Jan 1 2007**	
Vacancy		**Jan 1 2007**	
Vacancy		**Jan 1 2007**	
Vacancy		**Jan 1 2009**	
Curt Kamradt	**11/05***	**Jan 1 2014**	**Jan 1 2014**

Sharla Hotchkiss (Liaison)

MIDLAND HOUSING AUTHORITY COMMISSION

(Membership - 5; Terms - 2 Years expiring 3 even & 2 odd.)
Appointments Made by Mayor (LGC 392.031)

	Appt Date	Term Expires
Wes Gotcher	09/20	Oct 2022
Robert Lehrer	09/20	Oct 2022
Latoya Mayberry	06/21	Oct 2023
Sylvestor Cantu	09/18*	Oct 2023
Cheryl Wadley (Resident Commissioner)	11/19	Oct 2023

Isaac Garnett (Staff Liasion)

Eligibility Requirements: No member may be an officer or employee of the City of Midland.

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD

(Decision Making)
(Membership – 12 with 6 appointed by Midland; Terms - 2 Years Staggered; Can serve 3 terms)

	Appt Date	Term Expires	Eligibility Expires
E. J. Baldridge	10/18	Sept 30 2022	Sept 30 2024
Iris Foster	06/18*	Sept 30 2022	Sept 30 2024
Joseph Sanchez	12/19	Sept 30 2023	Sept 30 2025
Jack Ladd	07/20	Sept 30 2022	Sept 30 2026
Daniel Norwood	04/21	Sept 30 2023	Sept 30 2027
VACANCY(Haigler)	04/21	Sept 30 2023	Sept 30 2027

Charles Harrington (Liaison)

OIL AND GAS ADVISORY COMMITTEE

(Advisory)
(Membership – 5; Terms – 3 Years expiring 2-2-1)
2 real property developer, real estate sales, or developer; 3 Lic. petroleum engineer, engineer w/ bachelor, or geologist

	Appt Date	Term Expires	Eligibility Expires
Scott Bowden (Real Estate)	10/19	Sept 30 2022	Sept 30 2025
Ross Klabon (Petroleum Eng.)	10/19	Sept 30 2022	Sept 30 2025
Court Adkins (Petroleum Eng.)	09/17	Sept 30 2023	Sept 30 2023
Rhett Bullock (Petroleum Eng.)	09/21	Sept 30 2024	Sept 30 2026
Cameron Willmann (Real Estate)	10/21	Sept 30 2024	Sept 30 2026

Ron Jenkins (Liaison)

Eligibility Requirements: 3 Petroleum Engineers or Geologists and 2 with Property Development or Real Estate Experience.

PARKS AND RECREATION COMMISSION

(Advisory)
(Membership - 9; Terms - 3 Years expiring 3-3-3.)

	Appt Date	Term Expires	Eligibility Expires
Connie Ferguson	09/16	Sept 30 2022	Sept 30 2022
Stephanie Martin	10/16	Sept 30 2022	Sept 30 2022
Laura Smith	10/19	Sept 30 2022	Sept 30 2025
Francis Schammel	10/19	Sept 30 2022	Sept 30 2025
Susannah Prucka	04/20	Sept 30 2023	Sept 30 2026
Lynn Rogers	04/20	Sept 30 2023	Sept 30 2026
Dal Watson	09/20	Sept 30 2023	Sept 30 2026
Ron Stroman	09/20	Sept 30 2023	Sept 30 2026
Shirley Howard	02/16*	Sept 30 2024	Sept 30 2024

Cristina Odenburg-Burns (Liaison)
John Norman (Council Liaison)

Eligibility Requirements: Resident Citizen, Taxpayer and Qualified Voter.

PERMIAN BASIN COMMUNITY CENTER FOR MH/MR (PermiaCare)

(Decision Making)
(Membership - 2 (City); Terms - 2 Years)

	Appt Date	Term Expires
Ryan Peckham (City)	08/20	June 2022
Derek Cook (City)	06/21	June 2023

PERSONNEL BOARD OF APPEALS

(Decision Making)
(Membership - 3; No designated terms. Mayor appoints.)

	Appt. Date
Scott Dufford	01/14
Hugh A. “Andy” Shaffer	09/05
Patrick Payton	01/20

Mark Widman (Liaison)

Eligibility Requirements: Board consists of two City Council members and one other member who is not a City employee.

PLANNING AND ZONING COMMISSION

(Advisory & Decision Making)
(Membership - 7; Terms - 3 Years)

	Appt Date	Term Expires	Eligibility Expires
Chase Gardaphe	01/14*	Sept 30 2022	Sept 30 2022
Karmen Bryant	02/19*	Sept 30 2022	Sept 30 2025
Diane Williams	09/17	Sept 30 2023	Sept 30 2023
Lucy Sisniega	09/20	Sept 30 2023	Sept 30 2026
Stacey Jo Grosse	09/20	Sept 30 2023	Sept 30 2026
Zachary Deck	09/20	Sept 30 2023	Sept 30 2026
Adrian Carrasco	09/21	Sept 30 2024	Sept 30 2027
ALTERNATES:			
Emily Holeva	09/20	Sept 30 2023	Sept 30 2026
Beverly Dillow	09/21	Sept 30 2024	Sept 30 2027

Elizabeth Shaughnessy (Liaison)

Eligibility Requirements: Resident citizen of City of Midland, owner of real property within the City Limits and qualified Voter.

ZONING BOARD OF ADJUSTMENT AND AIRPORT ZONING BOARD OF ADJUSTMENT

(Decision Making)
(Membership - 5; Terms - 2 Years expiring 3 odd & 2 even.)

	Appt Date	Term Expires	Eligibility Expires
Reed Claybrook	03/19*	Sept 30 2022	Sept 30 2024
Derek Whiting	01/18*	Sept 30 2023	Sept 30 2023
E.J. Baldridge	02/18	Sept 30 2023	Sept 30 2023
Robert Gray	01/21	Sept 30 2024	Sept 30 2026
James Gerety	04/21	Sept 30 2024	Sept 30 2026
ALTERNATES: (not applicable to Airport Zoning)			
James Robert Franklin		Sept 30 2021	
VACANCY		**Sept 30 2020**	
VACANCY		**Sept 30 2020**	
VACANCY		**Sept 30 2020**	

Jeff Pinkstaff (Staff Liaison)

Tiere Strambler

From: Amy Turner
Sent: Friday, May 20, 2022 10:04 AM
To: Tiere Strambler; Vanessa White
Subject: FW: Reappointment Request for Ryan Peckham to the Board of PermiaCare

Tiere'/Vanessa,

We need to add this to the June 14th agenda for Boards and Commissions.

Amy M. Turner, TRMC, MMC
City Secretary | City of Midland
O. 432-685-7430

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702
F. 432-685-7433

ATTENTION ELECTED OFFICIALS:
A "Reply to All" of this e-mail could lead to violations of the Texas Open Meetings Act. Please reply only to the sender.

From: Amber Pyle <AmberPyle@Permiacare.org>
Sent: Friday, May 20, 2022 9:10 AM
To: Amy Turner <aturner@midlandtexas.gov>
Cc: Chris Barnhill <ChrisBarnhill@Permiacare.org>; Jill Stephens <JillStephens@Permiacare.org>; Joshua Alaniz <JoshuaAlaniz@Permiacare.org>
Subject: Reappointment Request for Ryan Peckham to the Board of PermiaCare

Good morning Amy,

Ryan Peckham is an appointee by the City of Midland to the Board of Trustees of PermiaCare. His current two year appointment term ends June 25, 2022 and we would like to ask that he be reappointed for a new two year term to span June 26, 2022 to June 25, 2024. He has been a great asset to our Board serving as the Board Treasurer. If this is agreeable to Council, would you place the reappointment of Ryan on an agenda and let me know the date so that Chris Barnhill may attend to answer any questions the Council might have. If we need to fill out a new "Application for the city of Midland Boards/Commissions/Committees" form then let us know.

Ryan has good knowledge of the Texas MH/ID Community Center having grown with a parent working in the system. He has a very strong financial background. Ryan also has experience serving on the board of the Midland YMCA so he understands the role of a trustee. Below is a bio that Ryan provided us that has some additional information.

WHO WE ARE

Dr. Ryan Peckham is a Registered Investment Advisor (RIA) with over 15 years of financial services experience. He established Rydar Equities, Inc. in 2009 with the primary goal of helping families and business owners achieve their financial goals through improved investing strategies. Dr. Peckham established an RIA because it allows for a closer one on one fiduciary relationship and in most cases is a fiscally better choice for clients.

Dr. Peckham finished his Doctorate in Business Administration from the University of Liverpool, England in 2018 where he concentrated on Behavioral Finance. Behavioral Finance is the study of how psychology can impact the behavior of investors. Specifically, Dr. Peckham researched how critical incidents in investors past continue to impact their investment decision making. These skills allow him to not only act as a trusted advisor to investors but also as a guide through the emotional ups and downs of investing.

Dr. Peckham is also an Assistant Professor at The University of Texas – Permian Basin and has taught finance courses at Texas Christian University (TCU) in Fort Worth as well as in the Bachelor of Organizational Management program at Midland College.

In addition, he holds a MBA from the University of Texas at Dallas with concentrations in finance and management and a Bachelors of Engineering from Texas A&M University. He resides in Midland, Texas with his wife, Cheryl and their two daughters, Hannah and Zoe. In his free time he likes to exercise, travel, and spend time with his girls.

Please let me know if you have any questions or need any additional information.

Thanks

Amber Pyle

Executive Assistant

Administration

PERMIACARE

P: (432)570-3333
F: (432)570-3346
A: 401 E. Illinois Ave, Suite 401
Midland, TX 79701

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PermiaCare Board Member Attendance FY 2021

Month	B. Yarbrough	M. Jones	G. Ortega	J. Landgraf	L. Edgerton	A. Hendrick	R. Peckham	P. Nelson	F. Rodriguez	T. Wilkinson	D. Cook
Sept	Present	Present	Present	Absent	Present	Present	Present	Present			
Oct											
Nov	Present	Present	Absent	Present	Present	Present	Present	Present	Present		
Dec											
Jan	Present	Present	Present	Present	Present	Present	Present		Present		
Feb											
March	Present	Present	Absent	Present	Present	Present	Present		Absent	Present	
April	Present	Present	Absent	Absent	Present	Present	Present		Present	Present	
May	Absent	Present	Present	Present	Absent	Absent	Present		Present	Present	
June	Present	Present	Present	Present	Absent	Absent	Present		Absent	Present	
July	Present	Present	Present	Absent		Present	Absent		Absent	Present	Present
August	Absent	Absent	Present	Absent		Present	Present		Present	Present	Present

Dark Grey – Means not on the Board. Either they left the Board or had not taken their position yet.

Blue – Means there was no meeting.

- Terry Wilkinson started with us in March 2021 and took over for Patricia Nelson.
- Larry Edgerton left us in July 2021 being replaced by Derek Cook.
- Frank Rodriguez started with us in October 2021.

PermiaCare Board Member Attendance FY 2022

Month	B. Yarbrough	M. Jones	G. Ortega	J. Landgraf	A. Hendrick	R. Peckham	F. Rodriguez	T. Wilkinson	D. Cook
Sept	Present	Present	Present	Absent	Present	Absent	Present	Present	Present
Oct									
Nov	Present	Present	Present	Present	Absent	Present	Present	Absent	Present
Dec									
Jan	Present	Present	Absent	Present	Present	Present	Absent	Present	Present
Feb	Present	Present	Absent	Present	Absent	Present	Absent	Present	Absent
March	Present	Present	Absent	Present	Absent	Absent	Absent	Present	Present
April	Present	Present	Present	Present	Present	Present	Absent	Present	Absent
May									
June									
July									
August									

Blue – Means there was no meeting.

PERMIAN BASIN COMMUNITY CENTER FOR MH/MR (PERMIACARE)
(Decision Making; Membership - 2 (City); Terms - 2 Years)
July 2021 - June 2022

MEMBER	TERM EXPIRES	ATTENDANCE	MEETINGS ATTENDED	TOTAL MTGS	ELIGIBLE	NOTES
Ryan Peckham (City)	June 30 2022	63%	5	8	Yes	Still Interested
Derel Cook (City)	June 30 2023	75%	6	8	Yes	
Applicants Name	Additional Boards Applying to	COUNCIL NOTES				

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:

Date: 6/1/2022

Name: Brian Stubbs

Phone: 432-413-3455 **(Home)**

Address: 4901 Kingsboro Court 432-335-5900 **(Business)**

Midland Tx 79705

(City) (State) (Zip)

Email: brianstubbs2002@yahoo.com

I am ✔ **I am not** ☐ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ☐ **yes** ✔ **no**

I have lived in Midland 8 **years.**

Occupation: Engineer/Business Owner

Professional and/or Community Activities:

REACH school board founding member and sectretary/treasure, Communities in Schools board member and secretary, Leadership Midland graduate (2018), Midland Chamber of Commerce board member, Educational Partnership of the Permian Basin board member, Association of Ingersoll Rand Distributior board member, Education Midland board member and past president.

What is your personal vision for the City?

For Midland to be a great place to live while leading the world in energy production. To allow the great people of Midland, who are very philitrhopic, to show how communities should take care of themselves, provide for others, and continue to grow for all of the world to see.

Please specify any time constraints you may have.

I am fairly flexible as long as I have some advance notice, Capital Improvement Advisory Board

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at *www.midlandtexas.gov)*

(1) Name of Board/Commission:

Midland Development Corporation, Urban transit district board, Airport Planning, Hotel/MOtel Advisory Board, Downtown Park conservancy, Parks and Rec, Planning and Zoning,

Please tell us why you are interested in serving on this board or commission.

I have always been interested in city government and want to be more of a part of it. I think my back ground as an engineer and bring different insights and problem solving techniques to ensure MIdland is on a path of growth.

What contribution would you most like to make?

Being involved in city government can be both a lot of work and very impactful. I am ready for both. All of these boards are in place to make difficult decisions for what is best for Midland, I am willing and excited to be in a position that will allwo my skills to contribute to the success of everyone in Midland.

Additional pertinent information or references:

References: Bobby Burns (432-559-5510), Ronnie Scott (432-631-8266), Christine Foreman (432-638-5671),

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant

Brian Smith

Applications may be submitted online via email or print in order to send by mail:

City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

Submit Via Email

Print Application

ATTENDANCE REPORT

MIDLAND ODESSA URBAN TRANSIT DIST

2022							
MEMBERS	JAN	FEB	MAR	APR	MAY	JUN	JUL
MARI WILLIS	A	X	A				
ARMANDO RODRIGUEZ	A	A	X				
TOM SPRAWLS	X	X	A				
BRADY ROSS	X	X	X				
SUZAN GENTRY	X	A	X				
TIM HARRY	X	X	X				
CINDY MUNCY	X	A	X				
CHUCK HARRINGTON	A	X	X				
EJ BALDRIDGE	X	X	X				
IRIS FOSTER	X	X	X				
JOSEPH SANCHEZ	A	A	X				
JACK LADD	A	A	A				
DANIEL NORWOOD	X	X	X				
CAMERON WALKER	A	A	X				

NO QUORUM
EX OFFICIO

TRICT

AUG	SEP	OCT	NOV	DEC

ATTENDANCE REPORT

MIDLAND ODESSA URBAN TRANSIT DIS

2021							
MEMBERS	JAN	FEB	MAR	APR	MAY	JUN	JUL
CRIS FLORES	X	X	X	A	X	N/A	N/A
THOMAS BLACKSTONE	A	A	N/A	N/A	N/A	N/A	N/A
MARI WILLIS	X	X	X	X	X	X	A
ARMANDO RODRIGUEZ	X	A	A	X	X	A	X
TOM SPRAWLS	X	X	X	X	X	X	X
BRADY ROSS	X	X	X	X	X	X	A
SUZAN GENTRY	N/A	N/A	X	X	X	X	A
TIM HARRY	N/A	N/A	N/A	N/A	N/A	X	X
CINDY MUNCY	X	X	X	X	X	X	X
CHUCK HARRINGTON	X	A	X	X	X	X	X
EJ BALDRIDGE	X	X	A	X	A	X	X
IRIS FOSTER	X	X	X	X	X	X	A
JOSEPH SANCHEZ	A	X	X	X	X	X	A
JOHN NORMAN	A	A	A	N/A	N/A	N/A	N/A
JACK LADD	X	A	X	A	X	X	A
DANIEL NORWOOD	N/A	N/A	N/A	A	X	X	X
ELIZABETH HAIGLER	N/A	N/A	N/A	A	X	X	A
CAMERON WALKER	X	X	X	X	A	A	X

NO QUORUM
EX OFFICIO

TRICT

AUG	SEP	OCT	NOV	DEC
N/A	N/A	N/A	N/A	No Meeting
N/A	N/A	N/A	N/A	No Meeting
A	X	A	A	No Meeting
X	X	X	X	No Meeting
X	N/A	A	A	No Meeting
X	X	X	A	No Meeting
X	X	X	X	No Meeting
A	X	X	A	No Meeting
X	X	X	A	No Meeting
X	X	X	A	No Meeting
X	X	X	A	No Meeting
X	A	A	X	No Meeting
X	A	X	X	No Meeting
N/A	N/A	N/A	N/A	No Meeting
X	A	A	X	No Meeting
A	A	X	X	No Meeting
X	X	X	X	No Meeting
X	A	X	A	No Meeting

ATTENDANCE REPORT

MIDLAND ODESSA URBAN TRANSIT DISTRICT

2020

MEMBERS	JAN	FEB	MAR	APR	MAY	JUN	JUL
SHARLA HOTCKISS	X	X		X	X	A	A
CRIS FLORES	X	X		X	X	A	A
THOMAS BLACKSTONE	X	X		A	X	A	A
MARI WILLIS	X	A		X	X	A	X
JODY SNEED	X	A		X	X	A	A
ARMANDO RODRIGUEZ	X	A		X	X	A	A
IRIS FOSTER	X	X		X	X	X	X
EJ BALDRIDGE	X	X		X	X	X	X
CINDY MUNCY	X	X		X	X	X	X
CHUCK HARRINGTON	X	X		X	X	X	X
JOSEPH SANCHEZ	X	X		X	X	X	X
TOM SPRAWLS	A	A		X	X	X	X
BRADY ROSS	N/A	N/A		N/A	X	X	X
JOHN NORMAN	N/A	N/A		N/A	N/A	A	A
JACK LADD	N/A	N/A		N/A	N/A	A	A
CAMERON WALKER	N/A	N/A		N/A	N/A	A	A

NO QUORUM
NO MEETING COVID-19
EX OFFICIO
No Meeting Holiday

EMER. AUG	SEP	OCT	NOV	DEC
N/A	N/A	N/A	N/A	
X	X	X	X	
X	X	X	X	
X	X	X	X	
N/A	N/A	N/A	N/A	
A	X	A	A	
X	A	A	A	
X	X	X	X	
X	X	X	X	
X	X	X	X	
X	X	X	X	
X	X	X	X	
X	A	X	X	
A	A	X	A	
X	A	X	A	
A	X	A	A	

ATTENDANCE REPORT

MIDLAND ODESSA URBAN TRANSIT DIST

2019

MEMBERS	JAN	FEB	MAR	APR	MAY	JUN	JUL
BILL BOWEN	A	N/A	X	X	X	X	X
GREG MAES	A	N/A	X	X	X	X	X
BARBARA GRAFF	A	N/A	N/A	N/A	N/A	N/A	N/A
DEWEY BRYANT	A	N/A	N/A	N/A	N/A	N/A	N/A
THOMAS BLACKSTONE	X	X	X	X	X	X	X
DEBRA WESTMORELAND	X	X	X	A	A	A	A
JODY SNEED	A	A	A	A	X	X	A
EJ BALDRIDGE	A	X	X	X	A	X	X
ARMANDO RODGRIUEZ	X	X	X	A	X	X	X
SHARLA HOTCHKISS	A	X	X	X	X	X	X
IRIS FOSTER	X	X	X	X	X	X	X
WILLIE BARBER	A	X	X	X	X	X	X
MARI WILLIS	A	A	X	X	A	X	A
JOANN LEWIS	N/A	X	X	X	X	X	X
TOM SPRAWLS	N/A	A	A	X	X	X	X
CRIS FLORES	X	X	A	X	X	A	X

NO QUORUM

TRICT

AUG	SEP	OCT	NOV	DEC
A	X	X	A	
A	X	X	A	
N/A	N/A	N/A	N/A	
N/A	N/A	N/A	N/A	
A	X	X	A	
A	N/A	N/A	N/A	
A	X	X	A	
A	X	X	A	
X	X	X	X	
X	X	X	X	
X	A	X	X	
X	X	X	X	
X	X	X	X	
X	A	X	A	
X	X	X	X	
X	X	A	X	

ATTENDANCE REPORT

MIDLAND ODESSA URBAN TRANSIT DIST

2018

MEMBERS	JAN	FEB	MAR	APR	MAY	JUN	JUL
BILL BOWEN	A	X	A	A	X	X	X
GREG MAES	X	X	X	X	X	A	X
BARBARA GRAFF	A	X	A	A	X	X	X
THOMAS BLACKSTONE	X	X	X	X	X	X	X
DEBRA WESTMORELAND	N/A	N/A	N/A	N/A	N/A	X	A
JODY SNEED	X	A	X	X	X	X	X
ARMANDO RODGRIUEZ	X	X	X	A	X	X	X
SHARLA HOTCHKISS	A	X	X	X	A	X	X
IRIS FOSTER	N/A	N/A	N/A	N/A	N/A	X	X
WILLIE BARBER	A	X	X	X	A	A	X
MIKE GARNDER	N/A	A	X	A	X	X	X
CRIS FLORES	X	A	X	X	A	X	X

NO QUORUM

TRICT

AUG	SEP	OCT	NOV	DEC
X	X	X	X	
A	X	X	X	
A	X	A	X	
A	X	X	X	
X	A	X	X	
A	X	A	X	
X	X	X	X	
X	X	X	X	
X	X	X	X	
X	X	X	X	
X	X	X	X	
X	X	A	A	

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD

(Advisory; Membership - 12 with 6 appointed by Midland: Terms - 2 Years Staggered; Can serve 3 terms)

September 2021 - March 2022

MEMBER	TERM EXPIRES	ATTENDANCE	MEETINGS ATTENDED	TOTAL MTGS	ELIGIBLE	NOTES
Joseph Sanchez	Sept 30 2023	50%	3	6		
E.J. Baldridge	Sept 30 2022	83%	5	6		
Iris Foster	Sept 30 2022	67%	4	6		
Jack Ladd	Sept 30 2022	17%	1	6		
Daniel Norwood	Sept 30 2023	83%	5	6		
Vacancy (Elizabeth Haigler)	Sept 30 2023	33%	2	6		

Applicants Name	Additional Boards Applying to	COUNCIL NOTES
Brian Stubbs	MDC, AP&DB, CDHMAB, DPCB, P&R, P&Z	