



City Council Agenda 11/15/2016

Notice is hereby given of a regular meeting of the City Council of City of San Angelo to be held on November 15, 2016 at 8:30 AM at the McNease Convention Center – South Meeting Room, 501 Rio Concho Drive, San Angelo, Texas, for the purpose of considering the following agenda items.

1. Call to Order

2. Prayer and Pledge

3. Proclamations/Recognitions

- a. Recognition of 20 Under 40 Recipients: Council Member Lane Carter, Budget Manager Morgan Chegwiddden, and COSADC board member Todd Kolls
- b. Proclamation declaring December 3, 2016 as "Concho Christmas Celebration Day" to be accepted by Lee Pfluger, President of the Concho Christmas Celebration

4. Note: At 12:00 p.m. a recess will be taken to allow for a Special Joint Meeting with Tax Increment Reinvestment Zone Board

5. Public Comment

Issues or items that are not on the agenda may be raised by the public at this time. Citizens should speak from the podium, begin by stating their name and limit remarks to less than five minutes. Council members may request that a discussed item be placed on a future agenda. The Council takes public comment on all Regular Agenda items during the discussion of those items.

6. Consent Agenda

- a. Consider approving the November 1, 2016 City Council regular and November 7, 2016 City Council special meeting minutes (B.Kendrick)
- b. Consideration of confirming appointments to MHMR Service for the Concho Valley Board of Trustees recommended by Liaison Representative Committee (B.Kendrick)
- c. Consider a resolution authorizing the City Manager, or designee, to execute a Temporary Nonexclusive Sidewalk Use License Agreement to allow for a 248-square foot metal canopy located within the North Chadbourne Street and East College Avenue public right-of-ways and a 39-square foot canopy located within the East College Avenue public right-of-way, on property located at 38 North Chadbourne Street (J. James)
- d. Consider awarding FS-01-17 Asphalt Maintenance Truck Chassis to Corley Freightliner, in an amount of \$69,249, budgeted in FY17, for the purchase of one unit, and authorizing the City Manager or designee to execute any related documents. (R.Kramer)

- e. Consider awarding FS-02-17 Infrared Asphalt Maintenance Equipment to KASI Infrared, in an amount of \$182,710, budgeted in FY17, for the purchase of two units, and authorizing the City Manager or designee to execute any related documents. (R.Kramer)
- f. Consider a resolution allowing the City Manager or his designee to negotiate and execute a contract with the Chamber of Commerce Convention & Visitors Bureau allocating Hotel Occupancy Tax fund (T.Dierschke)
- g. Consider approving purchases with Xylem/Flygt related to new and existing water and wastewater pumps for captive replacement parts, repairs, rebuilds, and replacements budgeted in FY17, FY18, and FY19 in the amount of \$200,000 annually. (A. Strube)
- h. Second reading and consider adopting an ordinance amending Chapter 5 "Business and Commerce" of the Code of Ordinances by adding Article 5.11 "Credit Access Businesses" (T. James)
- i. Second reading and consider adopting an ordinance for Case Z16-07, approving a request for a rezoning from the Ranch and Estate (R&E) Zoning District to the General Commercial (CG) Zoning District for property generally located along the west side of Knickerbocker Road, between Red Bluff Road and Hilltop Drive, on 30.00 acres (J. James)
- j. Second reading and consider adopting an ordinance amending Chapter One "General Provisions" of the Code of Ordinances by amending Section 1.04 through 1.09 (T. James/B. Kendrick)

7. Regular Agenda

- a. Discussion and direction on feedback received from waste collection survey and public forums regarding possible changes to waste collection service - (Presentation by Operations Director Shane Kelton)
- b. Consider approval and public hearing of the 2015 Consolidated Annual Performance and Evaluation Report (CAPER) - (Presentation by Neighborhood & Family Services Director Bob Salas)
- c. First Reading and public hearing of an Ordinance approving a request for the following alley right-of-way abandonments: (a) two 10-foot-wide alleys within Blocks A & B of the J.P. Holmes' Resubdivision, consisting of approximately 1,912 square feet and (b) a 20-foot-wide alley in the south ½ of Block C, Baze Addition of the Malone Subdivision, consisting of approximately 7,898 square feet, generally located north of Upton Street, east of North Baze Street, south of Veck Street and west of the Texas-Pacifico Railway line. (Presentation by Planning & Development Services Director Jon James)

- d. First Reading and public hearing for Case PD16-05, an Ordinance approving a request for a rezoning from the General Commercial (CG) Zoning District to the Planned Development (PD) Zoning District for a Construction Yard with an Office, Shop, and Outdoor Storage, generally located along the northeast side of South Chadbourne Street, approximately 588 feet northwest of Texas Farm-to-Market Road 765, on approximately 8.140 acres. (Presentation by Planning & Development Services Director Jon James)
- e. First Reading and public hearing of an Ordinance for a text amendment to Chapter 12, Exhibit "A" Zoning Ordinance, for Intermodal Containers. (Presentation by Planning & Development Services Director Jon James)
- f. First Reading and public hearing of an Ordinance for a text amendment to Chapter 12, Exhibit "A" Zoning Ordinance, for Accessory Structures. (Presentation by Planning & Development Services Director Jon James)
- g. Consider approval for the 2017 health insurance premiums - (Presentation by Human Resources/Risk Management Director Lisa Marley)
- h. First public hearing and introduction of an ordinance amending the 2016-2017 budget for grants and capital projects - (Presentation by Budget Manager Morgan Chegwiddden)

8. Closed Session

Executive Session under the provision of Government Code, Title 5. Open Government; Ethics, Subtitle A. Open Government, Chapter 551. Open Meetings, Subchapter D. Exceptions to Requirement that Meetings be Open under the following sections:

- a. Section 551.071(1)(A) consult with attorney when the governmental body seeks the advice of its attorney about pending or contemplated litigation regarding:
 - 1. 2013 Sealcoating Program Contract
 - 2. Templeton Construction, Inc.
 - 3. Alsay, Inc.
- b. Section 551.071(2) consult with attorney when the governmental body seeks the advice of its attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter, regarding:
 - 1. Assignment of water rights on the Ford Ranch
 - 2. West Texas Water Partnership
- c. Section 551.072 Deliberations about Real Property

9. Follow Up and Administrative Issues

- a. Consider items discussed in Executive/Closed Session, if needed
- b. Discussion of postponement of the water rebate review to December 6, 2016

- c. Consider approving the following board nomination:

Civic Events Board: Karen Abbott (SMD1) to a first full term ending October 2019

Fort Concho Museum Board: Lt. Col. Yukio Kuniuki III (By Position: GFAB Commander)

- d. Possible action related to the City Council Meeting Schedule for December 2016

- e. Announcements and consideration of Future Agenda Items

10. Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board at the City Hall of the City of San Angelo, Texas, on the 10th day of November 2016, at 11:00 a.m.

Bryan Kendrick, City Clerk

All agenda items are subject to action. All contracts/agreements are presented in substantially the attached form. The City Council reserves the right to consider business out of posted order and/or meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

In compliance with the Americans with Disabilities Act, the City of San Angelo will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 48 hours prior to the meetings. Please contact the City Clerk's Office at 325-657-4405.

City Council meetings are broadcast on Channel 17-Government Access at 10:30 A.M. and 7:00 P.M. every day for two weeks beginning on the Thursday after each meeting.

Recognition

San Angelo City Councilman Lane Carter has been honored by the San Angelo Standard-Times as one of its 20 Under 40 young leaders for 2015. This recognition comes on the heels of Lane's election to the City Council, but after a young lifetime of hard work and success.

A San Angelo native and an Angelo State University double-graduate, Lane won election to this body in July by knocking on some 5,000 doors, deliberately tackling as many blocks as he could each evening before sunlight gave way. He won election by intently listening to voters' concerns and earnestly assuring he'd do what he could to address them.

That same sort of hustle and desire to help others helped him, as a teen, to grow a healthy lawn care business that eventually served 70 clients. His ambition led him to invest in rent homes. Unafraid of hard work, he performs most of the remodeling work himself. His service to others continues in the Shannon Surgery Center, where he works as an operating room nurse.

Lane has described leadership as seeing a problem and running toward it. He's also said he considers himself not to be not a politician – or one who's seeking votes – but a problem solver, one who's seeking solutions.

Therefore, I, Dwain Morrison, Mayor of the City of San Angelo, on behalf of the City Council, do hereby recognize and applaud

Lane Carter

for her achievements and positive determination to make a difference in our community.

In Witness Whereof, I have hereunto set my hand and have caused the Official Seal of the City of San Angelo to be affixed this 15th day of November, 2016.

Dwain Morrison
Mayor of the City of San Angelo

Recognition

Todd Kolls, a member of the Board of Directors of the City of San Angelo Development Corporation, has been honored by the San Angelo Standard-Times as one of its 20 Under 40 young leaders for 2015. This honor reflects his drive in building a successful small business while serving his community through numerous charitable efforts.

A graduate gemologist, Todd apprenticed with his uncle as he earned his degree. Today he owns Kolls Diamond & Design. A diamond jewelry business could not have had a more humble beginning. Todd began his business with a cell phone, his children's laptop, a thrift store desk and two refurbished jewelry cases. It recently expanded its operations in the Cactus Hotel.

Civically, Todd volunteers for a number of nonprofit agencies. He helps oversee gate operations at the San Angelo Stock Show and Rodeo and serves on the premium sale committee. He teaches a pre-kindergarten Sunday school class and assists with the bus ministry at Southland Baptist Church. And he serves on five local boards: the YMCA, the Better Business Bureau, Downtown San Angelo, Inc., Helping Hands and the COSADC. As a member of the latter, Todd helps oversee the half-cent sales tax for economic development, looking to grow jobs that will lead to a better life for the San Angeloans who hold them.

Therefore, I, Dwain Morrison, Mayor of the City of San Angelo, on behalf of the City Council, do hereby recognize and applaud

Todd Kolls

for her achievements and positive determination to make a difference in our community.

In Witness Whereof, I have hereunto set my hand and have caused the Official Seal of the City of San Angelo to be affixed this 15th day of November, 2016.

Dwain Morrison
Mayor of the City of San Angelo

Recognition

City of San Angelo Budget Manager Morgan Chegwidden has been honored by the San Angelo Standard-Times as one of its 20 Under 40 young leaders for 2015. This recognition stems from her tireless proficiency managing the City's \$350 million budget while also championing homeless pets, her colleagues' good health and the outreach of her church home.

We on the City Council have long known of Morgan's professional acumen. She possesses a seemingly encyclopedic recall of budget facts and figures, and an ironclad commitment to see that every public dollar is put to maximal use. Her contributions have led to the City's Finance Department winning nine straight budget awards from the Government Finance Officers Association and five financial transparency awards from the state comptroller.

Morgan also cares deeply about others. She chairs the City's Working on Wellness Committee, which helps City employees improve their health and fitness through a myriad of creative programming. She and her husband Jason, a San Angelo police officer, have fostered about 30 unwanted dogs in their household until the pets could find forever homes. The Chegwiddens are also devoted to Glen Meadows Baptist Church, giving their time, talent and treasures to ministries that help their neighbors

Therefore, I, Dwain Morrison, Mayor of the City of San Angelo, on behalf of the City Council, do hereby recognize and applaud

Morgan Chegwidden

for her achievements and positive determination to make a difference in our community.

In Witness Whereof, I have hereunto set my hand and have caused the Official Seal of the City of San Angelo to be affixed this 15th day of November, 2016.

Dwain Morrison
Mayor of the City of San Angelo

Proclamation

2016 marks the twenty-third anniversary of the Annual City of San Angelo Concho Christmas Celebration

The Celebration, with over 3 million lights, is one of the largest Christmas lighting events in the State of Texas

The event offers a two and one-half mile walking or driving tour beginning behind the Main Post Office on the corner of Abe Street and First Street and ending at El Paseo de Santa Angela

Those involved consist of hundreds of volunteers, including inmates from the Department of Corrections, who assist with installation of Christmas scenes, the San Angelo restaurant Association who supply food to the inmates, and the R.S.V.P. volunteers who deliver the inmates' food

The Community Christmas Tree Lighting Ceremony will be held Saturday, December 3rd of 2016, at 5:15 p.m. at the corner of South Chadbourne and West Concho Avenue. Activities will include the San Angelo Community Band conducted by Dr. Constance Kelley of Angelo State University and the Twin Mountain Tonesmen directed by Mark Clark

The Community Tree lighting will be followed by the 15th annual Lights of Christmas Parade, at 6:00 pm., which may be viewed on 2nd Street between Oakes & Chadbourne, on Chadbourne between 2nd Street & Concho, on Concho between Chadbourne & Oakes, on Oaks back to 2nd Street

The Tour of Lights can be seen Sunday through Thursday from 6:00 to 10:00 p.m., and each Friday and Saturday from 6:00 p.m. to 12:00 Midnight, December 2nd through December 31st, 2016

***NOW, THEREFORE,** I, Dwain Morrison, Mayor of the City of San Angelo, Texas, on behalf of the City Council, do hereby declare Saturday, December 3rd of 2016, as*

"CONCHO CHRISTMAS CELEBRATION DAY"

In Witness Whereof, I have hereunto set my hand and have caused the Official Seal of the City of San Angelo to be affixed this 15th day of November, 2016.

Dwain Morrison
Mayor of the City of San Angelo

City of San Angelo, Texas
Regular City Council Meeting
Tuesday, November 1, 2016

Present:

Mayor Dwain Morrison
Mayor Pro tem Charlotte Farmer, SMD 6
Council Member Bill Richardson, SMD 1
Council Member Marty Self, SMD 2
Council Member Harry Thomas, SMD 3
Council Member Lucy Gonzales, SMD 4
Council Member Lane Carter, SMD 5

1. Call to Order

With a quorum of the City Council Members present, Mayor Morrison called the regular session of the San Angelo City Council to order at 8:32 a.m. on Tuesday, November 1, 2016, in the San Angelo McNease Convention Center, 501 Rio Concho Drive, San Angelo, Texas 76903.

2. Prayer and Pledge

An invocation was provided by Dr. Taylor Sandlin, Pastor of Southland Baptist Church; and the pledges were led by Cash Visney (2nd grade) Crockett Elementary School

3. Proclamations/Recognitions

Council Member Charlotte Farmer was recognized for winning the Elected Women of Excellence Award for 2016 from the National Foundation for Women Legislators

November 17, 2016 was proclaimed as the second annual "Empty Bowls Event" in San Angelo and was received by Mary Herbert Regional Director of Texas Hunger Initiative San Angelo.

The month of November was proclaimed "Veterans Appreciation Month" in San Angelo and was received by Friends of Fairmount Historical Cemetery.

4. Public Comment

Public Information Officer Anthony Wilson made comments about the change in allowed watering times from November 1, 2016 to March 31, 2016

Council Member Farmer made comments about an upcoming Town Hall Meeting, and thanked everyone for the positive response to the recent Ports-to-Plains Conference.

Council Member Carter wished his mother a Happy Birthday.

Council Member Gonzales thanked the veterans for their service in light of the upcoming Veteran's Day.

Council Member Thomas made comments about the upcoming Veterans Event at the Elk's Lodge

5. Consent Agenda

- a. Approval of the October 18, 2016 City Council regular meeting minutes
- b. Approval of awarding FS-05-17 Asphalt Recycler to Cooper Equipment Co., utilizing Buyboard contract #424-13 in an amount of \$171,855, budgeted in FY17, for the purchase of one unit, and authorizing the City Manager or designee to execute any related documents

- c. Approval of adopting a resolution authorizing a tax resale deed (Quitclaim) to be executed by the Mayor on behalf of the city and all taxing units in the Tax Foreclosure Judgment or Tax Warrant to the following properties:
 - 1) N 50' Lots 9 & 10, Block 35, Miles Addition; 916 N Irving; Habitat for Humanity (\$1,500)
 - 2) S 1/2 Lots 9 & 10, Block 35, Miles Addition; 914 N Irving; Habitat for Humanity (\$1,500)
 - 3) Lot 7, D H Cathey Addition; Habitat for Humanity (\$750)
 - 4) Lot 7, Block 76, Miles Addition; 126 W. 10th St; Habitat for Humanity (\$750)
 - 5) N 62' Lot 7 & N 62'W 1/2 Lot 8, Block 2, Hillcrest Addition; 117 W 26th St; Medellin (\$750)
- d. Approval of a new 40-year lake lot residential lease with the following Tenants:
 - 1) 1.) Lot 111, Block 9, Section 2, Group Shady Point, Lake Nasworthy Addition
 - 2) 2.) Lot 50, Group Shady Point, Lake Nasworthy Addition
- e. Approval of authorizing the City Manager to execute an Easement and Right of Way to AEP Texas North Company
- f. Approval of authorizing the sale of the following Lake Nasworthy property to current residential lot lease holder for the appraised value:
 - Lot 10, Block 1, Group 14, Lake Nasworthy Addition; 2458 Fisherman's Road (\$123,000)
- g. Approval of the Analysis of Impediments to Fair Housing Choice covering the period of October 1, 2016 thru September 30, 2020
- h. Approval of adopting a resolution authorizing staff to submit a bid to host the 2019 Texas Recreation and Park Society (TRAPS) Annual Institute and EXPO, in cooperation with the Southwest Region of the National Recreation and Park Association
- i. Approval of a resolution allowing the City Manager or his designee to negotiate and execute a contract with the Chamber of Commerce Convention & Visitors Bureau allocating Hotel Occupancy Tax fund
- j. Approval of an emergency facilities repair contract with A&D Plumbing in the amount of \$67,500 from budgeted funds and authorizing City Manager to negotiate and execute all related documents
- k. Approval of the Second Reading for Case PD16-04, an Ordinance approving a request for a rezoning from the Low Rise Multi-Family Residence (RM-1) and Light Manufacturing (ML) Zoning Districts to the Planned Development (PD) Zoning District for a school with accessory uses including: play areas, cafeterias, recreational and sport facilities, auditoriums and before or after-school day care, generally located north, east, and southwest of the intersection of East Washington Drive and Burgess Street, on 3.769 acres
- l. Approval of the Second Reading for Case SU16-01, an Ordinance approving a request for a Special Use to allow for a Golf Course with Incidental Uses and Buildings within the Single-family Residential (RS-1) Zoning District for property generally located west of the intersection of Country Club Road and Ben Ficklin Road, on 177.450 acres
- m. Approval of the Second reading and consider adopting an ordinance amending chapter 10, "Traffic Controls", Article 10.04 "Stopping, Standing and Parking", section 10.04.009 "Angle Parking Zones" of the Code of Ordinances, providing for severability and an effective date
- n. Approval of the Second reading and consider adopting an ordinance amending the 2016-2017 budget for grants, contributions and capital projects

Motion: Council Member Farmer made a motion, seconded by Council Member Thomas, to approve the consent agenda, with the exception of item 5c, and the postponement of item 5i. The motion carried unanimously (7) ayes to (0) nays.

Motion: Council Member Richardson made a motion, seconded by Council Member Thomas, to approve item 5c, as presented. The motion carried unanimously (7) ayes to (0) nays.

6. Regular Agenda

- a. Presentation of report from the Chamber of Commerce Economic Development Council and the Convention & Visitors Bureau (CVB)

A presentation was made by CVB Vice President Pamela Miller and Chamber Vice President for Economic Development Michael Looney

No action was taken on this item.

- b. Approval of first reading and Public Hearing on an Ordinance amending Chapter 5 "Business and Commerce" of the Code of Ordinances by adding Article 5.11 "Credit Access Businesses"

A presentation was made by City Attorney Theresa James.

Comments were made by several citizens in support of the ordinance.

Motion: Council Member Richardson made a motion, seconded by Council Member Farmer, to approve the ordinance, as presented. The motion carried unanimously (7) ayes to (0) nays.

- c. Presentation on feedback received from waste collection survey and public forums regarding possible changes to waste collection service

A presentation was made by Operations Director Shane Kelton

No action was taken on this item.

- d. Postponement of first public hearing and consideration of an ordinance amending Appendix A Fee Schedule, Article A4.000, Section A4.002 "Garbage, weeds, junk, and unsanitary conditions abatement fees" of the City of San Angelo Code of Ordinances to change the administrative fee from \$150 to \$90 per non-complied violation assessed to the property owner of a lot, tract or parcel of land for the cost of abatement under section 7.02.070 of the Code of Ordinances

A presentation was made by Assistant Neighborhood Services Director James Flores

Citizen Jim Turner spoke in support of a sliding scale for the elderly and disabled

Consensus of City Council was to postpone this item until the next City Council Meeting, with the change to sliding fee scale for the elderly and disabled.

- e. Approval of first reading and Public Hearing for Case Z16-07, an Ordinance approving a request for a rezoning from the Ranch and Estate (R&E) Zoning District to the General Commercial (CG) Zoning District for property generally located along the west side of Knickerbocker Road, between Red Bluff Road and Hilltop Drive, on 30.00 acres

A presentation was made by Planning & Development Director Jon James

Motion: Council Member Richardson made a motion, seconded by Council Member Gonzales, to approve the ordinance, as presented. The motion carried unanimously (7) ayes to (0) nays.

- f. Approval of adopting a resolution by the City of San Angelo City Council finding a public necessity for street improvements to Twin Mountain Drive between April street and Tarin street; approving specifications prepared by the City Engineer for such street improvements; and approving an estimate of the total cost of such improvements, including the proportion of such total proposed to be assessed against owners of abutting property in accordance with article 4.08 of the city code of ordinances; and setting a public hearing on the proposed assessment

A presentation was made by City Engineer Russell Pehl

Motion: Council Member Farmer made a motion, seconded by Council Member Thomas, to approve the resolution, as presented. The motion carried unanimously (7) ayes to (0) nays.

- g. Discussion of Data Monitoring System implementation status for City Fleet
A presentation was made by Fleet Services Superintendent Ryan Kramer

No action was taken on this item.

- h. Approval of first public hearing of an ordinance amending Chapter One "General Provisions" of the Code of Ordinances by amending Section 1.04 through 1.09
A presentation was made by City Attorney Theresa James and City Clerk Bryan Kendrick; this item was requested by Council Member Thomas

Motion: Council Member Thomas made a motion, seconded by Council Member Carter, to approve the ordinance, as presented. The motion carried unanimously (7) ayes to (0) nays.

- i. Approval of the Tax Increment Reinvestment Zone (TIRZ) board recommendations for funding under the Fall 2016 TIRZ Incentives Policy for the following applications: (a) 1313 North Bryant; (b) 601 W. 11th; (c) 38 N. Chadbourne; (d) 204 S. Oakes; (e) 35 E. Concho; (f) 220 MLK; (g) 204 S. Chadbourne; (h) 12 N. Chadbourne; (i) 19 E. Concho Ave; (j) 114 S. Chadbourne; (k) 138 W. Concho Ave
A presentation was made by Planning & Development Services Director Jon James

Motion: Council Member Self made a motion, seconded by Council Member Farmer, to approved the recommendations, as presented. The motion carried (6) ayes to (1) nays, with Council Member Richardson casting the dissenting vote.

7. Closed Session

Executive Session under the provision of Government Code, Title 5. Open Government; Ethics, Subtitle A. Open Government, Chapter 551. Open Meetings, Subchapter D. Exceptions to Requirement that Meetings be Open under the following sections:

- a. ~~Section 551.071(1)(A) consult with attorney when the governmental body seeks the advice of its attorney about pending or contemplated litigation regarding:~~
 - 1. 2013 Sealcoating Program Contract
 - 2. Templeton Construction, Inc.
 - 3. Alsay, Inc.
- b. Section 551.071(2) consult with attorney when the governmental body seeks the advice of its attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter, regarding:
 - 1. Assignment of water rights on the Ford Ranch
 - 2. ~~West Texas Water Partnership~~
 - 3. Short Term Rentals on City leased properties
 - 4. Insurance Services Organization Rating
- c. Section 551.072 Deliberations about Real Property
- d. Section 551.074(1) to deliberate the annual performance evaluation of the City Manager

8. Follow Up and Administrative Issues

- a. Consider items discussed in Executive/Closed Session, if needed

No action was taken on this item.

b. Approval of the following Board nomination:

Airport Advisory Board: Fred Key (SMD1) to a 6th full term ending October 2020

Motion: Council Member Richardson made a motion, seconded by Council Member Self, to approve the nomination, as presented. The motion carried unanimously (7) ayes to (0) nays.

c. Approval of the re-appointment of Council Member Charlotte Farmer for a two year term to the Ports-to-Plains Advisory Board

Motion: Council Member Self made a motion, seconded by Council Member Thomas, to approve the re-appointment, with the addition of a re-evaluation in May 2017. The motion carried unanimously (7) ayes to (0) nays.

d. Approval of appointing a member of the City Council to the MHMR Nominating Committee

Motion: Council Member Self made a motion, seconded by Council Member Farmer, to appoint Council Member Lucy Gonzales. The motion carried unanimously (7) ayes to (0) nays.

e. Announcements and consideration of Future Agenda Items

Council Member Thomas asked for an item to discuss the possibility of postponing the Short Term Rental Ordinance until the first meeting in March.

Council Member Richardson asked for a joint photo to be taken of the Current City Council.

Council Member Farmer asked for City Manager Daniel Valenzuela set a meeting date with the Finance Director, the Internal Auditor, Council Member Gonzales and herself to review fund balances.

City Clerk Bryan Kendrick asked Council if they wanted to discuss the cancellation of the December 20th Meeting. Consensus of Council was to bring that discussion back at the next council meeting.

9. Adjournment

Motion: Council Member Self made a motion, seconded by Council Member Gonzales, to adjourn the meeting. The motion carried unanimously seven (7) ayes to zero (0) nays.

There being no further business, the meeting was adjourned at 2:06 p.m.

THE CITY OF SAN ANGELO

Dwain Morrison, Mayor

ATTEST:

Bryan Kendrick, City Clerk

In accordance with Chapter 2, Article 2.300, of the Official Code of the City of San Angelo, the minutes of this meeting consist of the preceding Minute Record and the Supplemental Minute Record. Details on Council meetings may be obtained from the City Clerk's Office or a video of the entire meeting may be purchased from the Public Information Officer at 481-2727. (Portions of the Supplemental Minute Record video tape recording may be distorted due to equipment malfunction or other uncontrollable factors.)

DRAFT

City of San Angelo, Texas
Special City Council Meeting
Monday, November 7, 2016

Present:

Mayor Dwain Morrison
Mayor Pro tem Charlotte Farmer, SMD 6
Council Member Bill Richardson, SMD 1
Council Member Marty Self, SMD 2
Council Member Harry Thomas, SMD 3
Council Member Lucy Gonzales, SMD 4
Council Member Lane Carter, SMD 5

1. Call to Order

With a quorum of the City Council Members present, Mayor Morrison called the regular session of the San Angelo City Council to order at 10:34 a.m. on Monday, November 7, 2016, in the San Angelo McNease Convention Center, 501 Rio Concho Drive, San Angelo, Texas 76903.

An invocation was provided and the pledges were led by Mayor Morrison

2. Closed Session

Executive Session under the provision of Government Code, Title 5. Open Government; Ethics, Subtitle A. Open Government, Chapter 551. Open Meetings, Subchapter D. Exceptions to Requirement that Meetings be Open under the following sections:

- a. Section 551.071(2) consult with attorney when the governmental body seeks the advice of its attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter, regarding: Water rights on the Ford Ranch, assignment.
- b. Section 551.072 Deliberations about Real Property

3. Follow Up and Administrative Issues

- a. Consider items discussed in Executive/Closed Session, if needed

Motion: Mayor Morrison made a motion, seconded by Council Member Thomas, to authorize the City Manager to negotiate and execute all documents necessary for the purchase of the Ford Ranch, located in McCulloch County and on which the Hickory Well Field is located at a price not to exceed \$1350/acre, including 25% on Minerals owned by Seller. A Record Vote was taken; Ayes: Mayor Morrison and Council Members Richardson (SMD1), Self (SMD2), Thomas (SMD3), Gonzales (SMD4), Carter (SMD5), and Farmer (SMD6); Nays: None. The motion carried unanimously (7) ayes to (0) nays.

Mayor Morrison noted that any Veterans can call Yellow Cab who will provide free rides to and from the polling locations for all veterans.

Council Member Farmer reminded everyone of the SMD 6 Town Hall Meeting being held that night.

4. Adjournment

Motion: Council Member Farmer made a motion, seconded by Council Member Self, to adjourn the meeting. The motion carried unanimously (7) ayes to (0) nays.

There being no further business, the meeting was adjourned at 12:00 p.m.

THE CITY OF SAN ANGELO

Dwain Morrison, Mayor

ATTEST:

Bryan Kendrick, City Clerk

In accordance with Chapter 2, Article 2.300, of the Official Code of the City of San Angelo, the minutes of this meeting consist of the preceding Minute Record and the Supplemental Minute Record. Details on Council meetings may be obtained from the City Clerk's Office or a video of the entire meeting may be purchased from the Public Information Officer at 481-2727. (Portions of the Supplemental Minute Record video tape recording may be distorted due to equipment malfunction or other uncontrollable factors.)

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Bryan Kendrick, City Clerk, City Clerk,

Meeting Date: November 15, 2016

Item type: Consent Item

Caption:

Consideration of confirming appointments to MHMR Service for the Concho Valley Board of Trustees recommended by Liaison Representative Committee (B.Kendrick)

Summary/History:

Councilmember Gonzales serves as the Council Representative to the MHMR Liaison Representative Committee which presented the nominations. Term appointments are from November 2016 to October 2018.

A letter from MHMR Services for the Concho Valley Chief Administrative Officer Annette Hernandez is provided as additional background.

Financial Impact:

None at this time.

Other Information/Recommendation:

Recommended Board of Trustees:

Gibson, Jeff -November 1, 2015 through October 31, 2017 (re-appointment)
Kujawski, Linda–November 1, 2014 through October 31, 2017 (re-appointment)
Spieker, Dianna–November 1, 2015 through October 31, 2017 (re-appointment)
Trevino, Pat–November 1, 2015 through October 31, 2017 (re-appointment)
Davenport-Herbst, Tim–November 1, 2015 through October 31, 2017 (new appointment)

Attachments:

1. Letter APPTSA20162018.doc

Presentation:

None

Approvals/Reviews:

Bryan Kendrick

Created/Initiated



MHMR SERVICES FOR THE CONCHO VALLEY

"Working Together To Help People Help Themselves"

TO: **Appointing Agencies**
Angelo State University- President
City of San Angelo-City Council
San Angelo Independent School District-Board of Trustees
Tom Green County-Commissioners Court

FROM: **Appointing Agencies - Liaison Representatives**
Dr. Bradley Petty, Angelo State University
Ms. Lucy Gonzales, City of San Angelo
Mr. Aubrey DeCordova, Tom Green County
Mr. Art Hernandez, San Angelo Independent School District

SUBJECT: Appointments to the Board of Trustees of the MHMR Services for the Concho Valley

DATE: November 9, 2016

The Liaison Representatives nominates the following persons for re-appointment to the MHMR Services for the Concho Valley Board of Trustees for a term ending October 31, 2018:

Houston, Cary -November 1, 2016 through October 31, 2018 (re-appointment)
Shannon, Jacqueline–November 1, 2016 through October 31, 2018 (re-appointment)
Stokes, John–November 1, 2016 through October 31, 2018 (re-appointment)

Official appointment of these nominees is requested by the Liaison Representatives to provide a duly constituted Board of Trustees as required by the Texas Laws Relating Mental Health and Mental Retardation. Documentation (notarized meeting minutes where applicable) of the appointments should be sent to the Annette Hernandez, Chief Administrative Officer, MHMR Services for the Concho Valley, 1501 West Beauregard, San Angelo, Texas 76901.

If you have any questions, please feel free to contact Ms. Annette Hernandez at (325) 658-7750 ext. 346.

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Rebeca Guerra, Planning Manager, Planning and Development Services, 325-657-4210

Meeting Date: November 15, 2016

Item type: Consent Item

Caption:

Consider a resolution authorizing the City Manager, or designee, to execute a Temporary Nonexclusive Sidewalk Use License Agreement to allow for a 248-square foot metal canopy located within the North Chadbourne Street and East College Avenue public right-of-ways and a 39-square foot canopy located within the East College Avenue public right-of-way, on property located at 38 North Chadbourne Street (J. James)

Summary/History:

On July 21, 2016, the applicant received approval from the Design and Historic Review Commission (DHRC) for exterior remodeling of their building at 38 North Chadbourne Street for a future art gallery and accessory bar. The improvements included two metal canopies with underside LED sconce lighting attached to the existing building on the property. Both canopies will encroach into public right-of-ways and require City Council approval. The purpose of the canopies are to visually enhance the building facades and provide shade from the elements.

The first canopy is 248-square feet which extends 54 feet along the South Chadbourne Street right-of-way, wrapping around an additional 8 feet into the East College Avenue right-of-way. This canopy will be located above new entry doors along the east and north building facades. The second, smaller canopy is 39-square feet which extends 9.68 feet into the East College Avenue right-of-way near the rear of the building. This canopy will be located above a new garage door.

The International Building Code (IBC), under Section 3202.2, requires that the "vertical clearance from the public right-of-way to the lowest part of any awning, including variances, shall be 7 feet minimum." The canopy will maintain a 9-foot clearance from grade in compliance with the IBC. The 248-square foot canopy will be setback 5.3 feet from the street curb along North Chadbourne Street and 8.3 feet from the street curb along East College Avenue. The smaller 39-square foot canopy will be setback 8.28 feet from the street curb along East College Avenue.

Planning Staff has circulated this application to Engineering Services, the Fire Marshall, and the Building Official for review. There were no objections to approval of this request. The applicant will require a building permit for the new canopies.

Financial Impact:

N/A

Other Information/Recommendation:

Staff recommends APPROVAL of this request.

Attachments:

1. Aerial/Elevations/Survey/Field Notes/Letter of Intent Aerial_Elevations_Survey_Field Notes_LOI.docx

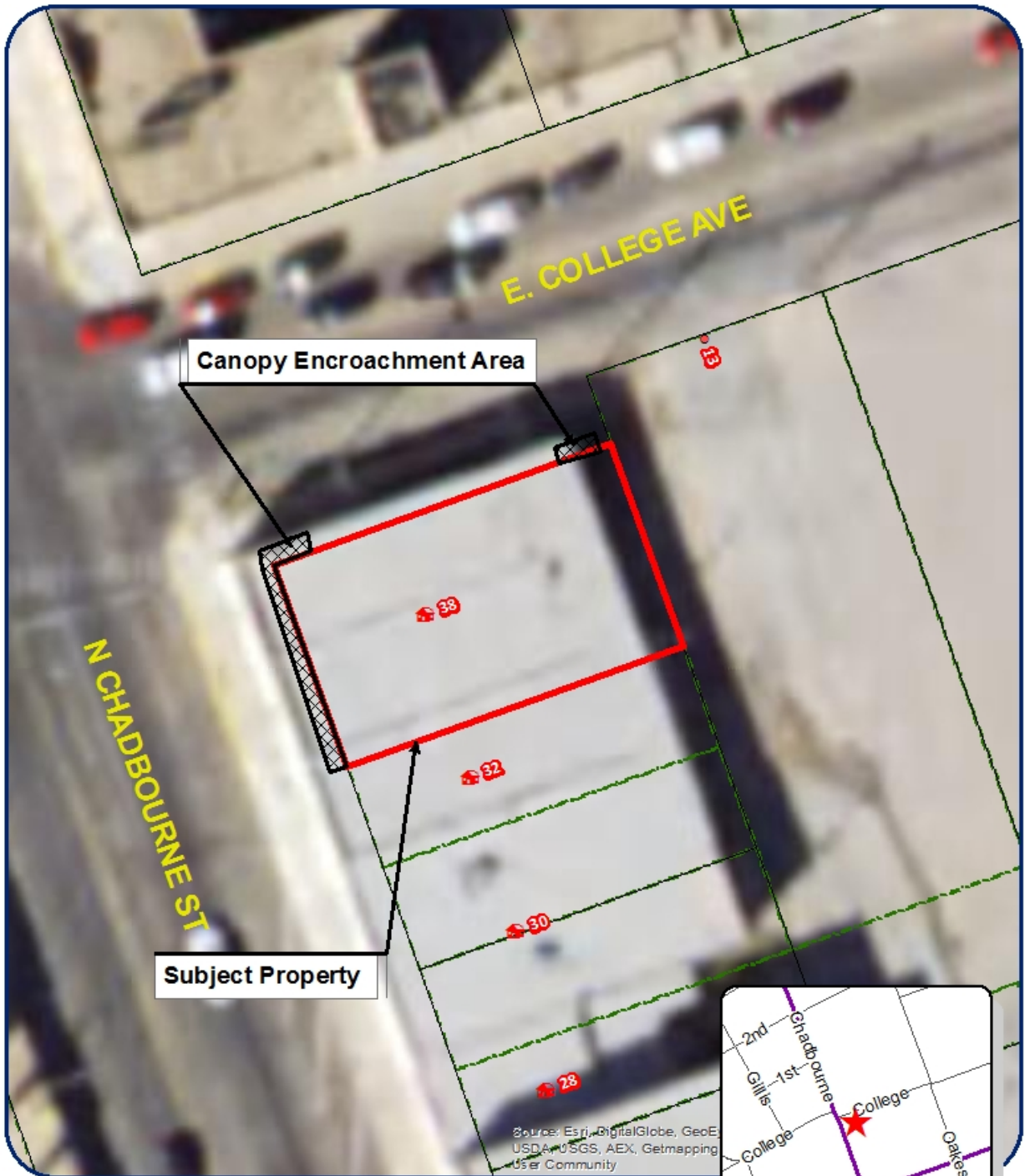
- PL_Agreement (38 N Chadboune St) (R).docx
PL_Resolution (38 N Chadboune St) (R).docx

Jon James

Rebeca Guerra
Jon James
Theresa James
Anthony Wilson
Jon James
Tina Dierschke
Theresa James
Becky Dunn
Bryan Kendrick

[illegible]

AERIAL



Awning Encroachment Case File

38 N. Chadbourne St. (Mazur)

Council District: Harry Thomas (SMD #3)

Neighborhood: Downtown

Scale: 1" approx. = 30 ft

Subject Property: 38 N. Chadbourne St.

Legend

Subject Properties: —

Current Zoning: CBD

Requested Zoning Change: N/A

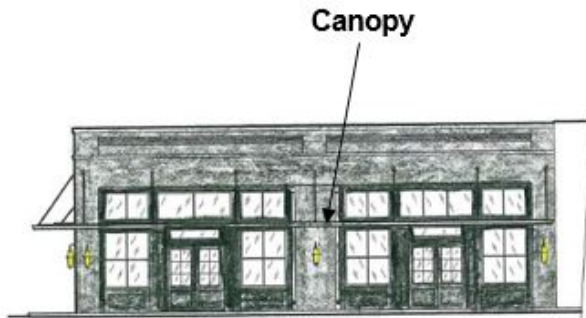
Vision: Downtown



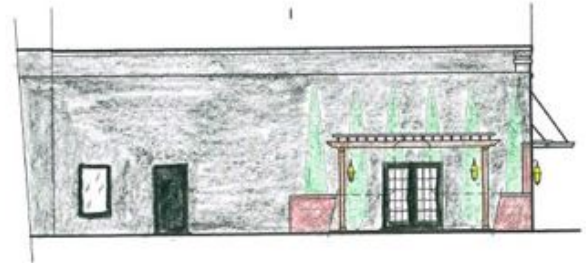
N



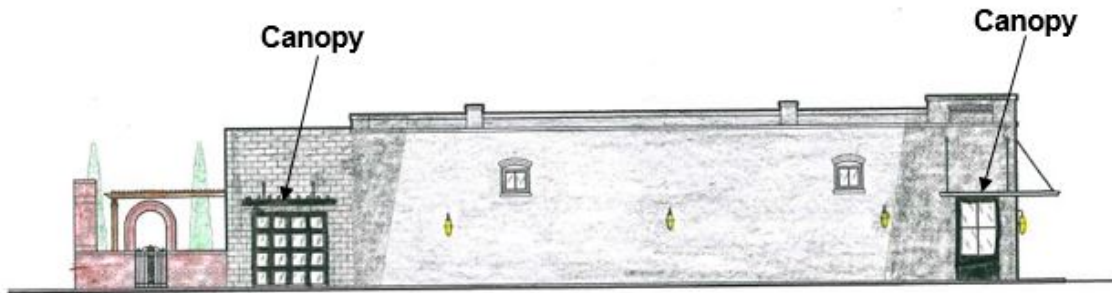
BUILDING ELEVATIONS WITH CANOPY
(Approved by DHRC July 21, 2016, RCC16-14)



A FRONT (WEST) BUILDING ELEVATION
SCALE: 1/4" = 1'-0"



B REAR (EAST) BUILDING ELEVATION
SCALE: 1/4" = 1'-0"



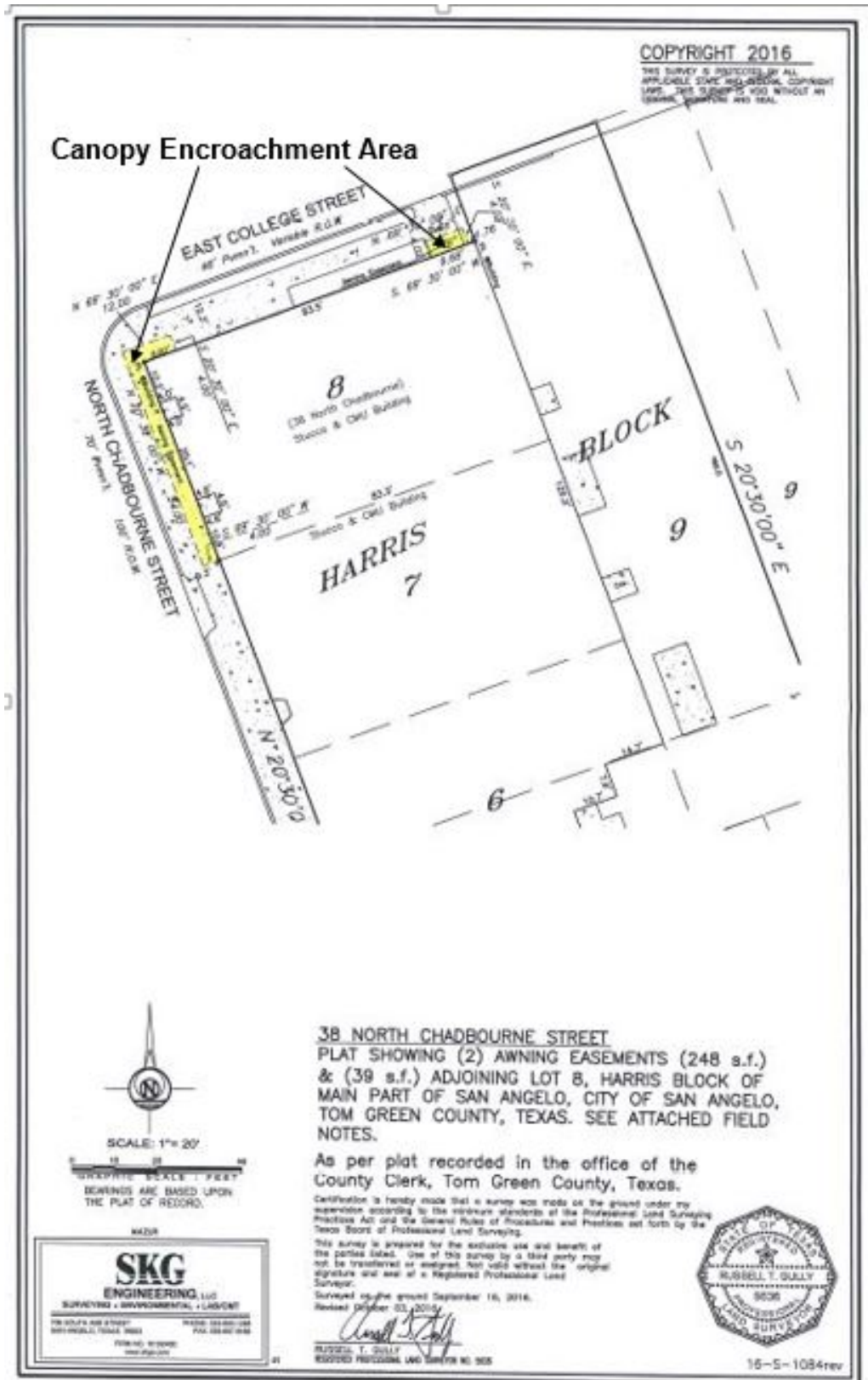
C LEFT (SOUTH) BUILDING ELEVATION
SCALE: 1/4" = 1'-0"

EXHIBIT 26 OF 54 IL CHANGING ACT
NAMED COMMISSION
AM MONO 1811A

SAMPLE CANOPY



SURVEY PLAT



FIELD NOTES

FIELD NOTES

Awning Easement (248 Square Feet)

September 16, 2016
16-S-1084

Being a Awning Easement in the right-of-way of North Chadbourne Street and East College Street adjoining Lot 8, Harris Block of Main Part of San Angelo, Tom Green County, Texas and said Awning Easement being more particularly described by metes and bounds as follows:

Beginning at the southeast corner of this Awning Easement at the southwest corner of said Lot 8 at a point of the common building wall and being in the east line of North Chadbourne Street;

Thence with southerly line of this Awning Easement, S. 69° 30' 00" W. 4.00 feet to the southwest corner of this Awning Easement;

Thence with the west line of this Awning Easement in said North Chadbourne Street, N. 20° 30' 00" W. 54.00 feet to the northwest corner of this Awning Easement;

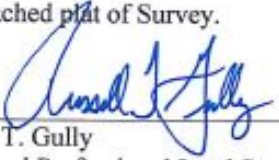
Thence with the north line of this Awning Easement in said North Chadbourne and said East College Street, N. 69° 30' 00" E. 12.00 feet to the northeast corner of said Awning Easement;

Thence with the easterly line of this Awning Easement, S. 20° 30' 00" E. 4.00 feet to the north southeast corner of this Awning Easement in the north line of said Lot 8 and the south line of said East College Street;

Thence with the south line of said East College Street and the north line of said Lot 8, S. 69° 30' 00" W. 8.00 feet to the northwest corner of said Lot 8 and an ell corner of this Awning Easement;

Thence with the west line of said Lot 8 and the east line of said North Chadbourne Street, S. 20° 30' 00" E. 50.00 feet to the place of beginning and containing an area of 248 Square Feet of land.

See attached plat of Survey.



Russell T. Gully
Registered Professional Land Surveyor No. 5636
SKG Engineering, LLC
Firm No. 10102400



FIELD NOTES

FIELD NOTES

Awning Easement (39 Square Feet)

October 3, 2016
16-S-1084e

Being an Awning Easement in the right-of-way of East College Street adjoining Lot 8, Harris Block of Main Part of San Angelo, Tom Green County, Texas and said Awning Easement being more particularly described by metes and bounds as follows:

Beginning at the southeast corner of this Awning Easement in the north line of said Lot 8 and in the south line of said East College Street and said beginning corner being 1.76 feet S. 69° 30' 00" W. from the northeast corner of said Lot 8;

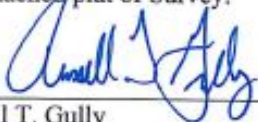
Thence with south line of this Awning Easement and said East College Street and the north line of said Lot 8, S. 69° 30' 00" W. 9.68 feet to the southwest corner of this Awning Easement;

Thence with the west line of this Awning Easement in said East College Street, N. 20° 30' 00" W. 4.02 feet to the northwest corner of this Awning Easement;

Thence with the north line of this Awning Easement in said East College Street, N. 69° 30' 00" E. 9.68 feet to the northeast corner of said Awning Easement;

Thence with the easterly line of this Awning Easement, S. 20° 30' 00" E. 4.02 feet to the place of beginning and containing an area of 39 Square Feet of land.

See attached plat of Survey.



Russell T. Gully
Registered Professional Land Surveyor No. 5636
SKG Engineering, LLC
Firm No. 10102400



Mazur Construction
1310 Mackenzie Street
San Angelo TX 76901
325-656-7353 cell
325-653-9015
e-mail: mazur057@gmail.com
FAX: 325-655-0525

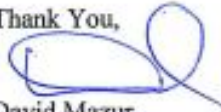
September 22, 2016

LETTER OF INTENT

We propose to construct a metal canopy 4'x 50' on the West side and 10'x4' canopy on the North side of ~~35 and~~ 38 North Chadbourne as per specifications.

DM

Thank You,



David Mazur

TEMPORARY NONEXCLUSIVE SIDEWALK USE LICENSE AGREEMENT

THE STATE OF TEXAS

§

TOM GREEN COUNTY

§

THIS REVOCABLE LICENSE AGREEMENT FOR ENCROACHMENTS, hereinafter referred to as ("License"), is entered into by and between the City of San Angelo, a municipal corporation of the State of Texas, hereinafter referred to as ("Licensor" or "City"), and **Curry & Cox, LLC** hereinafter referred to as ("Licensee"), with an Effective Date of the _____ day of _____, 2016.

WITNESSETH:

That Licensor, for consideration of ten dollars (\$10.00) and other good and valuable consideration the receipt of which is hereby acknowledged, does hereby grant to Licensee the non-exclusive, temporary, revocable right, privilege and license to use two areas of property within sidewalk rights-of-way adjacent to the westerly and northerly boundaries of Lot 8, Harris Block, of the Main Part of San Angelo, Tom Green County, Texas, being +/- 248 square feet, and +/-39 square feet respectively, as more particularly described in **Exhibit "A"**, attached hereto and made a part hereof for all purposes (hereinafter collectively referred to as the "Licensed Premises"), and as depicted in **Exhibit "B"**.

The "Licensed Use" as set forth herein, commencing from the foregoing effective date, is subject to the conditions, restrictions, covenants and exceptions hereinafter set forth:

1. Interest Conferred by this License: This License confers no exclusive possession or tenancy of Licensed Premises. The Licensees cannot exclude City from Licensed Premises. This License solely authorizes Licensee to the temporary use of Licensed Premises for the limited purposes set forth herein and for no other purpose. The parties hereby agree that the provisions of this License do not constitute a lease. The rights of Licensee hereunder are not those of a tenant, but are a mere personal privilege to do certain acts of a temporary character on Licensed Premises and to use Licensed Premises, subject to the terms of this License. City retains dominion, possession and control of the Licensed Premises. Therefore, no lease interest in Licensed Premises is conferred upon Licensee under the provisions hereof. Licensee does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in Licensed Premises by virtue of this License or its use of Licensed Premises hereunder. Additionally, Licensee does not and

shall not claim at any time any interest or estate of any kind or extent whatsoever in Licensed Premises by virtue of any expenditure of funds by Licensee for improvements, construction, repairs, partitions, or alterations to Licensed Premises which may be authorized by City.

2. Licensed Use: Licensed Premises shall be used for the limited purpose of constructing a +/- 248-square foot metal canopy with underside LED sconce lighting within the North Chadbourne Street and East College Avenue public rights-of-way, and a +/- 39-square foot metal canopy located within the East College Avenue public right-of-way, including all support structures, and maintaining a minimum clearance from surface of the sidewalk area of at least seven feet, six inches (7'-6"), substantially as described and depicted and described in **Exhibits "A" and "B"**, attached hereto and made a part hereof for all purposes. Any design construction or installation shall be in accordance with approval from the Design and Historic Review Commission and required building permits issued by the City of San Angelo Community & Economic Development Department, Permits and Inspections Division.

3. Term: This License shall commence on the effective date set forth herein above and if not earlier terminated as herein provided, continue for a period of forty (40) years to _____, 2056, at which time this License shall automatically extend annually until terminated as herein provided.

4. Non-exclusive License: This license is non-exclusive and is made expressly subject and subordinate to the reserved right of the City to use or permit the use of the Licensed Premises for public sidewalk area, utility right-of-way or any other public purpose.

5. Right of Termination:

- (a) The City reserves the right to terminate and cancel this License by resolution passed by its Governing Body upon a finding that the License is inconsistent or incompatible with the reserved right of the City to use or permit the use of the Licensed Premises or whenever the purpose or use of the License is or has become a nuisance as determined in the discretion of the City Council, and all rights granted hereunder shall thereupon be considered fully terminated and canceled and the City shall not be held liable by reason thereof. The parties hereto concur that said resolution shall be final and shall not be subject to review by the Courts.
- (b) Upon termination or cancellation by City or Licensee, this License shall become null and void and Licensee or anyone claiming any rights under this instrument shall remove, to the extent required by City, any or all improvements, appurtenances and

encroachments owned by Licensee from the Licensed Premises at Licensee's expense, and shall restore the Licensed Premises to its condition at the effective date of this License at the sole cost of the Licensee. In the event that Licensee shall fail to remove its improvements, appurtenances and encroachments as required and to restore the Licensed Premises, City shall have the right to do the necessary work to remove said improvements, appurtenances and encroachments and to restore the Licensed Premises to its condition at the effective date of this License, or to cause such work to be done, and to assess reasonable allocated costs or the incurred cost of all such work against Licensee and premises of which Licensed Premises is a part.

6. Fixtures: Licensee may construct a +/- 248-square foot metal canopy with underside LED sconce lighting within the North Chadbourne Street and East College Avenue public rights-of-way, and a +/- 39-square foot metal canopy located within the East College Avenue public right-of-way, extending from the existing building and maintaining a minimum clearance from surface of the sidewalk area of at least eight feet (8'), as more particularly described and depicted on **Exhibits "A" and "B"** attached. Licensee shall not install any additional permanent fixtures on the Licensed Premises without first securing the written permission of City.

7. Codes, Ordinances and Regulations: Licensee shall comply with all applicable codes, ordinances and regulations of local, state and federal governments in the exercise of its use of the Licensed Premises. This requirement shall include, but not be limited to, compliance at all times with the Texas Architectural Barriers Act, Texas Accessibility Standards, Americans with Disabilities Act, as well as local ordinances and regulations relating to occupancy loads, unobstructed passage ways, entrances and exits, and signage.

8. Improvements and Maintenance: It is further understood that if and when the City, in the exercise of its discretion, shall determine that the grade of any street or sidewalk should be modified or changed, or that any other work should be done in connection with any public improvement which will affect the Licensed Premises, Licensee's improvements or appurtenances thereon, or the use thereof by Licensee, City may proceed with such improvement or work without liability to Licensee. Further, any modifications or changes to Licensee's facilities in the licensed area or in construction or reconstruction of any public improvement attributable to Licensee's use of the licensed area and/or its installations and improvements shall be made at the sole expense of Licensee and to the satisfaction of City.

9. Insurance and Indemnification: **At such time as this license is granted, it is agreed that Licensee shall hold harmless and indemnify City and procure and keep in full force and effect**

Insurance coverage of the kind and in the minimum amounts, all as set forth in Exhibit “C”, attached and made a part hereof for all purposes, which provisions shall survive termination or expiration of the term of this License Agreement.

10. Reservations: This License is subject to any existing utilities or communication facilities, including drainage, presently located within or about the Licensed Premises, owned or operated by the City or any utility or communications company, public or private, and to any vested rights presently owned by any utility or communications company, public or private, for the use of the Licensed Premises for facilities presently located within the boundaries of said Licensed Premises. No improvement or appurtenance shall be constructed or placed upon, over or across the Licensed Premises in such a manner as to interfere with the operation of any utilities or communication facilities. All and any communication company and utility, both public and private, shall have the right to remove and keep removed all or parts of any improvement or appurtenance which may in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within the Licensed Premises. All communication companies and utilities, both public and private, shall have the full right to remove and keep removed all parts of any improvements or appurtenances which in any way may endanger or interfere with the construction, maintenance and efficiency of its respective system and shall at all times have the full right of ingress and egress to or from and upon the Licensed Premises for the purpose of constructing, relocating, inspecting, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of Licensee.

11. Successors and Assigns: The terms of this License shall be binding upon the Licensee and Licensee's successors and assigns.

12. Non-assignable: This License may not be assigned by Licensee without the prior written approval from the City. The assignee shall deliver a copy of the assignment, along with the assignee's written acceptance of the provisions of this License, to the Director of Community and Economic Development for the City of San Angelo, or his designee, within ten (10) days of such assignment. Should Licensee fail to obtain prior written approval for assignment of this License or fail to provide the City with the required written acceptance and a copy of the assignment as provided, the Director of Community and Economic Development, or his designee, may terminate this License.

IN WITNESS WHEREOF, the parties hereto have caused License to be executed in duplicate and intend to be legally bound thereby.

LICENSOR:
CITY OF SAN ANGELO

BY: _____
Daniel Valenzuela, City Manager

Date: _____, 2016

ATTEST:

Bryan Kendrick, City Clerk

LICENSEE:
CURRY AND COX, LLC

BY: _____
Lisa Curry, Managing Member

Date: _____, 2016

STATE OF TEXAS §

COUNTY OF TOM GREEN §

This instrument was acknowledged before me on the _____ day of _____, 2016, by LISA CURRY as Managing Member of **CURRY AND COX, LLC**, a Texas limited liability company, on behalf of said company.

Notary Public, State of Texas

**TEMPORARY NONEXCLUSIVE SIDEWALK USE LICENSE AGREEMENT
BETWEEN CITY OF SAN ANGELO AND CURRY AND COX, LLC**

APPROVED AS TO INSURANCE
REQUIREMENTS:

Charles Hagen,
Risk Manager

APPROVED AS TO FORM:

Dan T. Saluri,
Deputy City Attorney

APPROVED AS TO CONTENT:

Jon James, AICP
Director of Planning and Development Services

EXHIBIT "A"
Page 1 of 3
LEGAL DESCRIPTION OF LICENSED PREMISES
38 N. Chadbourne Street
San Angelo, TX 76903

FIELD NOTES

Awning Easement (248 Square Feet)

September 16, 2016
16-S-1084

Being a Awning Easement in the right-of-way of North Chadbourne Street and East College Street adjoining Lot 8, Harris Block of Main Part of San Angelo, Tom Green County, Texas and said Awning Easement being more particularly described by metes and bounds as follows:

Beginning at the southeast corner of this Awning Easement at the southwest corner of said Lot 8 at a point of the common building wall and being in the east line of North Chadbourne Street;

Thence with southerly line of this Awning Easement, S. 69° 30' 00" W. 4.00 feet to the southwest corner of this Awning Easement;

Thence with the west line of this Awning Easement in said North Chadbourne Street, N. 20° 30' 00" W. 54.00 feet to the northwest corner of this Awning Easement;

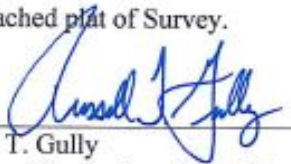
Thence with the north line of this Awning Easement in said North Chadbourne and said East College Street, N. 69° 30' 00" E. 12.00 feet to the northeast corner of said Awning Easement;

Thence with the easterly line of this Awning Easement, S. 20° 30' 00" E. 4.00 feet to the north southeast corner of this Awning Easement in the north line of said Lot 8 and the south line of said East College Street;

Thence with the south line of said East College Street and the north line of said Lot 8, S. 69° 30' 00" W. 8.00 feet to the northwest corner of said Lot 8 and an ell corner of this Awning Easement;

Thence with the west line of said Lot 8 and the east line of said North Chadbourne Street, S. 20° 30' 00" E. 50.00 feet to the place of beginning and containing an area of 248 Square Feet of land.

See attached plat of Survey.



Russell T. Gully
Registered Professional Land Surveyor No. 5636
SKG Engineering, LLC
Firm No. 10102400



EXHIBIT "A"
Page 2 of 3
LEGAL DESCRIPTION OF LICENSED PREMISES
38 N. Chadbourne Street
San Angelo, TX 76903

FIELD NOTES

Awning Easement (39 Square Feet)

October 3, 2016
16-S-1084e

Being an Awning Easement in the right-of-way of East College Street adjoining Lot 8, Harris Block of Main Part of San Angelo, Tom Green County, Texas and said Awning Easement being more particularly described by metes and bounds as follows:

Beginning at the southeast corner of this Awning Easement in the north line of said Lot 8 and in the south line of said East College Street and said beginning corner being 1.76 feet S. 69° 30' 00" W. from the northeast corner of said Lot 8;

Thence with south line of this Awning Easement and said East College Street and the north line of said Lot 8, S. 69° 30' 00" W. 9.68 feet to the southwest corner of this Awning Easement;

Thence with the west line of this Awning Easement in said East College Street, N. 20° 30' 00" W. 4.02 feet to the northwest corner of this Awning Easement;

Thence with the north line of this Awning Easement in said East College Street, N. 69° 30' 00" E. 9.68 feet to the northeast corner of said Awning Easement;

Thence with the easterly line of this Awning Easement, S. 20° 30' 00" E. 4.02 feet to the place of beginning and containing an area of 39 Square Feet of land.

See attached plat of Survey.



Russell T. Gully
Registered Professional Land Surveyor No. 5636
SKG Engineering, LLC
Firm No. 10102400



EXHIBIT "A"
38 N. Chadbourne Street, San Angelo, Texas
Page 3 of 3

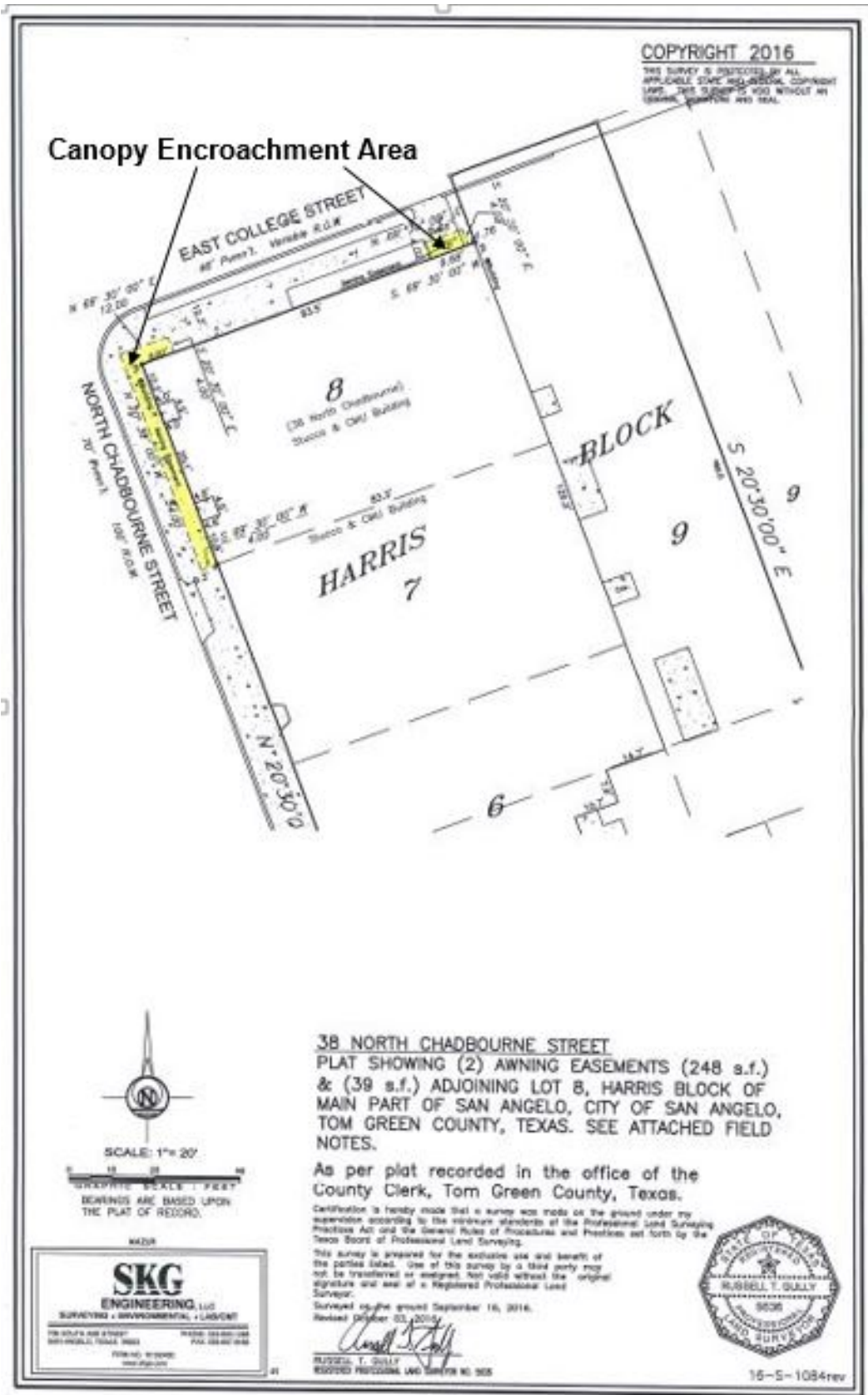


EXHIBIT "B"
ELEVATION VIEW OF LICENSED PREMISES
38 N. Chadbourne Street
San Angelo, TX 76903

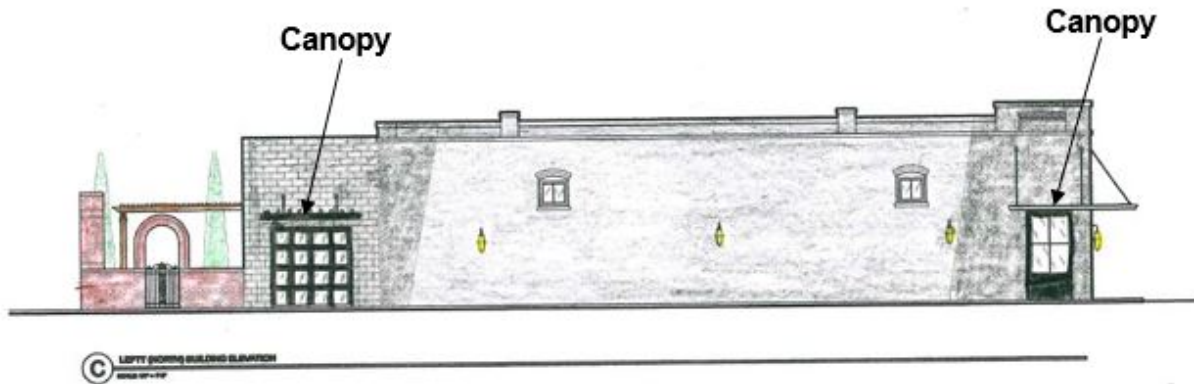
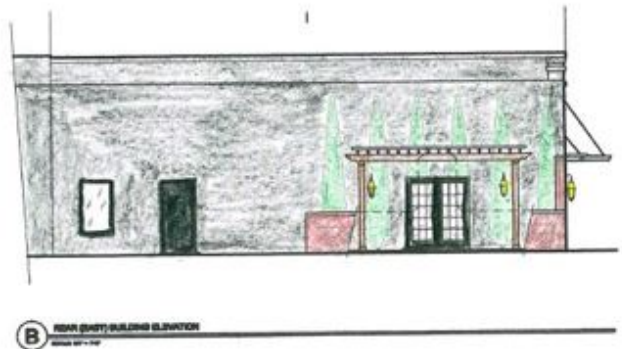
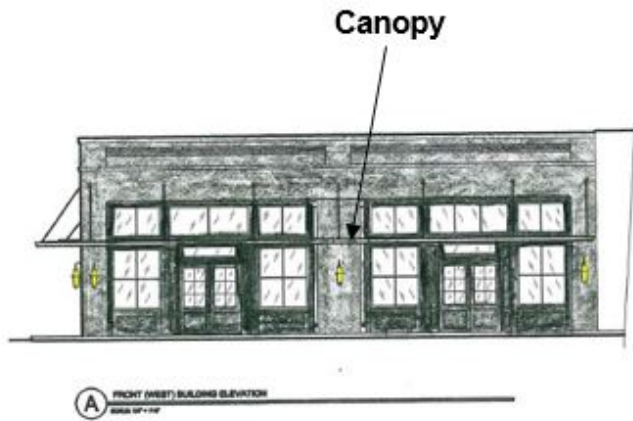


EXHIBIT "B" 38 N. CHADBOURNE ST.
MAILED 05/10/2010
AM 10:00 AM

EXHIBIT "C"

TEMPORARY NONEXCLUSIVE SIDEWALK USE LICENSE AGREEMENT
INSURANCE REQUIREMENTS

1. INDEMNIFICATION.

1.1 GENERAL INDEMNIFICATION. LICENSEE AGREES TO INDEMNIFY, DEFEND, AND HOLD CITY, ITS COUNCIL MEMBERS, BOARD AND COMMISSION MEMBERS, OFFICIALS, AGENTS, GUESTS, INVITEES, CONSULTANTS AND EMPLOYEES FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, PROCEEDINGS, SUITS, JUDGMENTS, COSTS, PENALTIES, FINES, DAMAGES, LOSSES, ATTORNEYS' FEES AND EXPENSES ASSERTED BY ANY PERSON OR PERSONS, INCLUDING AGENTS OR EMPLOYEES OF LICENSEE OR CITY, BY REASON OF DEATH OR INJURY TO PERSONS, OR LOSS OR DAMAGE TO PROPERTY, RESULTING FROM OR ARISING OUT OF, THE VIOLATION OF ANY LAW OR REGULATION OR IN ANY MANNER ATTRIBUTABLE TO ANY ACT OF COMMISSION, OMISSION, NEGLIGENCE OR FAULT OF LICENSEE, ITS AGENTS OR EMPLOYEES, OR THE JOINT NEGLIGENCE OF LICENSEE AND ANY OTHER ENTITY, AS A CONSEQUENCE OF ITS EXECUTION OR PERFORMANCE OF THIS CONTRACT OR SUSTAINED IN OR UPON THE PREMISES, OR AS A RESULT OF ANYTHING CLAIMED TO BE DONE OR ADMITTED TO BE DONE BY LICENSEE HEREUNDER. THIS INDEMNIFICATION SHALL SURVIVE THE TERM OF THIS CONTRACT AS LONG AS ANY LIABILITY COULD BE ASSERTED. NOTHING HEREIN SHALL REQUIRE LICENSEE TO INDEMNIFY, DEFEND OR HOLD HARMLESS ANY INDEMNIFIED PARTY FOR THE INDEMNIFIED PARTY'S OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

1.3 PROSPECTIVE APPLICATION. ANY AND ALL INDEMNITY PROVIDED FOR IN THIS CONTRACT SHALL SURVIVE THE EXPIRATION OF THIS CONTRACT AND THE DISCHARGE OF ALL OTHER OBLIGATIONS OWED BY THE PARTIES TO EACH OTHER HEREUNDER AND SHALL APPLY PROSPECTIVELY NOT ONLY DURING THE TERM OF THIS CONTRACT BUT THEREAFTER SO LONG AS ANY LIABILITY (INCLUDING BUT NOT LIMITED TO LIABILITY FOR CLOSURE AND POST CLOSURE COSTS) COULD BE ASSERTED IN REGARD TO ANY ACTS OR OMISSIONS OF LICENSEE IN PERFORMING UNDER THIS CONTRACT.

2. Insurance.

2.1 General Conditions. The following conditions shall apply to all insurance policies obtained by Licensee for the purpose of complying with this Contract.

2.1.1 Satisfactory Companies. Coverage shall be maintained with insurers and under forms of policies satisfactory to City and with insurers licensed to do business in Texas.

2.1.2 Named Insureds. All insurance policies required herein shall be drawn in the name of Licensee, with City, its council members, board and commission members, officials, agents, guests, invitees, consultants and employees named as additional insureds, except on Workers' Compensation coverage.

2.1.3 Waiver of Subrogation. Licensee shall require its insurance carrier(s), with respect to all insurance policies, to waive all rights of subrogation against City, its council members, board and commission members, officials, agents, guests, invitees, consultants and employees.

2.1.4 Certificates of Insurance. At or before the time of execution of this Contract, Licensee shall furnish City's Risk Manager with certificates of insurance as evidence that all of the policies required herein are in full force and effect and provide the required coverages and limits of insurance. All certificates of insurance shall clearly state that all applicable requirements have been satisfied. The certificates shall provide that any company issuing an insurance policy shall provide to City not less than thirty (30) days advance notice in writing of cancellation, non-renewal or material change in the policy of insurance. In addition, Licensee and insurance company shall immediately provide written notice to City's Risk Manager upon receipt of notice of cancellation of any insurance policy, or of a decision to terminate or alter any insurance policy. Copies of required endorsements will be attached to the certificates to confirm the required endorsements are in effect. Certificates of insurance and notices of cancellations, terminations or alterations shall be furnished to City's Risk Manager at City Hall, 52 W College Avenue, San Angelo, Texas 76903.

2.1.5 Licensee's Liability. The procurement of such policy of insurance shall not be construed to be a limitation upon Licensee's liability or as a full performance on its part of the indemnification provisions of this Contract. Licensee's obligations are, notwithstanding any policy of insurance, for the full and total amount of any damage, injury or loss caused by or attributable to its activities conducted at or upon the premises. Failure of Licensee to maintain adequate coverage shall not relieve Licensee of any contractual responsibility or obligation.

2.1.6 Sub-Licensees' Insurance. Licensee shall cause each Sub-Licensee and Sub-Sub-Licensee of Licensee to purchase and maintain insurance of the types and in the

amounts specified below. Licensee shall require Sub-Licensees and Sub-sub-Licensees to furnish copies of certificates of insurance to Licensee's Risk Manager evidencing coverage for each Sub-Licensee and Sub-Sub-Licensee.

2.2 Types and Amounts of Insurance Required. Licensee shall obtain and continuously maintain in effect at all times during the term hereof, at Licensee's sole expense, insurance coverages as follows with limits not less than those set forth below:

2.2.1 Commercial General Liability. This policy shall be an occurrence-type policy and shall protect the Licensee and additional insureds against all claims arising from bodily injury, sickness, disease or death of any person (other than the Licensee's employees) and damage to property of the City or others arising out of the act or omission of the Licensee or its agents and employees. This policy shall also include protection against claims for the contractual liability assumed by Licensee under the paragraph of this Contract entitled "Indemnification." Coverage shall not be less than:

\$ 1,000,000.00 General Aggregate

\$ 1,000,000.00 Each Occurrence

A RESOLUTION OF THE CITY OF SAN ANGELO AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO NEGOTIATE AND EXECUTE A TEMPORARY NONEXCLUSIVE SIDEWALK USE LICENSE AGREEMENT TO ALLOW FOR CONSTRUCTION OF TWO METAL CANOPIES ATTACHED TO THE BUILDING LOCATED AT 38 NORTH CHADBOURNE STREET: (1) A 248-SQUARE FOOT METAL CANOPY LOCATED WITHIN THE SIDEWALK RIGHTS-OF-WAY OF NORTH CHADBOURNE STREET AND EAST COLLEGE AVENUE; AND (2) A 39-SQUARE FOOT CANOPY LOCATED WITHIN THE SIDEWALK RIGHT-OF-WAY OF EAST COLLEGE AVENUE, AND SUCH OTHER INSTRUMENTS AS MAY BE NECESSARY OR CONVENIENT FOR CARRYING OUT SUCH PURPOSES; AND, FINDING A PUBLIC PURPOSE AND BENEFIT THEREIN

WHEREAS, Curry and Cox, LLC, the applicant for license is the owner of certain real property commonly known as 38 North Chadbourne Street, San Angelo, Tom Green County, Texas; and,

WHEREAS, the applicant would like to utilize a designated portion of the sidewalk rights-of-ways along the west and north sides of an existing building at 38 North Chadbourne Street for purposes of constructing a +/-248-square foot metal canopy, and a +/-39-square foot metal canopy along the north side of the building, including all support structures, the Licensed Premises and canopies as more particularly described and depicted in **Exhibits “A” and “B”**, attached hereto and made a part hereof for all purposes (hereinafter “Canopies”); and,

WHEREAS, use of designated portions of the sidewalk rights-of-ways for purposes of constructing the canopies that project over said Licensed Premises would serve as architectural elements to the existing building having a masonry façade, and would be beneficial to the development area of the subject block of North Chadbourne Street and downtown development in general; and,

WHEREAS, construction of the canopies will not result in view obstructions from street rights-of way as views from either direction of this block of North Chadbourne Street and East College Avenue are relatively flat in elevation, devoid of vegetation and other visual obstructions; and,

WHEREAS, the pavement width of North Chadbourne Street, an arterial street, measures 70 feet, and the pavement width of East College Avenue, an arterial street, measures 46 feet, and whereas there are no plans to widen these streets given the existing building projects to these property lines; and,

WHEREAS, the City Council has determined that the granting of the application for a temporary nonexclusive sidewalk use license for purposes of constructing canopies over the sidewalk rights-of-way as described and depicted more particularly in **Exhibits “A” and “B”**, would be in the public interest and benefit for the reasons stated:

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN ANGELO, TEXAS THAT:

All of the foregoing recitals are found to be true and correct and are incorporated herein and made a part of this resolution.

The City Council of the City of San Angelo, Texas, hereby determines that there is a public necessity for, and the public welfare and convenience will be served by granting of the application made by **Curry & Cox, LLC**, for a temporary nonexclusive sidewalk use license for purposes of constructing a +/- 248-square foot metal canopy, and a +/- 39-square foot metal canopy, onto an existing building located at 38 North Chadbourne Street, that project over the sidewalk rights-of-way as more particularly described and depicted in **Exhibits "A" and "B"**.

The City Manager or his designee is hereby authorized to negotiate and execute on behalf of the City of San Angelo a Temporary Nonexclusive Sidewalk Use License Agreement with **Curry & Cox, LLC**, in substantially the attached form for purposes of permitting construction of canopies over the described sidewalk rights-of-way attached to an existing building located at 38 North Chadbourne Street, in compliance with all applicable state law and City ordinances as described and depicted more particularly in **Exhibits "A" and "B"** attached hereto, and to execute such other instruments as may be necessary or convenient for carrying out such purposes.

PASSED and APPROVED THIS _____ DAY OF _____, 2016.

THE CITY OF SAN ANGELO

Dwain Morrison, Mayor

Attest:

Bryan Kendrick, City Clerk

Approved As to Form:

Theresa James, City Attorney

Approved As to Content:

Jon James, AICP, Director of Planning
and Development Services

EXHIBIT A
LEGAL DESCRIPTION
Page 1 of 3 pages

FIELD NOTES

Awning Easement (248 Square Feet)

September 16, 2016
16-S-1084

Being a Awning Easement in the right-of-way of North Chadbourne Street and East College Street adjoining Lot 8, Harris Block of Main Part of San Angelo, Tom Green County, Texas and said Awning Easement being more particularly described by metes and bounds as follows:

Beginning at the southeast corner of this Awning Easement at the southwest corner of said Lot 8 at a point of the common building wall and being in the east line of North Chadbourne Street;

Thence with southerly line of this Awning Easement, S. 69° 30' 00" W. 4.00 feet to the southwest corner of this Awning Easement;

Thence with the west line of this Awning Easement in said North Chadbourne Street, N. 20° 30' 00" W. 54.00 feet to the northwest corner of this Awning Easement;

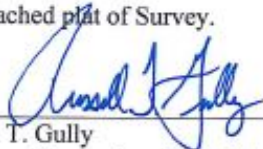
Thence with the north line of this Awning Easement in said North Chadbourne and said East College Street, N. 69° 30' 00" E. 12.00 feet to the northeast corner of said Awning Easement;

Thence with the easterly line of this Awning Easement, S. 20° 30' 00" E. 4.00 feet to the north southeast corner of this Awning Easement in the north line of said Lot 8 and the south line of said East College Street;

Thence with the south line of said East College Street and the north line of said Lot 8, S. 69° 30' 00" W. 8.00 feet to the northwest corner of said Lot 8 and an ell corner of this Awning Easement;

Thence with the west line of said Lot 8 and the east line of said North Chadbourne Street, S. 20° 30' 00" E. 50.00 feet to the place of beginning and containing an area of 248 Square Feet of land.

See attached plat of Survey.



Russell T. Gully
Registered Professional Land Surveyor No. 5636
SKG Engineering, LLC
Firm No. 10102400



EXHIBIT A
LEGAL DESCRIPTION
Page 2 of 3 pages

FIELD NOTES

Awning Easement (39 Square Feet)

October 3, 2016
16-S-1084e

Being an Awning Easement in the right-of-way of East College Street adjoining Lot 8, Harris Block of Main Part of San Angelo, Tom Green County, Texas and said Awning Easement being more particularly described by metes and bounds as follows:

Beginning at the southeast corner of this Awning Easement in the north line of said Lot 8 and in the south line of said East College Street and said beginning corner being 1.76 feet S. 69° 30' 00" W. from the northeast corner of said Lot 8;

Thence with south line of this Awning Easement and said East College Street and the north line of said Lot 8, S. 69° 30' 00" W. 9.68 feet to the southwest corner of this Awning Easement;

Thence with the west line of this Awning Easement in said East College Street, N. 20° 30' 00" W. 4.02 feet to the northwest corner of this Awning Easement;

Thence with the north line of this Awning Easement in said East College Street, N. 69° 30' 00" E. 9.68 feet to the northeast corner of said Awning Easement;

Thence with the easterly line of this Awning Easement, S. 20° 30' 00" E. 4.02 feet to the place of beginning and containing an area of 39 Square Feet of land.

See attached plat of Survey.

Russell T. Gully
Registered Professional Land Surveyor No. 5636
SKG Engineering, LLC
Firm No. 10102400



EXHIBIT A
PLAN VIEW
Page 3 of 3 pages

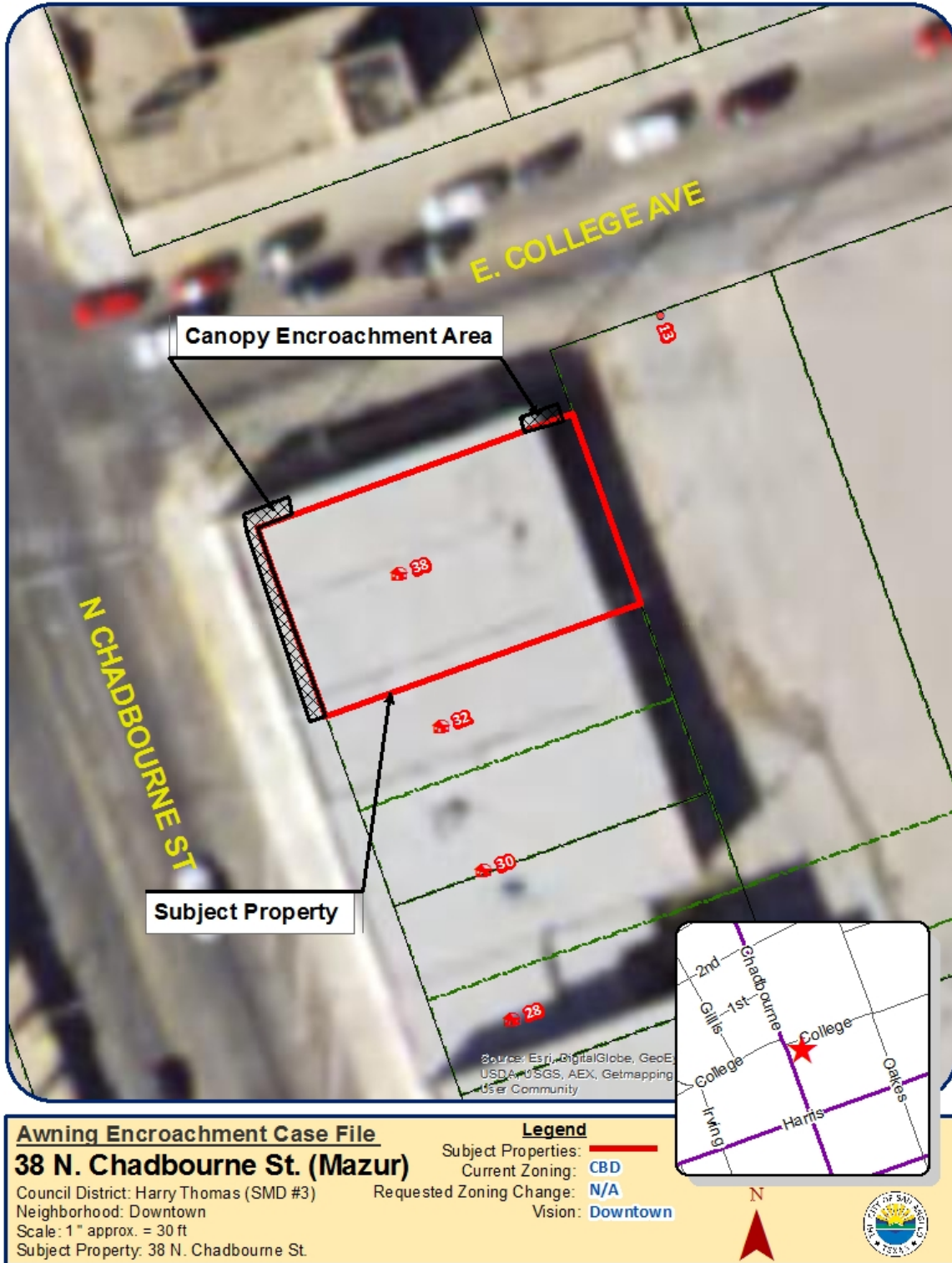
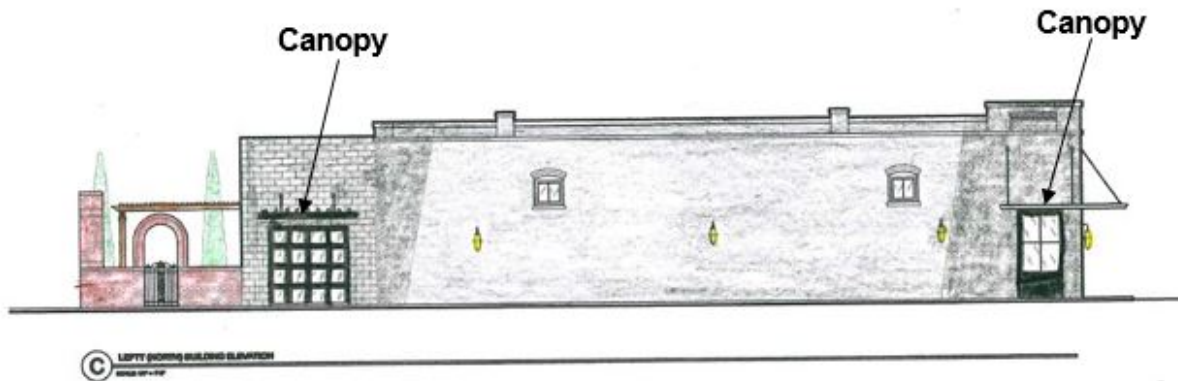
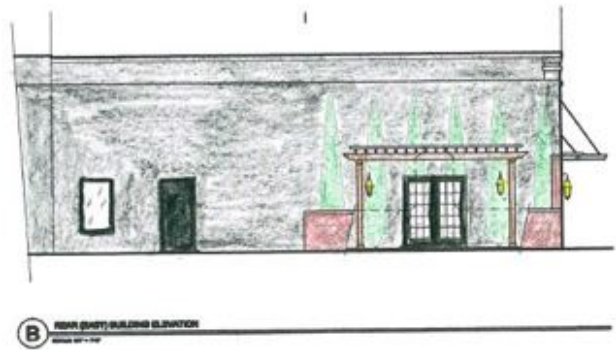
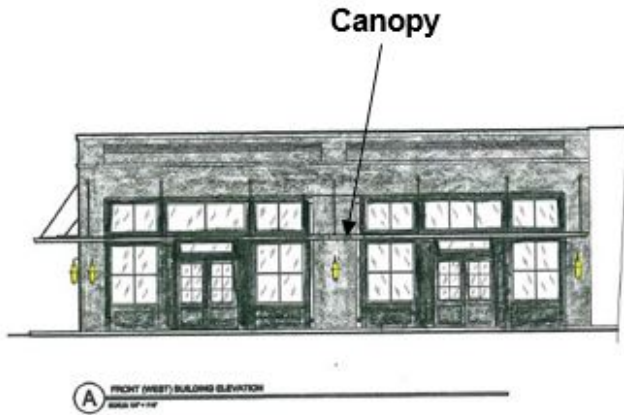


EXHIBIT B
ELEVATION VIEW OF LICENCE PREMISES



DESIGNED BY: J. L. CHANDLER, INC.
NORTH CHANDLER
SAN ANTONIO, TEXAS

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Ryan Kramer, Fleet Services Superintendent, Fleet Services, (325) 657-4329

Meeting Date: November 15, 2016

Item type: Consent Item

Caption:

Consider awarding FS-01-17 Asphalt Maintenance Truck Chassis to Corley Freightliner, in an amount of \$69,249, budgeted in FY17, for the purchase of one unit, and authorizing the City Manager or designee to execute any related documents. (R.Kramer)

Summary/History:

Bids were requested for the purpose of purchasing a truck chassis for use with the infrared asphalt maintenance equipment by the Street and Bridge Division in performing Water and Sewer utility trench repair. This truck chassis has been specified to carry an infrared asphalt maintenance body (separate bid). The infrared asphalt equipment allows for the City to repair areas of the pavement that were removed or damaged while performing repairs on water and sewer lines. This equipment will be available for use for various pavement repairs as needed, provides a longer lasting and more effective patch repair and is part of a comprehensive restructuring of the street repair process as a result of Council's street priority.

Requests for Bid were sent to multiple vendors (two local), two bids were received.

The purchase will be made from Corley Freightliner (San Angelo, TX). One unit has been budgeted in FY17 through Water/Sewer Funding.

Staff recommends award of FS-01-17 Asphalt Maintenance Truck Chassis to Corley Freightliner.

Financial Impact:

Staff recommends award of FS-01-17 Asphalt Maintenance Truck Chassis to Corley Freightliner, in an amount of \$69,249 for one unit. This is a budgeted expenditure.

Other Information/Recommendation:

Staff recommends award of FS-01-17 Asphalt Maintenance Truck Chassis to Corley Freightliner in an amount of \$69,249.

Attachments:

- | | |
|----------------------------|----------------------|
| 1. FS-01-17 Bid Tabulation | FS-01-17 Bid Tab.pdf |
|----------------------------|----------------------|

Presentation:

Approvals/Reviews:

Ryan Kramer

Created/Initiated

Patrick Frerich	Approved
Shane Kelton	Approved
Theresa James	Approved
Anthony Wilson	Approved
Julia Antilley	Approved
Tina Dierschke	Approved
Theresa James	Approved
Becky Dunn	Approved
Bryan Kendrick	Final Approval



CITY OF SAN ANGELO

RFWQ Bid Tabulation * FS-01-17/ Truck Chassis for Asphalt Maintenance

11/03/2016 at 2:00 p.m.

Corley Freightliner

Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New/Unused Chassis	67999	1	67999
2.	Make and Model Quoted:	Freightliner M2-106		
3.	Delivery Lead Time	80 days		
4.	Delivery Lead Time			
5.	Extended Warranty	1250	1	1250
6	Manuals	-	online	
Total Bid				\$ 69,249.00

Piggy Back	yes, model year price increase applies
Cooperative	no
P-Card	no
Payment Terms	net 20 from chassis delivery date
Payment Discount	no

Summit Truck Group

Unit Price	Estimated Quantity	Extended Price
69545.74	1	69545.74
2018 International 4300 4x2		
60-90 days		
2788	1	2788
-		
Total Bid		\$ 72,333.74

Piggy Back	no
Cooperative	no
P-Card	no
Payment Terms	net 10
Payment Discount	no

Mailed to:

Rush Truck Centers	Tye	TX
Lonestar Truck Group	San Angelo	TX
Summit Truck Group	San Angelo	TX



CITY OF SAN ANGELO

RFWQ Bid Tabulation * FS-01-17/ Truck Chassis for Asphalt Maintenance

11/03/2016 at 2:00 p.m.

Item	DESCRIPTION	Corley		Summit	
		YES	NO	YES	NO
1	New and Unused Truck Chassis Cab	y		y	
	BODY, INTERIOR, EXTERIOR				
1.	Exterior Color: White	y		y	
2.	Interior Color: Grey (Preferred)	y		y	
3.	Seating: Air Ride Driver, Standard Passenger; Heavy Duty Vinyl bench seat (3 passenger seating)	y		y	
4.	Floor Covering: Heavy Duty Rubber	y		y	
5.	License Plate Brackets: Front and Rear	y		y	
6.	Front Bumper: Full Width Steel	y		y	
7.	Assist Handles: Driver and Passenger	y		y	
8.	AM/FM Radio	y		y	
9.	Air Conditioning	y		y	
10.	Heater / Defroster	y		y	
11.	Wipers: Intermittent	y		y	
12.	Vertical Exhaust Pipe	y		y	
13.	Federal and State Regulation Compliant	y		y	
14.	State Safety Inspection	y		y	
15.	Electric Brake Controller mounted and wired in cab; prepped only for installation of trailer hitch	y		y	
16.	Delivery to 1727 Saint Ann, San Angelo, TX 76905	y		y	
	POWERTRAIN				
1.	Engine: Six (6) Cylinder Diesel; Cummins Preferred	y		y	
2.	EGR Emissions – Must meet Tier IV Requirements	y		y	
3.	Horsepower: 240 HP Minimum	y		y	
4.	Transmission: Automatic; Allison 3000 RDS or approved equivalent; with PTO provision	y		y	
5.	Rear Axle: Single w/ DRW	y		y	
6.	Differential: 5.28 Ratio or Comparable; max speed of 65 mph	y		y	

7.	Fuel Tank: 50 Gallon Minimum	y	
8.	Engine Automatic Shutdown System	y	
	CHASSIS, WHEELS, TIRES, AND STEERING		
1.	GVWR: 36,000 lb minimum	y	
2.	Frame: Boxed, 120,000 psi	y	
3.	Suspension: Heavy Duty Springs with sway bar	y	
4.	Steering: Power	y	
5.	Tires: Rear: Eight (4) 11R x 22.5 All Position 14 Ply; Cut and Chip Resistant	y	
	Front: Two (2) 11R x 22.5 Highway Steering Tire		
6.	Tow Hooks: Frame Mounted, Front	y	
7.	Tilt and Telescoping Steering Wheel	y	
8.	Cab to Axle Length: 152 inches minimum with usable CA length of 145 inches minimum	y	
9.	Cab to End of Frame: 196 inches minimum preferred	y	
10.	Front Axle Weight Rating: 13,000 lb minimum	y	
11.	Rear Axle Weight Rating: 23,000 lb minimum	y	
	BRAKES		
1.	Air Brakes preferred	y	
	ELECTRICAL		
1.	Alternator: Heavy Duty Application	y	
2.	Battery: Group 31, 1000 CCA Minimum	y	
3.	Battery Box Located on Driver Side Under Cab	y	
	OTHER OPTIONS		
1.	5 Year/100,000 mile Extended Warranty on Engine, Transmission, and Exhaust After-Treatment; NO DEDUCTIBLE (List Items and Terms Separately)	y	
2.	Operator, Parts, and Service Manuals	y	

y	
y	
y	
y	
y	
y	
y	
y	
y	
y	
y	
y	
y	
y	
y	

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Ryan Kramer, Fleet Services Superintendent, Fleet Services, (325) 657-4329

Meeting Date: November 15, 2016

Item type: Consent Item

Caption:

Consider awarding FS-02-17 Infrared Asphalt Maintenance Equipment to KASI Infrared, in an amount of \$182,710, budgeted in FY17, for the purchase of two units, and authorizing the City Manager or designee to execute any related documents. (R.Kramer)

Summary/History:

Bids were requested for the purpose of purchasing asphalt maintenance equipment for use by the Street and Bridge Division in performing asphalt trench and pothole repair. This equipment allows for the City to repair entire areas of the pavement that are in poor condition or have been removed for infrastructure repair. The equipment is part of a comprehensive restructuring of the street repair process as a result of Council's street priority.

The requests for bid were sent to four vendors, three responses were received.

The purchase will be made from KASI Infrared (Newport, New Hampshire). Two units (one truck mounted unit and one trailer mounted unit) have been budgeted in FY17 through Water/Sewer Funding.

Financial Impact:

Staff recommends award of FS-02-17 Infrared Asphalt Maintenance Equipment to KASI Infrared, in an amount of \$182,710. This is a budgeted expenditure.

Other Information/Recommendation:

Staff recommends award of FS-02-17 Infrared Asphalt Maintenance Equipment to KASI Infrared.

Attachments:

- | | |
|----------------------------|-------------------------|
| 1. FS-02-17 Bid Tabulation | FS-02-17 Bid Tab v2.pdf |
|----------------------------|-------------------------|

Presentation:

Approvals/Reviews:

Ryan Kramer

Created/Initiated

Patrick Frerich	Approved
Shane Kelton	Approved
Theresa James	Approved
Anthony Wilson	Approved
Julia Antilley	Approved
Tina Dierschke	Approved
Theresa James	Approved
Becky Dunn	Approved
Bryan Kendrick	Final Approval



CITY OF SAN ANGELO

RFB Bid Tabulation * FS-02-17/ Infrared Asphalt Maintenance Equipment
11/03/2016 at 2:30 p.m.

2-ton Vehicle Body KM International				
Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New and Unused Infrared Body	\$	1	\$
2.	Make and Model Quoted:	NO BID		
3.	Delivery Lead Time			
4.	One Year Warranty	\$	1	\$
5.	Manuals	\$	1	\$
6.	2-day on-site training	\$	1	\$
7.	Mounted Water Tank	\$	1	\$
8.	Transport to Vendor	\$	1	\$
9.	Transport to City	\$	1	\$
Total Bid				

2-ton Vehicle Body Ray-tech Infrared Corp				
Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New and Unused Infrared Body	72815	1	72815
2.	Make and Model Quoted:	Ray-Tech Mini 2-ton total maintenance vehicle		
3.	Delivery Lead Time	5-7 weeks from order		
4.	One Year Warranty	inc	1	
5.	Manuals	inc	1	
6.	2-day on-site training	4200	1	4200
7.	Mounted Water Tank	735	1	735
8.	Transport to Vendor	3500	1	3500
9.	Transport to City	4750	1	4750
Total Bid				\$ 86,000.00

2-ton Vehicle Body KASI Infrared				
Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New and Unused Infrared Body		1	\$
2.	Make and Model Quoted:	NO BID		
3.	Delivery Lead Time			
4.	One Year Warranty	\$	1	\$
5.	Manuals	\$	1	\$
6.	2-day on-site training	\$	1	\$
7.	Mounted Water Tank	\$	1	\$
8.	Transport to Vendor	\$	1	\$
9.	Transport to City	\$	1	\$
Total Bid				

6-ton Vehicle Body KM International				
Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New and Unused Infrared Body	\$	1	\$
2.	Make and Model Quoted:	NO BID		
3.	Delivery Lead Time			
4.	One Year Warranty	\$	1	\$
5.	Manuals	\$	1	\$
6.	2-day on-site training	\$	1	\$
7.	Mounted Water Tank	\$	1	\$
8.	Transport to Vendor	\$	1	\$
9.	Transport to City	\$	1	\$
Total Bid				

6-ton Vehicle Body Ray-tech Infrared Corp				
Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New and Unused Infrared Body	95315	1	95315
2.	Make and Model Quoted:	Ray-Tech 6-ton total maintenance vehicle		
3.	Delivery Lead Time	5-7 weeks from order		
4.	One Year Warranty	inc	1	
5.	Manuals	inc	1	
6.	2-day on-site training	4200	1	4200
7.	Mounted Water Tank	735	1	735
8.	Transport to Vendor	5000	1	5000
9.	Transport to City	4750	1	4750
Total Bid				\$ 110,000.00

6-ton Vehicle Body KASI Infrared				
Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New and Unused Infrared Body	94335	1	94335
2.	Make and Model Quoted:	KASI 6-ton Patriot		
3.	Delivery Lead Time	10 weeks		
4.	One Year Warranty	0	1	0
5.	Manuals	0	1	0
6.	2-day on-site training	2300	1	2300
7.	Mounted Water Tank	695	1	695
8.	Transport to Vendor	4500	1	4500
9.	Transport to City	4500	1	4500
Total Bid				\$ 106,330.00

2-ton Trailer KM International				
Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New and Unused Asphalt Maintenance Trailer	\$	1	\$
2.	Make and Model Quoted:	NO BID		
3.	Delivery Lead Time			
4.	One Year Warranty	\$	1	\$
5.	Manuals	\$	1	\$
6.	2-day on-site training	\$	1	\$
7.	Mounted Water Tank	\$	1	\$
8.	Transport to City	\$	1	\$
Total Bid				

2-ton Trailer Ray-tech Infrared Corp				
Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New and Unused Asphalt Maintenance Trailer	68315	1	68315
2.	Make and Model Quoted:	Ray-tech mini combo		
3.	Delivery Lead Time	5-7 weeks from order		
4.	One Year Warranty	inc	1	
5.	Manuals	inc	1	
6.	2-day on-site training	4200	1	4200
7.	Mounted Water Tank	735	1	735
8.	Transport to City	2750	1	2750
Total Bid				\$ 76,000.00

2-ton Trailer KASI Infrared				
Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New and Unused Asphalt Maintenance Trailer	70885	1	70885
2.	Make and Model Quoted:	KASI 2-ton Minuteman		
3.	Delivery Lead Time	6 weeks		
4.	One Year Warranty	0	1	0
5.	Manuals	0	1	0
6.	2-day on-site training	2300	1	2300
7.	Mounted Water Tank	695	1	695
8.	Transport to City	2500	1	2500
Total Bid				\$ 76,380.00

4-ton Trailer KM International				
Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New and Unused Asphalt Maintenance Trailer	41000	1	\$ 41,000.00
2.	Make and Model Quoted:	KM 8000 TEDD		
3.	Delivery Lead Time	3 weeks		
4.	One Year Warranty	0	1	\$ -
5.	Manuals	0	1	\$ -
6.	2-day on-site training	1500	1	\$ 1,500.00
7.	Mounted Water Tank	0	1	\$ -
8.	Transport to City	3350	1	\$ 3,350.00
Total Bid				\$ 45,850.00

4-ton Trailer Ray-tech Infrared Corp				
Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New and Unused Asphalt Maintenance Trailer	76315	1	76315
2.	Make and Model Quoted:	Ray-tech Combo		
3.	Delivery Lead Time	5-7 weeks from order		
4.	One Year Warranty	inc	1	
5.	Manuals	inc	1	
6.	2-day on-site training	4200	1	4200
7.	Mounted Water Tank	735	1	735
8.	Transport to City	2750	1	2750
Total Bid				\$ 84,000.00

4-ton Trailer KASI Infrared				
Item	Description	Unit Price	Estimated Quantity	Extended Price
1.	New and Unused Asphalt Maintenance Trailer	80885	1	80885
2.	Make and Model Quoted:	KASI 4-ton Minuteman		
3.	Delivery Lead Time	8 weeks		
4.	One Year Warranty	0	1	0
5.	Manuals	0	1	0
6.	2-day on-site training	2300	1	2300
7.	Mounted Water Tank	695	1	695
8.	Transport to City	2500	1	2500
Total Bid				\$ 86,380.00

Piggy Back	yes
Cooperative	no
P-Card	no
Payment Terms	net 30
Payment Discount	none

Piggy Back	yes
Cooperative	no
P-Card	no
Payment Terms	net 30
Payment Discount	none

Piggy Back	no
Cooperative	no
P-Card	no
Payment Terms	net 30
Payment Discount	no

Mailed to:

KASI Infrared Corp	Claremont	NH
Ray-Tech Infrared Corp	Charlestown	NH
Pavement Technologies Internation Corp	Albany	NY
KM International	North Branch	MI

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Bryan Kendrick, City Clerk, Finance,

Meeting Date: November 15, 2016

Item type: Consent Item

Caption:

Consider a resolution allowing the City Manager or his designee to negotiate and execute a contract with the Chamber of Commerce Convention & Visitors Bureau allocating Hotel Occupancy Tax fund (T.Dierschke)

Summary/History:

City staff is requesting the City Council consider a resolution allowing staff to negotiate terms of the Chamber of Commerce Convention and Visitors Bureau contract for use of Hotel Occupancy Tax (HOT) dollars.

The City of San Angelo levied the hotel occupancy tax for the operation of convention facilities, the promotion of tourism, and the improvement of the arts. Current contracts and ordinances allocation is as follows:

- 48% of tax receipts to City of San Angelo Civic Events;
- \$865,000 to the Convention & Visitors Bureau;
- 5% to the San Angelo Cultural Affairs Council;
- \$50,000 to City of San Angelo Fort Concho; and
- \$50,000 to City of San Angelo Texas Bank Sports Complex
- \$37,500 to Downtown San Angelo, Inc.

The current tax rate is 7% for the City of San Angelo. The state levies an additional 6%. No change is proposed to the tax levy.

Financial Impact:

The current budget and proposed contract would allocate \$865,000 to the Convention & Visitors Bureau for the 12 months October 1, 2016 to September 30, 2017.

Other Information/Recommendation:

Staff recommends approval.

Attachments:

- | | | |
|----|----------------|---|
| 1. | CVB Contract | FY 2017 CVB Contract.pdf |
| 2. | CVB Resolution | 17-010_FIN_FY 2017 CVB Resolution edited.docx |

Presentation:

Approvals/Reviews:

Bryan Kendrick
Tina Dierschke
Theresa James
Bryan Kendrick

Created/Initiated
Approved
Approved
Final Approval

CONVENTION AND VISITORS BUREAU CONTRACT

STATE OF TEXAS §
 §
COUNTY OF TOM GREEN §

This *Convention and Visitors Bureau Contract* (“Contract”) is between the City of San Angelo, Texas, a home rule municipal corporation (“City”) acting herein by and through its duly authorized City Manager, and the San Angelo Chamber of Commerce, Inc. a Texas non-profit corporation (“Chamber”) acting herein by and through its duly authorized President, is effective as of October 1, 2016 (“the Effective Date”).

WHEREAS, City owns a coliseum, an auditorium, parks, sports facilities, and a convention center that are used to promote tourism, to host conventions, meetings, and sporting events, and to encourage and facilitate cultural events for the citizens of San Angelo;

WHEREAS, Chamber, through its staff and membership, promotes, organizes, sponsors, advertises, and supports tourism, conventions, athletic events, hunting and fishing, boat and water sports, bus tours, festivals, summits, workshops, reunions, competitions, symposia, clinics, conferences, and similar events, and also operates a visitor’s center within its offices;

WHEREAS, Chamber is therefore uniquely situated to promote tourism and the convention and hotel industry through its various activities and through its relationships with other persons and entities in San Angelo and the Concho Valley, including but not limited to the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants; advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the City of San Angelo and its vicinity; the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms; historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums in and about San Angelo, all of which are frequented by tourists and convention delegates; encourage sporting events in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity; the acquisition of signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality; and generally to enhance and promote tourism and the convention and hotel industry as permitted by Chapter 351 of the Texas Tax Code;

WHEREAS, City levies a tax upon hotel and motel occupancy within the City of San Angelo as authorized by law for the promotion, solicitation, encouragement, and development of tourism and conventions for City (“the Occupancy Tax”); and,

WHEREAS, the parties executed a Convention and Visitors Bureau Contract, effective October 1, 2015, through September 30, 2016, providing that Chamber supervise those programs

which promote tourism and the convention industry and which are funded by said hotel and motel occupancy tax by operating a Convention and Visitors Bureau ("Bureau"), and the parties desire to continue such funding and programs:

NOW, THEREFORE, in consideration of the premises and covenants herein contained, City and Chamber agree as follows:

1. Formation. City does hereby engage and hire Chamber to continue to manage and operate a Bureau and to render the services herein contained, and Chamber does hereby agree to accept such hiring and engagement and to discharge such duties in accordance with the terms and conditions herein set forth.

2. Independent Contractor. In performing its duties and responsibilities hereunder, the parties acknowledge and agree that Chamber is and shall be an independent contractor and not an officer, agent, or employee of City. This Contract is not intended to create a joint enterprise. There is no direct pecuniary purpose or profit motive, but rather the purpose of this Contract is to further the public good. Additionally, Chamber has the sole right to continue and manage its operations.

3. Operation. Bureau shall encourage, promote, and solicit tourism and conventions for the City of San Angelo.

4. San Angelo Convention and Visitors Board. To assist in encouraging, promoting, and soliciting tourism and conventions for City, Chamber shall appoint annually a San Angelo Convention & Visitors Board whose members and composition shall be determined by Chamber. The Board shall perform, among others, the following functions:

4.1. Encourage and promote the development of tourism and conventions in the City of San Angelo.

4.2. Recommend to Chamber projects and programs to promote, encourage and solicit tourism and conventions for the City of San Angelo.

4.3. Advise and assist Chamber in the preparation of the annual budget of Bureau.

5. Budget and Funding. Attached hereto and incorporated herein as Exhibit "A" is a written operating budget for Bureau for the term of this Contract ("the Budget"). City agrees to pay Eight Hundred Sixty-Five Thousand and No/100 Dollars (\$865,000.00) ("the Contract Amount") to Chamber for the operation of Bureau and the uses listed on the Budget. The execution of this Contract shall constitute the written approval of the Budget by City as well as City's consent to the expenditure of the fund balances listed below. The Contract Amount shall be paid to Chamber in monthly installments without regard to the amount of Occupancy Tax revenue received over any period of time.

5.1. *Fund Balances:* The following fund balances are designated and approved for use by Bureau in addition to the Contract Amount:

Working Capital:.....\$263,878.82
Sports Promotion:\$40,000.00
CVB Bid Incentive Project:\$40,000.00

6. Use of Funds. It is expressly understood and agreed by City and Chamber that all funds received from the Occupancy Tax that are paid to Chamber shall be used solely for the purposes set forth above with the overall goal of promoting and soliciting conventions and tourism for the City of San Angelo. The approval of this Contract evidences the consent of City for the expenditures set forth on the attached Exhibit “A” and the above-referenced funds balances. The parties to this Contract further stipulate that the amounts set forth on the Budget designated for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs are to be incurred directly in the promotion of conventions and tourism for City. It is further agreed that contract amounts expended for travel shall be limited to events or activities the primary purpose of which is directly related to the promotion of tourism and the convention industry.

7. Benchmarks and Budget Conference. The parties expressly agree that no less than quarterly a representative of Bureau shall meet with the Mayor, the City Manager, and an additional member of the City Council of the City of San Angelo, or a person designated by such City officials, with a view toward establishing objective goals and standards by which the expectations and performance of both parties to this Contract shall be evaluated and by which the goals and objectives of this Contract shall be measured (such criteria referred to herein as “Benchmarks”). The meetings to set and evaluate these Benchmarks shall be scheduled at least one month prior to the quarterly reports referenced in Paragraphs 8 and 10 below.

7.1. *Budget Conference:* No later than July 15th of each year or the first day in July after such date that is not a Saturday, Sunday, or legal holiday, one or more representatives of Bureau will meet and confer with one or more representatives of City to discuss and prepare a budget for the next calendar year.

8. Financial Records. Chamber shall maintain complete and accurate financial records of all expenditures of the Contract Amount by Chamber and shall make periodic reports to the City Council no less than quarterly listing all expenditures and evaluating the progress of the parties toward the fulfillment of the Benchmarks. In addition, the Contract Amount shall be segregated in one or more separate accounts and shall not be commingled with any other funds. The City Council may, upon reasonable notice, audit all books and records of Chamber and Bureau. All expenditures shall be made in accordance with the Budget or as authorized in a fund balance. Additionally, Chamber shall comply with Texas Tax Code, Section 351.108 as applicable.

9. Group Insurance Program Participation. Employees of Bureau may participate in City group health, dental, and life insurance programs at the premium costs in effect for City employees, so long as such participation is legally permissible.

10. Reporting. Chamber shall report quarterly to the City Council on the Bureau’s progress and plans regarding advertising, promotions, travel shows, and the general progress of Bureau in promoting tourism, conventions, and cultural events for the City of San Angelo.

11. Unspent Funds Returned. Unless waived by City, upon termination of this Contract, Bureau shall deliver to City all unspent funds from the Contract Amount and all removable personal property purchased with the Contract Amount during the term of the Contract.

12. Term. This Contract shall be for a three (3) year term, beginning from its Effective Date on October 1, 2016, and ending September 30, 2019, unless sooner terminated. On the first and second anniversary of thy Effective Date, the City and the Bureau will approve a new Budget for the second and third years of the Contract; provided, however, if the parties are unable to agree to a new Budget for the second year of this Contract, this Contract shall terminate unless otherwise agreed by the parties.

13. Termination. This Contract may be terminated for cause if after 30 days' notice of any default of deficiency by City, Chamber fails or is unable to cure any specified default or deficiency.

14. Assignment. This Contract may not be assigned by either party without the prior written consent of the other party. Additionally, no sub-grants shall be allowed without prior written consent of City.

15. Hold Harmless. To the extent permitted by law, each party agrees to indemnify, save harmless, and defend the other from any and all claims, causes of action, and damages of every kind arising from the operations of the other, its officers, agents, and employees, carried out in furtherance of this Contract.

{signatures appear on next page}

EXECUTED in duplicate originals this ____ day of _____, 2016.

THE CITY OF SAN ANGELO, TEXAS

By: _____
Daniel Valenzuela, City Manager

ATTEST:

Bryan Kendrick, City Clerk

SAN ANGELO CHAMBER OF COMMERCE, INC.

By: _____
Dan Koenig, President

ATTEST:

_____, Secretary

APPROVED AS TO CONTENT:

Tina M. Dierschke, Director of Finance

APPROVED AS TO FORM:

Theresa James, City Attorney

**A RESOLUTION OF THE CITY OF SAN ANGELO, TEXAS,
AUTHORIZING THE CITY MANAGER TO EXECUTE A
CONTRACT WITH THE SAN ANGELO CHAMBER OF
COMMERCE, INC. ("CHAMBER") FOR A THREE YEAR TERM
TO MANAGE AND OPERATE THE SAN ANGELO CONVENTION
AND VISITORS BUREAU ("VISITORS BUREAU") AND PROVIDE
RELATED SERVICES TO ENCOURAGE, PROMOTE AND
SOLICIT TOURISM AND CONVENTIONS FOR THE CITY;
APPROVING AN OPERATING BUDGET FOR FY2017 FOR THE
VISITORS BUREAU; AND, ALLOCATING HOTEL OCCUPANCY
TAX FUNDS FOR SAID SERVICES.**

WHEREAS, City owns a coliseum, an auditorium, parks, sports facilities, and a convention center that are used to promote tourism, to host conventions, meetings, and sporting events, and to encourage and facilitate cultural events for the citizens of San Angelo; and,

WHEREAS, the Chamber, through its staff and membership, promotes, organizes, sponsors, advertises, and supports tourism, conventions, athletic events, hunting and fishing, boat and water sports, bus tours, festivals, summits, workshops, reunions, competitions, symposia, clinics, conferences, and similar events, and also operates a visitor's center within its offices; and,

WHEREAS, the Chamber in the past has provided services for management and operation of the Visitors Bureau and related services to encourage, promote and solicit tourism and conventions for the City; and,

WHEREAS, the Chamber is therefore uniquely situated to promote tourism and the convention and hotel industry through its various activities and through its relationships with other persons and entities in San Angelo and the Concho Valley; and

WHEREAS, the Council has reviewed and approved the FY 2017 operating budget of Eight Hundred Sixty-Five Thousand and No/100 Dollars (\$865,000.00) presented by the Chamber to provide management of the Visitors Bureau and related services for promotion and solicitation of tourism and conventions for the City;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN ANGELO, TEXAS THAT:

The City Manager is hereby authorized and directed to execute a Convention and Visitors Bureau Contract with the San Angelo Chamber of Commerce, Inc. for a three year term for operation and management of the San Angelo Convention and Visitors Bureau and to provide related services to encourage, promote and solicit tourism and conventions for the City, in substantially the attached form, including that Eight Hundred Sixty-Five Thousand and No/100 Dollars (\$865,000.00) of the City's Hotel Occupancy Tax funds for fiscal year 2017 be allocated to fund the Chamber budget for the services to be rendered under the contract with the provision that any unutilized funds from the City for fiscal year 2017 be reimbursed to the City.

PASSED and APPROVED THIS _____ DAY OF _____, 2016.

CITY OF SAN ANGELO, TEXAS

ATTEST:

Dwain Morrison, Mayor

Bryan Kendrick, City Clerk

APPROVED AS TO CONTENT

APPROVED AS TO FORM

Tina Dierschke, Director of Finance

Theresa James, City Attorney

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Allison Strube, Water Utilities Assistant Director, Water Utilities, 325-657-4209

Meeting Date: November 15, 2016

Item type: Consent Item

Caption:

Consider approving purchases with Xylem/Flygt related to new and existing water and wastewater pumps for captive replacement parts, repairs, rebuilds, and replacements budgeted in FY17, FY18, and FY19 in the amount of \$200,000 annually. (A. Strube)

Summary/History:

This is an annual expenditure necessary to repair and/or replace water and wastewater pumps throughout the utility's system. These pumps range in size and location (lift stations, water reclamation facility, elevated/ground water storage facilities to the water treatment facility). There are 100+ of Xylem/Flygt pumps in the City's system.

This is a sole-source purchase due to these parts and pumps being the only ones that interface with the existing 100+ pumps, lift station, and wet-well configurations. Xylem/Flygt does not have a distributor for these Original Equipment Manufacturer (OEM) parts in North Texas so we are purchasing directly from the company.

Financial Impact:

\$200,000 budgeted within Water Distribution, Wastewater Collection, Water Treatment, and Wastewater Treatment Operating Budgets

Other Information/Recommendation:

Staff recommends approval of annual expenditure with Xylem/Flygt.

Attachments:

Presentation:

Approvals/Reviews:

Allison Strube	Created/Initiated
Bill Riley	Approved
Theresa James	Approved
Anthony Wilson	Approved
Julia Antilley	Approved
Tina Dierschke	Approved
Theresa James	Approved
Becky Dunn	Approved
Bryan Kendrick	Final Approval

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Bryan Kendrick, City Clerk, Legal,

Meeting Date: November 15, 2016

Item type: Regular Item

Caption:

Second reading and consider adopting an ordinance amending Chapter 5 "Business and Commerce" of the Code of Ordinances by adding Article 5.11 "Credit Access Businesses" (T. James)

Summary/History:

On September 6, 2016 a presentation was made to City Council upon the request of Councilman Bill Richardson regarding the regulation of Payday Loans, otherwise known as Credit Access Businesses. Staff was directed to bring back and ordinance for consideration.

This Credit Access Business Ordinance is the model ordinance provided by the Texas Municipal League (TML) to Cities who are interested in regulating this industry. At least 38 Texas Cities have adopted the model ordinance. This ordinance does the following:

1. Requires registration of all Credit Access Businesses within the City limits.
2. Requires the businesses maintain complete records of all loans for three years and to make the records available to the City upon request.
3. Limits the loan to no more than 20% of a consumer's gross monthly income and title loans on vehicles to no more than 3% of the consumers gross annual income or 70% of the retail value of the vehicle.
4. provides that repayment in installments may not be in more than 4 installments.
5. prevents renewals or refinancing of installment-payment loans.
6. Requires that any agreement be written in all languages that we require for local election ballots.
7. Referral to credit counseling is required.
8. State mandated quarterly reports and any other requested information must be submitted to the Director of Finance.

Financial Impact:

N/A

Other Information/Recommendation:

Attachments:

- | | | |
|----|-----------------------|--|
| 1. | Industry information | industry information.pdf |
| 2. | Proponent Information | Proponent information.pdf |
| 3. | Ordinance | 16-630 Ord payday loans first reading final.docx |

Presentation:

Theresa James, City Attorney

Approvals/Reviews:

Bryan Kendrick

Theresa James

Becky Dunn

Bryan Kendrick

Created/Initiated

Approved

Approved

Final Approval



Date: September 22, 2016

To: The Honorable Dwain Morrison, Mayor
The Honorable Bill Richardson
The Honorable Marty Self
The Honorable Harry Thomas
The Honorable Lucy Gonzales
The Honorable Lane Carter
The Honorable Charlotte Farmer
Daniel Valenzuela, City Manager
Theresa James, City Attorney

From: Consumer Service Alliance of Texas

Re: Texas House of Representatives Investments and Financial Services Interim Study Charge and Hearing on Payday and Auto Title Loans; Research on the Impact of the Proposed Federal Rules and the Texas Municipal League Model Payday loan Ordinance

Last week (September 14, 2016), The Texas House of Representatives Investments and Financial Services Committee held a public hearing to hear testimony on their consumer credit interim charge¹. The charge is:

Examine the short-term lending industry in Texas. Study the adequacy of consumer access to credit and the effectiveness of consumer protections, specifically reviewing the consistency and coordination of state law with federal law and local ordinances. Review data-reporting requirements for credit-access businesses and make appropriate recommendations.

The Committee received some startling and sobering news from Richard Hackett, the former research director for the federal Consumer Financial Protection Bureau (CFPB). The CFPB has published proposed rules for

¹ The Texas Legislature convenes in regular session every two years. The period of time between the end of one legislative session and the beginning of the next is referred to as the "interim". During every interim, legislative committees are assigned interim charges. Legislators and committee staff conduct research and gather information from experts and state agencies. Hearings are held to hear testimony from invited experts and the public. A written report, including recommendations for legislation, is prepared and shared with all legislators.

payday loans that will apply nationwide.² The proposal is 1,341 pages long, very complex and very detailed about how small, short-term loans will be structured in the future.

Hackett and his research team, including PhD students at the University of Texas, analyzed data drawn from a data set of one hundred million (100,000,000) actual payday loans and actual financial information from four million (4,000,000) borrowers. Hackett's testimony --- three pages long --- and his corresponding report are attached.³

Relevant excerpts from Hackett's testimony include:

"The report shows that the effect of the CFPB's rules will be to shrink traditional, single-payment payday credit now available by 82 to 91 percent."

"Why is this happening? Simply put, CFPB wants small dollar loans to be spread out over a long enough period of time to make them affordable as part of consumer household budgets."

"My point is simply two things: CFPB rules mean traditional, single-payment payday is going away, to be replaced by installment lending. And that installment lending must be for more than four pay periods, or most borrowers will be denied credit under CFPB rules."

The Committee will prepare a report making policy recommendations, including suggested legislation, relating to their analysis of the interim charge. The report should be completed by mid-November and will be shared with all of the other state legislators and the public.

Texas Municipal League Model Payday Loan Ordinance is Inconsistent with the Proposed CFPB Rules

The federal rules are designed to make payments smaller and loans longer. The city ordinances are designed to make loans smaller and shorter. The approaches are inconsistent. Coordination is virtually impossible because: (1) the cities are not effectively enforcing their ordinances; and (2) neither federal, nor state, examiners enforce city ordinances.

As Hackett has demonstrated with actual consumer financial and loan data, while you could theoretically combine the two layers of regulation, the combination restricts access to credit more than the federal rules alone.

The local ordinances make the proposed federal rules worse, and vice versa.

TML Model Ordinance Increases the Cost of Credit

The ordinance restricts business operations and access to credit by consumers by arbitrarily making loans smaller and shorter. But, the cities that have enacted ordinances have done nothing to try to decrease the demand for emergency credit. Consumers continue to have financial emergencies. Consumers still need credit. If a consumer needs a new tire to get to work, it is impossible to buy two-thirds of a tire because a city ordinance arbitrarily limits the size of your loan.

As a result, consumers go to the internet for loans --- where the prices are higher. Or, they buy a tank of gas and drive to the next city, paying a "gas tax" on top of the cost of a loan. Or, they get two loans at the same

² http://files.consumerfinance.gov/f/documents/Rulemaking_Payday_Vehicle_Title_Certain_High-Cost_Installment_Loans.pdf

³ Document containing Hackett's testimony and report is entitled, "Testimony Rick Hackett FINAL September 14 2016".

time at two different stores. Worse still, some approach illegal loan sharks whose collection methods may be questionable at best.

All of these alternatives forced on consumers by the ordinance are more expensive --- hurting the very people the ordinance was designed to “protect”.

In the year after the City of Austin enacted the TML Model payday loan ordinance, the number of consumers obtaining loans from storefronts in the city decreased by twenty-five percent (25%). The number of Austin consumers applying for an on-line payday loan rose 85%. The City of Dallas experienced consistent results with a decrease in storefront loans of thirty percent (30%) and an increase in on-line loans of thirty-one percent (31%).⁴

Store Closings and Job Losses

The city ordinances have disrupted the lives of hard working Texans and the financial marketplace in Texas. CABs have closed stores and laid off employees --- most with full time jobs and benefits --- as a result.

- In December of 2013, there were 3,502 credit access businesses licensed in the state of Texas. Today there are 2,232. The overwhelming majority of the closures are related to the city ordinances. The Consumer Credit Commissioner has predicted significant further reductions in CAB stores.⁵
- Over 3,200 Texas employees have lost jobs. Over \$90 million dollars a year in lost salaries and benefits have been drained from the Texas economy.

Cities Do Not Have the Resources or Expertise to Enforce the TML Model Ordinance

Perhaps most alarming is none of the cities in Texas who passed the ordinance under are enforcing it. In response to a challenge from the lending industry, Texas courts have ruled the validity of the ordinance cannot be litigated until a business is fined for violating it. A letter from counsel in the ACE Cash vs. City of Denton litigation, Clayton Bailey, is attached.⁶ No city, to date, has been willing to incur the significant cost of the lawsuit.

CSAT member companies operate approximately seventy percent (70%) of the storefronts across the state. The first city ordinance was enacted in June of 2011.

To date, not one CSAT member company store has been fined for violating a city ordinance

--- despite several companies specifically violating the ordinance in an attempt to establish a “test case”. Cities actually refused to accept \$500 checks for admitted violations of the ordinance to avoid litigation about its validity and/or constitutionality.

Cities do not have the resources, or the expertise, to enforce the ordinance. The state spends months training bank examiners to be able to go to stores and inspect loan files and evaluate compliance procedures. Newly trained examiners are required to spend years working on teams with experienced examiners. The state and the federal financial agencies consistently struggle to fill examiner vacancies.

⁴ “Payday Loan Ordinances-Limiting Supply Doesn’t Decrease the Demand” report by nonprime 101 attached. Document containing the report is entitled, “Demand for Credit and Ordinances Austin Dallas analysis”.

⁵ See www.occc.texas.gov

⁶ Document containing Bailey’s letter is entitled, “2016.09.09 Letter to Rep. Tan Parker re Hearing on Interim Charge #2”.

Additionally, with cities refusing to enforce their payday loan ordinances, publicly traded companies and large multi-state companies are forced to comply with the ordinances because of SEC regulations, the scrutiny of stockholders and bondholders, and the oversight of industry analysts. Smaller companies are free to ignore the ordinances because of a lack of oversight, resulting in further disruptions in the marketplace.

Finally, if an ordinance was ever enforced, the process would be inefficient and expensive. A violation of the model ordinance results in a fine of \$500. If a credit access business (CAB) contests a citation issued for violating an ordinance, its only recourse is to challenge the citation in court, likely in front of a jury. There is no administrative process like there is with the Texas Office of the Consumer Credit Commissioner (OCCC) --- no opportunity to resolve disputes efficiently and inexpensively for both the cities and the CAB.

Consumer Complaint Enforcement

Claims by some cities that have enacted the TML model ordinance that they are enforcing the ordinance “by consumer complaint” are misinformed, at best, and disingenuous, at worst. In Texas, there were over 5,355,000 payday and motor vehicle title loan transactions in 2015.⁷ Fewer than 200 complaints about payday loans were filed with the OCCC despite a requirement in the Texas Finance Code that the OCCC complaint telephone number, address and web site be posted prominently in every store and be written in conspicuous type in every loan document. Less than 190 complaints were received about motor vehicle title loans.

Borrowers file one (1) complaint about a payday or motor vehicle title loan per every thirteen thousand, four hundred (13,400) loan transactions.

Anecdotal evidence suggests that most of the complaints received by the cities enacting payday ordinances are complaints about stores actually enforcing the ordinance --- primarily, they were not able to get the type of loan (amount, length of term, etc.) they needed because of the ordinance. Ironically, cities receive few, if any, complaints about stores not enforcing the ordinance and internet lenders.

The Texas Finance Commission

The Texas Finance Code defines the Finance Commission as the policy-making body for the Office of the Consumer Credit Commissioner. The Commission has a statutory responsibility to “serve as the primary point of accountability for ensuring that ... lending institutions function as a system, considering the broad scope of the financial services industry”; and to “carry out its functions in a manner that protects consumer interests ... and increases the economic prosperity of the state”.⁸

Included in the Finance Commission’s statutory responsibility are requirements to study issues related to the availability, quality and prices of financial services offered in this state to individual consumers.⁹

Public comments to the proposed CFPB short-term lending rule are due October 7th. An implementation period of twelve to fifteen months is anticipated to provide for training, reprogramming IT systems and creating new mandated consumer disclosures.

The CFPB’s proposed rule is anticipated to take affect after the agency responds to all comments, and after the implementation period. The proposed rule will likely take effect late-summer 2018.

⁷ See www.occc.texas.us

⁸ Texas Finance Code, Section 11.002(a)

⁹ Texas Finance Code, Section 11.3055(a)

The Texas Finance Commission has a responsibility to ensure credit is available to every Texan, regardless of geography, race, gender or financial status.

To prevent a crisis in the availability of credit for Texas consumers, particularly many of the state's most financially vulnerable, between late-summer 2018 and September 1, 2019, public policy changes must be considered by the Finance Commission for state legislation during the 2017 Texas legislative session.

Summary

- Texas is facing a looming credit crisis --- one that is likely to reach critical status in 2018, before the 2019 legislative session --- caused by the combination of proposed federal rules and the TML model payday ordinance.
- The proposed federal rules and the city ordinances are inconsistent. Both cannot be employed at the same time. The federal rules are designed to make payments smaller and loans longer. The city ordinances are designed to make loans smaller and shorter.
- The Texas Finance Commission will employ its expertise to explore the issues and preliminary conclusions developed by the Texas House Investments and Financial Services Committee to formulate public policy recommendations about how to address the looming credit crisis caused by the combination of proposed federal rules and city ordinances.
- There is compelling evidence that the city ordinances actually increase the cost of credit for many borrowers --- ironically hurting the ones city councils are trying to help.
- Cities have neither the resources, nor the expertise, to effectively enforce the TML model payday ordinance. The failure to effectively enforce the ordinance leads to further disruptions in the marketplace and increased confusion for consumers.

Information about CSAT

CSAT is a non-profit trade association that advocates for the protection of financial choice based on informed decision-making and personal responsibility for Texas consumers. CSAT represents the interests of consumers and credit access businesses ("CABs") in Texas. Our member companies operate approximately seventy (70%) of the storefronts across Texas.

CABs provide retail financial products and services to Texas consumers. From stores in neighborhoods across the state, hardworking Texans have access to small, short-term loans; auto-title loans; money orders; pre-paid telephone and debit cards; and other services to help them manage their finances.

One of the services CABs provide is securing an independent third-party lender for customers who need access to credit to meet their immediate financial needs. CABs do not directly provide loans to consumers.

CSAT's mission is to work cooperatively with industry, consumers, and government officials to help ensure Texans have access to short-term loans and other financial service products in compliance with the law.

For more information about these comments by CSAT, please contact the following: Rob Norcross, Vianovo, LP, 302 Bowie St., Roanoke, Texas 76262, telephone 817-491-7110, fax 817-719-9200, email rnorcross@vianovo.com.

Payday Loan Ordinances-Limiting Supply Doesn't Decrease the Demand

On January 17, 1920, the 18th amendment of the United States Constitution took effect prohibiting the production, transport, and sale of alcohol. It was an amendment that was thought to be a common sense law to protect the people, but as in common economics, suppressing the supply doesn't necessarily decrease the demand and the 18th amendment was repealed on December 5, 1933. I bring this up because the payday loan industry is currently facing a similar situation.

In the past few years, city ordinances that regulate or limit payday loans have been increasing in popularity. These ordinances typically restrict access to storefront payday loan products.

Some publications indicate that the number of consumers seeking payday loans has decreased in the areas ordinances are present. An October 2nd report by Pew Research reported that payday lending regulation does not lead to increased online borrowing.

I don't think this is the case. Just because supply has been squeezed, the demand is supposed to stop? I believe that the borrowers whose needs exceed the limits of the ordinance may go to lenders in unregulated areas, get a loan online, or even take out several small loans to add up to the amount they need.

Just to see for ourselves, we looked into the Clarity database to see if these ordinances really do stop consumers from getting payday loans or if they indeed drive consumers away from storefronts and online for loans.

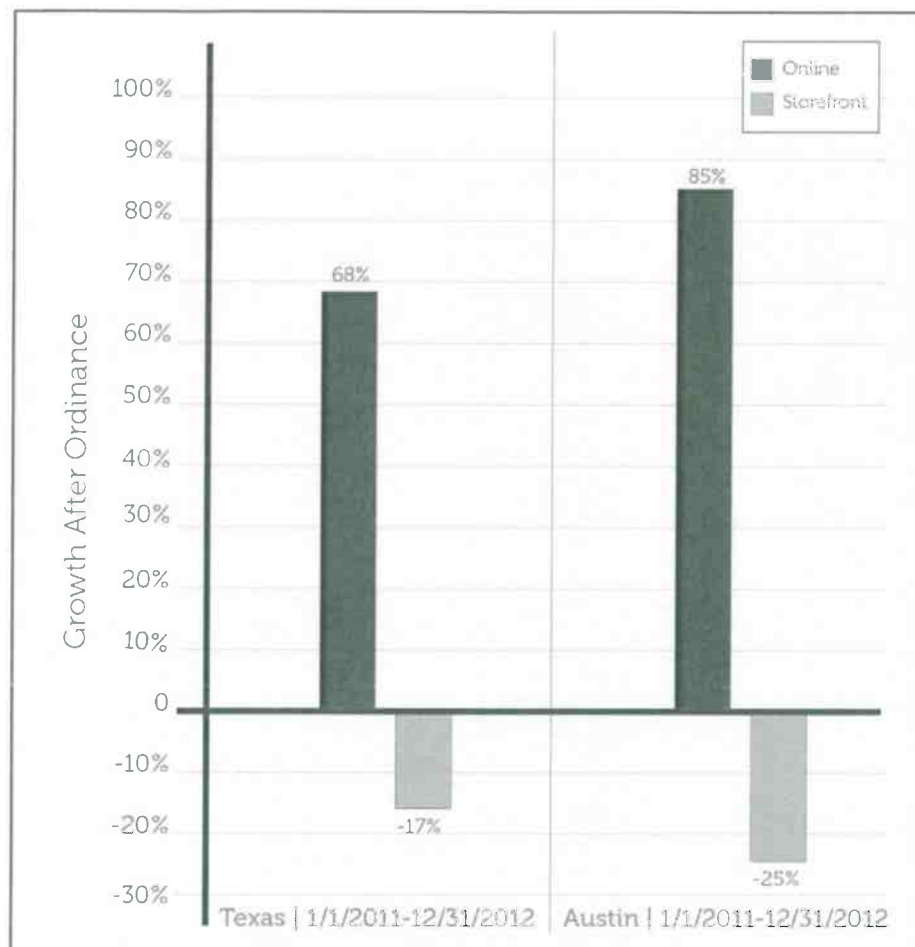
First we looked at Austin, TX. Their payday loan ordinance, known as Credit Access Business Ordinance, began on January 1, 2012.

For the year the ordinance was enacted, the number of unique consumers using storefront payday loans decreased by 17% in Texas statewide, while in Austin it decreased by 25%. While it would appear that the ordinance is doing its job, the number of unique consumers using online payday loans tells a different story.

Blog Post Archive

[› March 2015](#)[› February 2015](#)[› January 2015](#)[› October 2014](#)[› August 2014](#)[› July 2014](#)[› June 2014](#)[› March 2014](#)[› February 2014](#)[› January 2014](#)[› December 2013](#)[› November 2013](#)[› October 2013](#)[› September 2013](#)[› August 2013](#)

In Texas statewide, the number of consumers applying for an online payday loan rose 68% and in Austin, it rose 85%.



Subscribe Now for Automatic Updates & Research Reports

By subscribing, you agree to our Terms and Conditions.

Newest Blog Posts

Wednesday, March 18, 2015

Annual CFSA Conference

By: Tim Ranney Earlier this month (March 2015), I delivered a presentation at the annual CFSA conference and it focused [...]

[Read More...](#)

Wednesday, March 11, 2015

Effects of "Operation Choke Point" on Internet Loan Volume

By: Rick Hackett¹ As discussed in previous

The rate of decline in usage of storefront loans in Austin was steeper than the decline was statewide, meaning the use of storefront payday loans dropped faster in Austin than in the rest of the state. However, the rate at which consumers got online payday loans rose in Austin quicker than it did statewide. From this, we can argue that the only thing the ordinance did was drive people out of the stores and online to get a loan.

This isn't an isolated occurrence either. We ran the same analysis for Dallas whose ordinance, known as Dallas Ordinance No. 28287, went into effect on June 17, 2012.

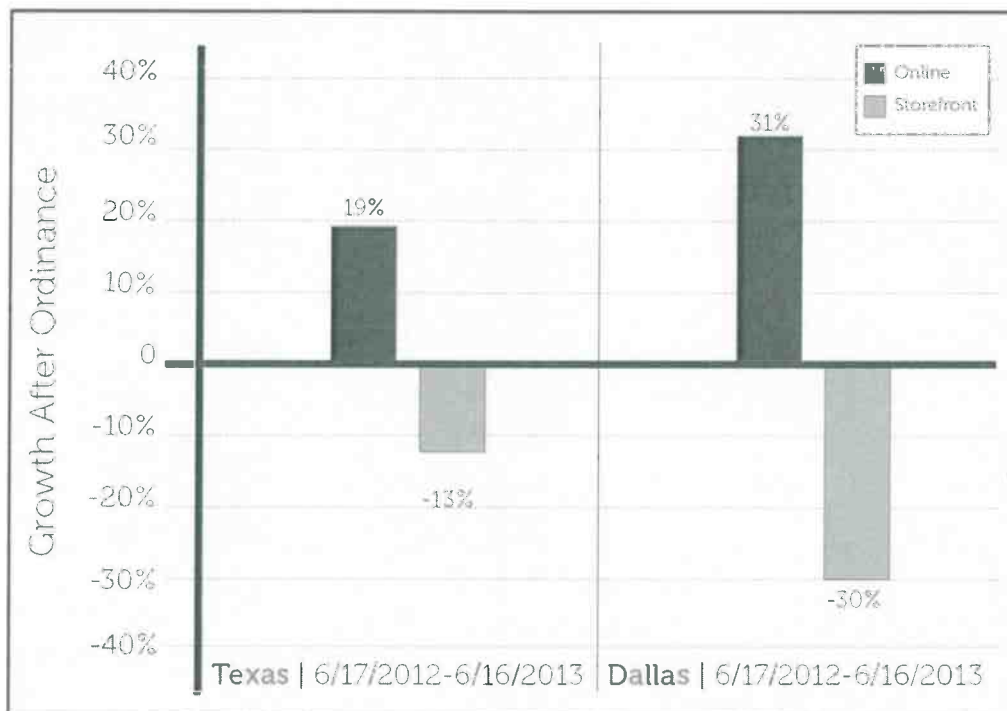
In storefronts, for the year before and after the ordinance in Dallas was enacted, the number of consumers applying for storefront loans decreased 13% in Texas statewide, and decreased 30% in Dallas.

In Texas statewide, the number of consumers applying for online payday loans rose 19% and in Dallas, it rose 31%.

reports, the Clarity Services data set gives us tradeline-level reporting for a significant [...]

[Read More...](#)

[View All Blog Entries >>](#)



So again, what the data tells you is that the ordinance didn't reduce the number of people getting payday loans, *it merely made it more difficult to get a loan in a storefront location and drove the consumers online.*

Advocates may think they are protecting consumers but the fact is they aren't being protected. The consumers were simply driven out of stores to get a loan somewhere else. Limiting the supply doesn't change the demand and in some cases it can increase the demand.

For more information about nonprime101.com, email info@nonprime101.com or call 727-489-7266.

[Download Blog Post](#)

By Tim Ranney | October 10, 2014 | [Blog](#) | [0 Comments](#)

Share This Story, Choose Your Platform!

Leave A Comment

Name (required)

Email (required)

Website

Comment...

POST COMMENT

☐ Notify me of new posts by email.

© 2014 NonPrime101. All Rights Reserved.

[Privacy Policy](#) | [Terms and Conditions](#)

PREPARED TESTIMONY OF RICHARD P. HACKETT

CLARITY SERVICES, INC.

COMMITTEE ON INVESTMENTS AND FINANCIAL SERVICES

HEARING ON INTERIM CHARGE #2

September 14, 2016

Chairman Parker, members of the Committee, thank you for the opportunity to provide testimony relating to interim charge #2 today.

My name is Rick Hackett. I am a lawyer from a Yankee state far from here, but I testify today in a different capacity. As a former executive of the federal Consumer Financial Protection Bureau, I would like to share my insight about the interaction of the CFPB's proposed rules on small dollar lending with certain requirements of current Texas state or local law. I also want to share new, detailed studies of the financial condition of payday loan borrowers that shed light on the effect of CFPB rules and Texas law on the supply of small dollar credit in Texas.

When I was at CFPB, one of my jobs was to lead the team of markets experts responsible for studying and designing an intervention in the small dollar loan market. That team ultimately produced proposed rules on June 2 of this year. After leaving the CFPB, I have spent most of my time leading a small dollar markets study team at the largest specialty credit bureau in the US, Clarity Services. My team, including PhD students at the University of Texas, analyzes very large datasets drawn from all segments of payday and installment lending. The resulting reports are published at www.nonprime101.com.

I have provided with this testimony a pre-publication copy of our newest report in Appendix D. It analyzes data drawn from a national data set of one hundred million payday loans and four million borrowers, over four hundred thousand (10%) of whom are from Texas. The report shows that the effect of the CFPB's rules will be to shrink traditional, single-payment payday credit now available by 82 to 91 percent. These results are consistent with CFPB's own estimates of the effect of their proposal.

Why is this happening? Simply put, CFPB wants small dollar loan payments to be spread out over a long enough period of time to make them affordable as part of consumer household budgets . Under the rules, a payment is "affordable" only if a borrower can pay existing debts, other legal obligations (such as other loan and credit obligations), and the new loan payment, all the while having

enough left over to meet basic living expenses. Under CFPB rules, that calculus applies for every pay period while a loan is outstanding, and, for balloon loans, including single-payment payday, for 30 days after the last payment.

In the report we have provided, we randomly selected a statistically valid sample of over 90,000 payday loans made in 2013, with the corresponding de-identified borrowers. Only one quarter to one third of those borrowers can meet the new CFPB standard for “ability to pay” for a \$350 single-payment loan (the national median). The lump sum due at the next payday is too big a shock. To pass the CFPB test for affordability, industry must extend loan durations and provide lower payments. For those single-payment loans and borrowers who “pass” the ATR test, seventy percent of their “passing” loans are banned by CFPB’s additional requirement of a 30-day cooling off period between loans, leaving less than 10% of existing credit available after the CFPB rule takes effect. A level-pay installment loan is not subject to the 30-day cooling off period.

Because payday loan amounts in Texas are closer to \$500, we also modelled a \$500 single-payment loan under the CFPB test, using both the national sample and a subsample limited to borrowers living in Texas (about 9000 borrowers). The results are in Appendix A. At the national level, at most 25.4% of borrowers/ loans pass the CFPB ATR test. In Texas, 23.4% of borrowers/loans pass the CFPB ATR test. After we add the 30-day cooling off period, only 8.0% of \$500 payday loans made today in Texas will survive the CFPB rule.

What does this mean for Texas? If 80-90% of single-payment credit is cut off by federal law, lenders must use longer term loans to replace it. How long should that term be? We were asked by a trade association for Texas lenders to model the effect of a state or local rule that requires small dollar loans to be limited to *no more than four payments*, each of which retires 25% of principal. We assumed a \$500 loan and a fee rate of \$22 per \$100 per pay period, which is average as reported by the Texas OCC. We modelled this by applying CFPB ATR rules to existing payday borrowers. We used the same statistically valid sample described above.

The results are shown in appendix B to my testimony. Intuitively, more people can afford to pay off a \$500 loan in four payments than can do so in a single payment. But a majority of borrowers are still shut out of the market. A four-payment rule plus the CFPB rule together cut off credit to 55% to 60% of borrowers. That’s better than 80% shut out, but it’s still not good.

Note also that it may be impossible to make such a four-payment loan under CFPB rules, at least not as a series of four payday loans, because CFPB rules also say that even a borrower who passes the ability-to-repay test cannot have a second payday loan for 30 days after the first one is paid off. Thus, if Texas law limits consumers to 4 payday loans in a row, then federal law limits consumers to one. If Texas law limits small installment loans to 4 payments, then federal law says only 40% of consumers can have access to credit.

So, what would work under federal law for the majority of Texas consumers who are pushed out of payday credit? We were asked to model a \$500 loan at 400% APR over 26 weeks. We modelled the loan with a payment due every payday, tailoring the loan to the pay periods of the sample borrowers. The results are in Appendix C to my testimony. We find that two thirds of bi-weekly payroll borrowers (the most common pay period) could pass the CFPB test under such a model.

This should all be fairly intuitive. Other variables being equal --- loan amount, interest rate, borrower income --- loan payments are more affordable if they are spread out over longer periods of time. I'm not here to advocate for any particular maximum loan period or interest rate. There is a good argument that the market sets rates better than any legislature or regulator. But that's up to you. My point is simply two things: CFPB rules mean traditional, single-payment payday is going away, to be replaced by installment lending. And that installment lending must be for more than 4 pay periods, or most borrowers will be denied credit under CFPB rules.

I would welcome your questions.

APPENDIX A TO TESTIMONY OF RICHARD P. HACKETT

A-1 \$500 Loan; \$575 Single Payment; National Sample

Analysis based on two income data sources: Clarity Services inquiry data and storefront payday records.
Annual median value and value at time of application ("last seen") both analyzed.

National Sample: CFPB Residual Income "ATR" Analysis- Single Payment Loan - Clarity Income Values \$500 Loan (\$575 Payment)								
	Clarity Median Income Measure 1 Year				Clarity Last Seen Income Measure			
	TOTAL*	MONTHLY	BI-WEEKLY	WEEKLY	TOTAL**	MONTHLY	BI-WEEKLY	WEEKLY
Total Count	84,668	25,321	45,647	10,166	84,771	25,338	45,711	10,185
Count of Borrowers with Negative Residual Income- Before Loan Payment	26,635	11,727	11,770	1,986	33,030	15,739	13,792	2,384
Count of Borrowers with Positive Residual Income- Before Loan Payment	58,033	13,593	33,877	8,180	51,741	9,625	32,007	7,810
Count of Borrowers with Negative Residual Income- After Loan Payment	59,624	17,735	32,694	9,195	62,170	20,491	32,710	8,969
Count of Borrowers with Positive Residual Income- After Loan Payment	21,480	7,539	12,948	993	19,033	4,797	12,998	1,238
Percentage of Borrowers with Positive Residual Income- After Loan	25.4%	29.8%	28.4%	9.8%	22.5%	18.9%	28.4%	12.2%

*81,104 **81,203

APPENDIX A TO TESTIMONY OF RICHARD P. HACKETT

A-2 \$500 Loan; \$575 Single Payment; Texas Sample

Analysis based on two income data sources: Clarity Services inquiry data and storefront payday records.
Annual median value and value at time of application ("last seen") both analyzed.

CFPB Residual Income "ATR" Analysis - Clarity Income Values \$575 Texas Sample								
	Clarity Median Income Measure 1 Year				Clarity Last Seen Income Measure			
	TOTAL *	MONTHLY	BI-WEEKLY	WEEKLY	TOTAL **	MONTHLY	BI-WEEKLY	WEEKLY
Total Count	9,092	2,979	4,847	964	9,111	2,984	4,857	967
Count of Borrowers with Negative Residual Income- Before Loan Payment	3,401	1,477	1,403	220	4,335	1,894	1,821	318
Count of Borrowers with Positive Residual Income- Before Loan Payment	5,691	1,502	3,444	744	4,776	1,090	3,036	649
Count of Borrowers with Negative Residual Income- After Loan Payment	6,960	2,196	3,579	883	7,371	2,437	3,740	892
Count of Borrowers with Positive Residual Income- After Loan Payment	2,132	783	1,268	81	1,740	547	1,117	75
Percentage of Borrowers with Positive Residual Income- After Loan Payment	23.4%	26.3%	26.2%	8.4%	19.1%	18.3%	23.0%	7.8%

*8,790 **8,808

APPENDIX B TO TESTIMONY OF RICHARD P HACKETT

B-1 National Sample: \$500 loan; 4 Payments of \$235

Analysis based on two income data sources: Clarity Services inquiry data and storefront payday records.

Annual median value and value at time of application ("last seen") both analyzed.

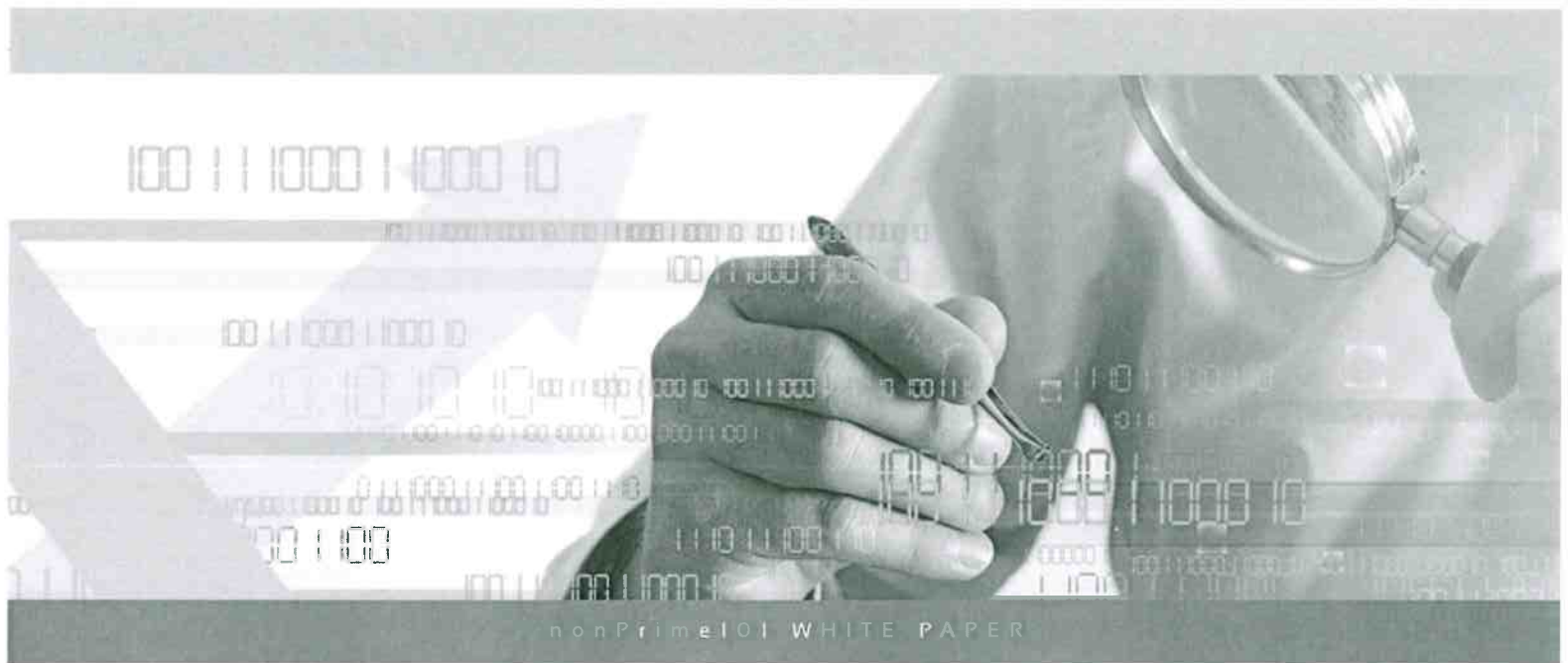
	#1 Median Income Clarity Measure 1 Year	#2 Median Income Storefront Measure 1 Year	#3 Last Seen Income Clarity Measure	#4 Last Seen Income Storefront Measure
Total Count	84,668	76,861	84,771	79,192
Count of Borrowers with Negative Residual Income- Before Loan Payment	26,635	28,351	33,030	31,498
Count of Borrowers with Positive Residual Income- Before Loan Payment	58,033	46,020	51,741	47,692
Count of Borrowers with Negative Residual Income- After Loan Payment of \$235	45,362	44,639	50,415	47,092
Count of Borrowers with Positive Residual Income- After Loan Payment of \$235	39,306	32,222	34,356	32,100
Percentage of Borrowers with Positive Residual Income- After Loan Payment of \$235	46.40%	41.90%	40.50%	40.50%

APPENDIX C TO TESTIMONY OF RICHARD P. HACKETT

C-1 Can Storefront Payday Borrowers Qualify for a \$500 Installment Loan under CFPB Rules?

Based on Residual Income Computation using BLS Proxies (Using Median Income over 1 Year Measure)				
		Monthly Payment Count	Bi-Weekly Payment Count	Weekly Payment Count
	Total Sample*	#1	#2	#3
Total Count	84,668	25,274	45,642	10,188
Count of Borrowers with Negative Residual Income- Before Loan Payment	25,554	11,722	11,845	1,987
Count of Borrowers with Positive Residual Income- Before Loan Payment	55,549	13,551	33,797	8,201
Count of Borrowers with Negative Residual Income- After Loan Payment	32,287	14,131	15,428	2,728
Count of Borrowers with Positive Residual Income- After Loan Payment	48,817	11,143	30,214	7,460
Percentage of Loans Permitted after ATP Analysis is Complete (all payroll periods)	60.20%	44.09%	66.20%	73.22%
Loan Parameters		#1	#3	#4
Loan Amount		\$500	\$500	\$500
APR		400%	400%	400%
Payments		6	13	26
Payment Amount		\$202.75	\$91.10	\$45.02

* May not add to total sample as some "pay frequency" variables may be missing.(Total=81,104)



Evaluating CFPB Simulations of the Impact of Proposed Rules on Storefront Payday Lending

BY RICK HACKETT

nonPRIME101.com



EVALUATING CFPB SIMULATIONS OF THE IMPACT OF PROPOSED RULES ON STOREFRONT PAYDAY LENDING



Introduction

On June 2, 2016, CFPB proposed rules for payday, auto title and other similar loans that would change the underwriting process for many types of small-dollar loans made to non-prime borrowers. On the same day, CFPB issued a six-part report of “Supplemental Findings” prepared by its Office of Research, in support of the rulemaking proposal. Part Six of the Supplemental Findings contains a simulation of the effect of two alternative approaches to underwriting for single-payment loans, one of which lenders must use under the proposed rulemaking. This paper evaluates the CFPB’s simulation findings, using a different, larger dataset than that chosen by the CFPB, a dataset that also includes debt service and living expense obligations for storefront payday borrowers. This latter information allows us to provide a more complete simulation of the effect of the CFPB’s proposal – a simulation of the “ability-to-repay” (ATR) requirement that was not included in CFPB’s Supplemental Findings.

THIS PAPER EVALUATES THE CFPB’S SIMULATION FINDINGS, USING A DIFFERENT, LARGER DATASET THAN THAT CHOSEN BY THE CFPB.



Summary Conclusions

CFPB's estimate of the impact on loan volume and revenues of their "alternative-to-ATR" underwriting requirements was significantly lower than what we found in our sample. CFPB found a 71%-76% reduction in dollar volume and revenue and a 55%-62% reduction in loan count under this scenario. We find that 67.3% of loans would be banned entirely (reduction in count) and roughly a third of the surviving loans would exceed the \$500 proposed maximum loan amount, producing a further 5.2% reduction in loan principal amount, assuming the existing loans over \$500 are reduced to \$500. This cumulative 72.5% reduction in original loan principal would correspond with a 72.5% reduction in revenues. Loan volume and associated revenues would be further reduced by one third as a result of the CFPB's proposed principal reduction requirement. As a result of that requirement, the actual credit and revenues permitted would equal 18.33% of historical volume. Our estimate differs from CFPB's simulation, even compared to the lower bound of their estimated surviving loan volume (24%).

CFPB's simulation of the effect of ATR requirements significantly understates the effect of that rule. CFPB estimated a 60%-82% reduction in loan volume. We find a 90.5% - 92.7% reduction in volume, using the same "optimistic" assumptions that underlie CFPB's 60% reduction (i.e. that borrowers blocked from some current loans under the rule will return to take out all loans that might be permitted). The difference in results reflects CFPB's lack of data to perform ATR cash flow analysis. Instead, CFPB only modelled the effect of the 30-day cooling-off period that comes with the ATR test. Our results show the effect of combining ATR cash flow analysis and the cooling-off period requirement.

72.5

THE CUMULATIVE 72.5% REDUCTION
IN ORIGINAL LOAN PRINCIPAL
WOULD CORRESPOND WITH A 72.5%
REDUCTION IN REVENUES.



Data Sources and Methodology

Alternative-to-ATR Underwriting Method

CFPB first outlined its multiple approaches to short-term lending in March of 2015, when it published a summary of the proposal in conjunction with the small business review panel process required under federal law. The summary explained both a residual cash-flow based ATR underwriting system and an alternative approach. The alternative approach basically allows loans to be made without underwriting for ATR, so long as a lender follows a set of screening rules. Those rules apply industry-wide caps on the number of loans taken out in a row, the dollar amount of those loans, and a rolling 12-month limit on total period of indebtedness and loan count. Based on that proposal, Clarity created a “usage restriction” screening tool that allowed us to quickly compute the effect of screening rules on a sample of over 12 million loans made in 2013 and 2014. The scenario screener and the effects of the March 2015 proposal are described at <https://www.nonprime101.com/safe-harbor-effects/>

The June 2, 2016 proposal changed only one parameter of the March 2015 “alternative” proposal, namely reducing the initial 60-day cooling-off period between three-loan sequences to a 30-day period. The scenario screener allowed us to implement and evaluate that change’s effects in a few minutes. The result is reported below.

“Ability-to-Repay” Method

Our source for storefront payday loans and borrowers is described fully in nonPrime101 Report #7-B. For this study, we randomly selected 90,000 loans and borrowers from approximately 15.6 million storefront payday loans made in 2013. We appended to those records the debt service obligations of the borrowers at the relevant times, as reported in both a nationally recognized credit bureau and in Clarity records.

We had two sources of income information for this computation, each with alternative values for income. The master storefront loan dataset had income values at the time of application for the loan we tested and, in most cases, income values from other applications seen in 2013. Similarly, Clarity production data showed income values from other credit applications, both at the time of the loan being tested and at other times in 2013.

CLARITY CREATED A “USAGE RESTRICTION” SCREENING TOOL THAT ALLOWED US TO QUICKLY COMPUTE THE EFFECT OF SCREENING RULES ON A SAMPLE OF OVER 12 MILLION LOANS MADE IN 2013 AND 2014.

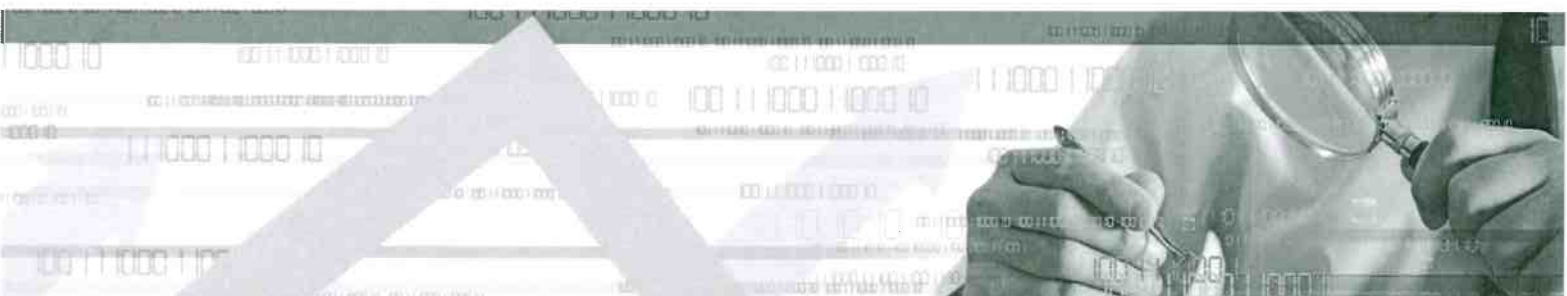
Of the original set of borrowers, Clarity production data contained income information from 2013 loan inquiries (often multiple inquiries) for nearly 85,000 borrowers. Because we had multiple income values for many consumers, we used both a median value for the year 2013 and a value that corresponded with time of the application for the loan being tested (called “last seen income” in our report). Similarly, the master storefront dataset provided a “last seen” income value for 79,000 loans and a median income value (based on multiple applications) for more than 76,000 borrowers. Results for all four income values are shown below in Tables 1-3.

We then applied the CFPB’s proposed methodology to compute residual income after payment of debt service obligations and used the income remaining to cover a new loan payment after paying basic living expenses (as defined by the CFPB proposal). CFPB defines basic living expenses as those necessary for the borrower’s health, welfare and ability to produce income, including health and welfare expenses of dependents. We translated this into expenses for shelter, food, transportation, communication, medical care and dependent child care. Where the consumer reports included debt payments for shelter (a mortgage payment) or an auto loan, we used those values. In all other cases, we proxied expenses based on data from the Bureau of Labor Statistics (BLS) and the U.S. Census Bureau, both sources endorsed in CFPB’s proposal. The BLS data is segmented based on income and age of the consumer, and we used those segmentations.

BLS data is also based on a “consumer unit” of multiple income earners in a household. Payday borrower income reported in the Clarity system and in the lender records we used is individual income data (usually based on a single, current paystub). Accordingly, expense data was pro-rated based on the number of income earners in a “consumer unit” in the relevant segment in the BLS data. Similarly, mortgage payment amounts reported to us by a national credit bureau were prorated based on the number of mortgage obligors, using the methodology provided by the reporting agency.

We first computed the count and percentage of borrowers who had negative residual income after paying pre-existing debts and basic living expenses. For those who had a positive residual income, we then computed the count and percentage whose residual income exceeded the required payment on the payday

CFPB DEFINES BASIC LIVING EXPENSES AS THOSE NECESSARY FOR THE BORROWER’S HEALTH, WELFARE AND ABILITY TO PRODUCE INCOME, INCLUDING HEALTH AND WELFARE EXPENSES OF DEPENDENTS.



EVALUATING CFPB SIMULATIONS OF THE IMPACT OF PROPOSED RULES ON STOREFRONT PAYDAY LENDING

loan in question. For monthly payroll consumers, we compared loan payment to monthly residual income. For semi-monthly, bi-weekly and weekly payroll borrowers (whose new loan payments are due at the end of a less-than-monthly payroll period), we used a corresponding percentage of residual income (e.g., a semi-monthly payroll borrower has half of their monthly residual income available to make a payday loan payment due at the end of the payroll cycle). This methodology does not take into account the “lumpiness” of some payments, such as rent, and therefore may overstate the number of consumers who can make a payday loan payment, meet their other expenses, and have money left over. Accordingly, we provided information on the mean and median cash available after making the payday loan payment.

Effect of 30-Day Cooling-off Period

After computing the count and percentage of consumers who could pay their pre-existing debts, pay basic living expenses, make their payday loan payment, and have at least \$.01 left over, we then computed the effect of the second limitation imposed by the CFPB’s ATR requirements, namely that there is a presumption of inability to repay a second loan taken out within 30 days after the first loan is paid off. This 30-day cooling-off period was treated by CFPB as effectively a ban on new loans within the 30-day period in their simulation, and we used the same assumption.

In order to compute the effect of the 30-day rule, we reviewed all 2013 storefront payday loans in our dataset taken out by sample borrowers whose loans passed the ATR test and excluded all loans that fell within 30 days of a prior loan payoff. We were able to cross-match loans from other lenders in our storefront dataset, but we did not attempt to cross-match with online loans in the Clarity dataset (which matching would be required under the CFPB rulemaking proposal).

THE 30-DAY COOLING-OFF PERIOD WAS TREATED BY CFPB AS EFFECTIVELY A BAN ON NEW LOANS WITHIN THE 30-DAY PERIOD IN THEIR SIMULATION

Results

"Alternative" to ATR

CFPB's estimate of the impact on loan volume and revenues of their "alternative-to-ATR" underwriting requirements was lower than what we found in our sample. CFPB found a 55%-62% reduction in loan count and a 71%-76% reduction in dollar volume (and revenue) under this scenario. We used the CFPB's "lower bound" assumption for loss of volume, namely that a consumer blocked from getting a loan at a particular point in his history would return later to take up any loan not blocked by the new rules. We find that 67.3% of loans would be banned entirely, reducing loan count and volume by that amount. In addition, roughly a third of the surviving loans would exceed the \$500 proposed maximum loan amount, producing a further 5.2 % reduction in loan volume (assuming the loans would be made, but capped at \$500). This 72.5% reduction in original loan principal would correspond with a 72.5% reduction in revenues. Loan volume and associated revenues would be further reduced by one third as a result of the CFPB's proposed principal reduction rule, namely that a second loan in a three-loan sequence could not exceed two thirds of the first loan amount and the third loan could not exceed one third of the first loan. As a result, the actual credit and revenues available would equal 18.33% of original credit and revenues available ($72.5\% \times 2/3$). Our final result, that loan volume and revenues would be reduced by 81.67% is significantly different from CFPB's estimate (using the same assumptions) of 71% volume reduction and lower than their "worst case" simulation of 76% volume reduction.

Ability to Repay

As noted above, we computed residual income using the CFPB ATR test for a number of income values for each consumer/loan pair, in order to test the effect of income volatility and income information quality on our outcomes. Table 1 compares annual median income observed with income at the time of the loan being tested, using income values from the Clarity production data.

67.3

CLARITY FOUND THAT 67.3% OF LOANS WOULD BE BANNED ENTIRELY, REDUCING LOAN COUNT AND VOLUME BY THAT AMOUNT.

EVALUATING CFPB SIMULATIONS OF THE IMPACT OF PROPOSED RULES ON STOREFRONT PAYDAY LENDING

Table 1 presents the results using Clarity production values for median and “last seen” income (i.e. income at time of loan application) for more than 84,000 borrowers. Median income values consistently are slightly higher than “last seen” income values for each borrower. Correspondingly, some 26,635 borrowers appear to be cash flow insolvent using median income, and 33,030 borrowers are in that condition based on “last seen” income. Out of the 84,000, only 28,038 (based on median income) and 24,165 (based on “last seen” income) have sufficient residual income to cover the loan payment on the loan being tested, corresponding to 33.1% and 28.5% respectively. Monthly payroll customers have a lower “passing” percentage than bi-weekly payroll customers, which reflects the lower total net income of monthly payroll customers (many of whom receive monthly government benefits).

28,038

OUT OF THE 84,000, ONLY 28,038 (BASED ON MEDIAN INCOME) AND 24,165 (BASED ON “LAST SEEN” INCOME) HAVE SUFFICIENT RESIDUAL INCOME TO COVER THE LOAN PAYMENT ON THE LOAN BEING TESTED.

Table 1

CFPB Residual Income “ATR” Analysis - Clarity Income Values									
		CLARITY MEDIAN INCOME MEASURE 1 YEAR				CLARITY LAST SEEN INCOME MEASURE			
	FUNCTION	TOTAL*	MONTHLY	BI-WEEKLY	WEEKLY	TOTAL*	MONTHLY	BI-WEEKLY	WEEKLY
TOTAL COUNT	A=B+C	84,668	25,321	45,647	10,166	84,771	25,338	45,711	10,165
Count of Borrowers with Negative Residual Income – Before Loan Payment	B*	26,635	11,727	11,770	1,986	33,030	15,739	13,792	2,384
Count of Borrowers with Positive Residual Income – Before Loan Payment	C*	58,033	13,593	33,877	8,180	51,741	9,625	32,007	7,810
Count of Borrowers with Negative Residual Income – After Loan Payment	B	56,629	16,675	28,609	7,812	60,606	19,818	29,423	7,828
Count of Borrowers with Positive Residual Income – After Loan Payment	C	28,038	8,646	17,038	2,354	24,165	5,520	16,288	2,357
Percentage of Borrowers with Positive Residual Income – After Loan Payment	D=C/A	33.1%	34.1%	37.3%	23.2%	28.5%	21.8%	35.6%	23.1%
Mean		\$605	\$945	\$488	\$206	\$630	\$972	\$567	\$263
Median		\$383	\$670	\$344	\$143	\$390	\$614	\$387	\$174

*All pay periods may not sum to total. Some missing pay frequency

Table 1 (Continued)

CFPB Residual Income "ATR" Analysis - Clarity Income Values									
		CLARITY MEDIAN INCOME MEASURE 1 YEAR				CLARITY LAST SEEN INCOME MEASURE			
	FUNCTION	TOTAL*	MONTHLY	BI-WEEKLY	WEEKLY	TOTAL*	MONTHLY	BI-WEEKLY	WEEKLY
Count All 2013 by Same (84,668) Borrowers (incl. above loan sample)	E	773,400	215,957	436,588	84,490	774,183	216,092	437,046	84,647
Per Borrower All Loans	F=E/A	9.1	8.5	9.6	8.3	9.1	8.5	9.6	8.3
All Loans to Borrowers Who Had Positive Residual Income	G	262,942	73,175	168,844	19,407	240,519	49,579	168,902	21,300
Per Borrower with Positive Residual Income Originally – All Loans	H=G/C	9.4	8.5	9.9	8.2	10.0	9.0	10.4	9.0
Percentage of All Loans in 2013 to Borrowers Who Had Positive Residual Income	I=G/E	34.0%	33.9%	38.7%	23.0%	31.1%	22.9%	38.6%	25.2%
Effect of 30-Day Cooling-off Period									
	FUNCTION	TOTAL*	MONTHLY	BI-WEEKLY	WEEKLY	TOTAL*	MONTHLY	BI-WEEKLY	WEEKLY
KEEP COUNT	C	28,038	8,646	17,038	2,354	24,166	6,520	16,288	2,357
All Loans to Borrowers Who Had Positive Residual Income in the 84,668/84,771 Sample	G	262,942	73,175	168,844	19,407	240,519	49,579	168,902	21,300
Count Lost to "Cooling-off" (Post-ATP)	K	72.2%	59.5%	77.3%	74.9%	73.7%	60.1%	77.4%	75.5%
Count of Loans Kept Post-ATP and Passing the Cooling-off Test	L=J-K	73,201	29,617	38,315	4,875	63,327	19,790	38,108	5,216
Percentage of All Loans in 2013 to Borrowers Lost to ATP and Cooling-off	M=[E-L]/L	90.5%	86.3%	91.2%	94.2%	91.8%	90.8%	91.3%	93.8%
Percentage of All Loans in 2013 to Borrowers Remaining After ATP and Cooling-off	N=L/E	9.5%	13.7%	8.8%	5.8%	8.2%	9.2%	8.7%	6.2%
Average Number Loans Remaining for Borrowers with Positive Residual Income After Accounting for Cooling-off Period	P=L/G	2.6	3.4	2.2	2.1	2.6	3.6	2.3	2.2

EVALUATING CFPB SIMULATIONS OF THE IMPACT OF PROPOSED RULES ON STOREFRONT PAYDAY LENDING

The consumers who pass the ATR screen have a mean remaining income (after paying the payday loan) of \$605 and median remaining income of \$383. These values are broken out in Table 1 based on payroll cycle. The values given are for a single payroll cycle.

The consumers who pass the ATR screen took out an average of 9.4 to 10 storefront payday loans in our dataset in 2013. Based on our findings in Report 7-A, that storefront payday customers are very likely to use a single lender for an extended period of time, we believe that this usage count is reflective of total storefront payday loan usage by these consumers in 2013.

We also looked at the impact of ATR on annual loan volume, assuming that borrowers with sufficient ATR for the tested loan would have a similar “pass” rate for other loans in 2013. On that assumption, lenders to these borrowers would retain 31.1% to 34.0% of their loan volume.

In Tables 2 and 3 we compare the results for Clarity production income values to the values found in the storefront lender dataset.

9.4

THE CONSUMERS WHO PASS THE ATR SCREEN TOOK OUT AN AVERAGE OF 9.4 TO 10 STOREFRONT PAYDAY LOANS IN OUR DATASET IN 2013

Table 2

CFPB Residual Income “ATR” Analysis - Median Income Clarity vs. Storefront Values									
		Median Income Clarity Measure 1 Year				Median Income Storefront Measure 1 Year			
	FUNCTION	TOTAL*	MONTHLY	BI-WEEKLY	WEEKLY	TOTAL*	MONTHLY	BI-WEEKLY	WEEKLY
TOTAL COUNT	A=B+C	84,668	25,321	45,647	10,166	76,861	22,917	41,797	9,658
Count of Borrowers with Negative Residual Income – Before Loan Payment	B'	26,635	11,727	11,770	1,986	28,351	14,147	12,013	2,191
Count of Borrowers with Positive Residual Income – Before Loan Payment	C'	58,033	13,593	33,877	8,180	46,020	8,604	29,783	7,499
Count of Borrowers with Negative Residual Income – After Loan Payment	B	56,629	16,675	28,609	7,812	53,910	18,316	27,817	7,777
Count of Borrowers with Positive Residual Income – After Loan Payment	C	28,038	8,646	17,038	2,354	20,462	4,601	13,980	1,881
Percentage of Borrowers with Positive Residual Income – After Loan Payment	D=C/A	33.1%	34.1%	37.3%	23.2%	26.6%	20.1%	33.4%	19.5%
Mean Positive Residual Income – After Loan Payment	Mean of D	\$605	\$945	\$488	\$206	\$602	\$913	\$547	\$253
Median Positive Residual Income – After Loan Payment	Median of D	\$383	\$670	\$344	\$143	\$377	\$576	\$375	\$171
Count All 2013 by Same Borrowers (incl. above loan sample)	E	773,400	215,957	436,588	84,490	685,587	187,662	390,886	79,351
Per Borrower All Loans	F=E/A	9.1	8.5	9.6	8.3	8.9	8.2	9.4	8.2

Table 2 (Continued)

CFPB Residual Income "ATR" Analysis - Median Income Clarity vs. Storefront Values									
		Median Income Clarity Measure 1 Year				Median Income Storefront Measure 1 Year			
	FUNCTION	TOTAL *	MONTHLY	BI-WEEKLY	WEEKLY	TOTAL *	MONTHLY	BI-WEEKLY	WEEKLY
All Loans to Borrowers Who Had Positive Residual Income	G	262,942	73,175	168,844	19,407	195,429	38,824	139,746	15,858
Per Borrower with Positive Residual Income Originally – All Loans	H=G/C	9.4	8.5	9.9	8.2	9.6	8.4	10.0	8.4
Percentage of All Loans in 2013 to Borrowers Who Had Positive Residual Income	I=G/E	34.0%	33.9%	38.7%	23.0%	28.5%	20.7%	35.8%	20.0%
Effect of 30-Day Cooling-off Period									
EFFECT OF 30-DAY COOLING-OFF PERIOD									
KEEP COUNT	C	28,038	8,646	17,038	2,354	20,462	4,601	13,980	1,881
All Loans to Borrowers Who Had Positive Residual Income in the Sample	G	262,942	73,175	168,844	19,407	195,429	38,824	139,746	15,858
Percentage Lost to "Cooling-off" (Post-ATP)	K	72.2%	59.5%	77.3%	74.9%	70.4%	54.0%	74.6%	73.2%
Count of Loans Kept Post-ATP and Passing the Cooling-off Test	L=J-K	73,201	29,617	38,315	4,875	57,762	17,860	35,467	4,251
Percentage of All Loans in 2013 to Borrowers Lost to ATP and Cooling-off	M=[E-L]/L	90.5%	86.3%	91.2%	94.2%	91.6%	90.5%	90.9%	94.6%
Percentage of All Loans in 2013 to Borrowers Remaining After ATP and Cooling-off	N=L/E	9.5%	13.7%	8.8%	5.8%	8.4%	9.5%	9.1%	5.4%
Average Number Loans Remaining for Borrowers with Positive Residual Income After Accounting for Cooling-off Period	P=L/G	2.6	3.4	2.2	2.1	2.8	3.9	2.5	2.3

*All pay periods may not sum to total. Some missing pay frequency.



EVALUATING CFPB SIMULATIONS OF THE IMPACT OF PROPOSED RULES ON STOREFRONT PAYDAY LENDING

Table 2 compares results using median income values seen for individuals. Notably, a lower percentage of consumers pass the ATR screen using payday storefront median income values (26.6 %) than using Clarity production values (33.1%). Given the frequency of applications in the storefront dataset, we believe that the storefront income value may be a better approximation of the effect of the CFPB ATR screen on individual “pass” rates. Notably, however, the particular individuals who passed the CFPB ATR screen using their median income values derived from storefront data were less frequent users of the product than the individuals who passed the screen using Clarity income values, which is reflected in the smaller surviving loan volume associated with storefront income values (26.0%) as compared to Clarity production income values (34.0%). This view is supported by the comparative values for average loan count per year for “passing” consumers under the storefront data (6.3 loans), as compared to average count under the Clarity production data (9.4).

We also offer the observation that the significant difference in outcomes between median income “pass” rates and “last seen” income “pass” rates in the storefront data (a difference we do not see in production data) may reflect a difference in the process used in different origination channels. Clarity production data from 2013 is almost exclusively drawn from online originations. In the online environment, lenders ask for consumer-stated income and validate it using electronic methods or proxies, not copies of paystubs. In the storefront, income values are drawn from a pay stub. The latter values may vary extremely from application to application, based on changes in the current employment of the consumer, the number of hours available in the last pay period with the same employer, and (in many cases) which of multiple employers’ paystubs the consumer chooses to present. Storefronts will generally lend up to 50% of the paystub amount up to \$500, so the consumer may have little incentive to present the best case for aggregate or average income when applying for a particular loan. A better picture of income is likely to come from multiple storefront applications used in computing the median income value.

26.6

A LOWER PERCENTAGE OF CONSUMERS PASS THE ATR SCREEN USING PAYDAY STOREFRONT MEDIAN INCOME VALUES (26.6 %) THAN USING CLARITY PRODUCTION VALUES (33.1%)

Table 3 compares results using “last seen” income values from Clarity production and storefront data (i.e., the income value most closely associated in time with the loan being tested). The results are very close in absolute value, and we do not observe a significant difference in percentage of consumers who pass the test versus percentage of loans that pass the test.

WE DO NOT OBSERVE A SIGNIFICANT DIFFERENCE IN PERCENTAGE OF CONSUMERS WHO PASS THE TEST VERSUS PERCENTAGE OF LOANS THAT PASS THE TEST.

Table 3

CFPB Residual Income “ATR” Analysis - “Last Seen” Income Clarity vs. Storefront Values									
		Last Seen Income Clarity Measure				Median Income Storefront Measure 1 Year			
	FUNCTION	TOTAL*	MONTHLY	BI-WEEKLY	WEEKLY	TOTAL*	MONTHLY	BI-WEEKLY	WEEKLY
TOTAL COUNT	A=B+C	84,771	25,338	45,711	10,185	79,192	23,820	42,971	9,871
Count of Borrowers with Negative Residual Income – Before Loan Payment	B'	33,030	15,739	13,792	2,384	31,498	15,143	13,142	2,389
Count of Borrowers with Positive Residual Income – Before Loan Payment	C'	51,741	9,625	32,007	7,810	47,692	8,676	29,828	7,482
Count of Borrowers with Negative Residual Income – After Loan Payment	B	60,606	19,818	29,423	7,828	58,875	19,465	29,124	7,756
Count of Borrowers with Positive Residual Income – After Loan Payment	C	24,165	5,520	16,288	2,357	20,317	4,355	13,847	2,115
Percentage of Borrowers with Positive Residual Income – After Loan Payment	D=C/A	28.5%	21.8%	35.6%	23.1%	25.7%	18.3%	32.2%	21.4%
Mean Positive Residual Income – After Loan Payment	Mean of D	\$630	\$972	\$567	\$263	\$601	\$929	\$551	\$257
Median Positive Residual Income – After Loan Payment	Median of D	\$390	\$614	\$387	\$174	\$369	\$563	\$374	\$171
Count All 2013 by Same (84,668) Borrowers (incl. above loan sample)	E	774,183	216,092	437,046	84,647	726,193	201,995	413,185	82,577
Per Borrower All Loans	F=E/A	9.1	8.5	9.6	8.3	9.2	8.5	9.6	8.4
All Loans to Borrowers Who Had Positive Residual Income	G	240,519	49,579	168,902	21,300	201,106	38,700	143,003	18,914
Per Borrower with Positive Residual Income Originally – All Loans	H=G/C	10.0	9.0	10.4	9.0	9.9	8.9	10.3	8.9
Percentage of All Loans in 2013 to Borrowers Who Had Positive Residual Income	I=G/E	31.1%	22.9%	38.6%	25.2%	27.7%	19.2%	34.6%	22.9%

EVALUATING CFPB SIMULATIONS OF THE IMPACT OF PROPOSED RULES ON STOREFRONT PAYDAY LENDING

Table 3 (Continued)

CFPB Residual Income "ATR" Analysis - "Last Seen" Income Clarity vs. Storefront Values									
		Last Seen Income Clarity Measure				Median Income Storefront Measure 1 Year			
EFFECT OF 30-DAY COOLING-OFF PERIOD									
	FUNCTION	TOTAL *	MONTHLY	BI-WEEKLY	WEEKLY	TOTAL *	MONTHLY	BI-WEEKLY	WEEKLY
KEEP COUNT	C	24,165	5,520	16,288	2,357	20,317	4,355	13,847	2,115
All Loans to Borrowers Who Had Positive Residual Income in the Sample	G	240,519	49,579	168,902	21,300	201,106	38,700	143,003	18,914
Balance to Check for "Cooling-off" Rule	J=G-C	216,354	44,059	152,614	18,943	180,789	34,345	129,156	16,799
Percentage Lost to Cooling-off (Post-ATP)	K	73.7%	60.1%	77.4%	75.5%	73.5%	58.9%	77.2%	75.4%
Count of Loans Kept Post-ATP and Passing the Cooling-off Test	L=J-K	63,327	19,790	38,108	5,216	53,359	15,906	32,647	4,656
Percentage of All Loans in 2013 to Borrowers Lost to ATP and Cooling-off	M=[E-L]/L	91.8%	90.8%	91.3%	93.8%	92.7%	92.1%	92.1%	94.4%
Percentage of All Loans in 2013 to Borrowers Remaining After ATP and Cooling-off	N=L/E	8.2%	9.2%	8.7%	6.2%	7.3%	7.9%	7.9%	5.6%
Average Number Loans Remaining for Borrowers with Positive Residual Income After Accounting for Cooling-off Period	P=L/G	2.6	3.6	2.3	2.2	2.6	3.7	2.4	2.2

*All pay periods may not sum to total. Some missing pay frequency.

Effect of 30-Day Cooling-Off Period as Part of ATR Test

The CFPB proposal creates a further hurdle for short-term lenders, such as payday lenders, who elect to use the CFPB's ATR screen to make loans. If a consumer seeks a new short-term loan from any lender anywhere within 30 days after paying off a prior covered short-term loan, then there is a presumption that the new loan is not affordable. While there are exclusions for much smaller loans (as compared to the recently paid off loan), the most important effect of the presumption is that a second loan is banned unless the lender can find verified evidence of substantial improvement to the consumer's financial condition since the last loan was taken out, sufficient to show that while the last loan was unaffordable, the new loan will be affordable. As the CFPB conceded in their simulation of the effect of the ATR rule in their Supplemental Findings, it is very unlikely that applicants applying within the 30-day period will be able to meet this standard, given the short period of time between loans.

Accordingly, like the CFPB, we ran a simulation based on the assumption that any loan taken out within 30 days of the payoff of a prior loan would be blocked by the presumption. We applied the rule to those loans taken out by consumers who had already passed the ATR screen: consumers with sufficient income to pay all of their obligations, cover cost of living, cover their payday loan payment, and have cash left over.

The results for each income value are shown at the bottom half of Tables 1-3. The results are quite uniform. Between 72.2% and 73.7% of loans that were made in 2013 to consumers who pass the ATR screen would be blocked by the 30-day cooling-off period. Consumers who took out between 9.4 and 10 loans in 2013 would be cut down to 2.6 loans per year. Lenders who elected the ATR method of underwriting would see their 2013 loan volume reduced to between 7.3% and 9.5% of their existing loan volume. This 70% reduction in loan volume is consistent with CFPB's simulation of the effect of the 30-day cooling-off period on the portfolio they studied. The CFPB did not attempt to study the effect of the ATR test itself, however. Therefore, they could not report that the combined effect of the two requirements is to eliminate virtually all loan volume. One might question why consumers who can pay off their loan and meet all other obligations should be subjected to a cooling-off period when the effect is to deny access to credit they can afford to repay.

81.67

OUR FINAL RESULT - THAT LOAN VOLUME AND REVENUES WOULD BE REDUCED BY 81.67% - IS SIGNIFICANTLY DIFFERENT FROM CFPB'S ESTIMATE OF 71%.



EVALUATING CFPB SIMULATIONS OF THE IMPACT OF PROPOSED RULES ON STOREFRONT PAYDAY LENDING



Conclusion

Using the same assumptions and approaches, our dataset produces a simulated loan volume reduction produced by the “alternative-to-ATR” rules that is 5%-10% greater than CFPB’s dataset. That difference may not be material as a practical matter, as revenue reductions of 70% (CFPB) or 80% (our result) may be equally fatal for most businesses.

Our results for the impact of the ATR approach to single-pay loans provides data that is not available from the CFPB, as they did not attempt to apply their residual income ATR model to any consumers. We find that roughly two thirds to three quarters of consumers are blocked from borrowing by the rule, and the cumulative effect of adding the 30-day cooling-off period is to reduce credit availability by more than 90%.

CLARITY’S RESULTS FOR THE
IMPACT OF THE ATR APPROACH
TO SINGLE-PAY LOANS PROVIDES
DATA THAT IS NOT AVAILABLE
FROM THE CFPB.



BAILEY BRAUER PLLC

Campbell Centre I
8350 N. Central Expy, Suite 206
Dallas, Texas 75206
Tel: (214) 360-7433
Fax: (214) 360-7435

September 9, 2016

Clayton E. Bailey
cbailey@baileybrauer.com

The Honorable Tan Parker
Chairman
Texas House Investments & Financial Services Committee
Room E2.602
P.O. Box 2910
Austin, TX 78768-2910

Via electronic mail

Re: Hearing on Interim Charge # 2 – 1:00 p.m., Wednesday, September 14, 2016

Dear Chairman Parker and Members of the Committee,

My name is Clayton Bailey and I served as lead appellate counsel for ACE Cash Express, Inc. with respect to litigation arising from a penal ordinance adopted by the City of Denton regulating credit access businesses ("CABs"). I am submitting this letter as written testimony for Interim Charge # 2: Examine the short-term lending industry in Texas.

As you are aware, a number of Texas cities have passed criminal ordinances attempting to regulate CABs within the territorial reach of such municipalities. One such municipality is Denton. ACE sued Denton in a civil court after Denton failed to criminally prosecute ACE despite repeated written admissions by the company that it violated the ordinance. In its lawsuit, ACE requested a declaration that Denton's ordinance was unconstitutional.

Unfortunately, the merits of ACE's lawsuit were not decided. Instead, Denton avoided addressing ACE's constitutional attacks by raising a procedural argument that the civil trial court lacked jurisdiction to decide ACE's claims. Denton alleged that it must initiate a prosecution in a criminal court before ACE's constitutional challenges to the ordinance can be decided. The civil trial court agreed with Denton's procedural argument, as did the Fort Worth Court of Appeals. Earlier this year, the Texas Supreme Court decided not to accept ACE's petition requesting a review of the underlying decisions.

Proponents of municipal penal ordinances regulating CABs have made statements mischaracterizing the impact of the rulings in ACE's case against Denton. These proponents falsely assert that the courts' opinions upheld the Denton ordinance against ACE's constitutional challenges. These advocates also erroneously claim that similar penal ordinances regulating CABs will no longer be subject to

litigation. A recent example of statements by such advocates is John Moritz's article published on September 4, 2016, titled "State lawmakers ready for another run at payday lenders." In the article, the journalist refers to statements made by Ann Baddour, the director of the Fair Financial Services Project, asserting that the ACE litigation resulted in the Texas Supreme Court effectively upholding Denton's criminal ordinance. Ms. Baddour also claims that the Texas Supreme Court's "action means further challenges are unlikely."

For your convenience, a copy of the article is attached hereto.

At this point, no Texas court has issued a written opinion considering the merits of a constitutional attack on a Texas municipality's penal ordinance regulating CABs.

Interestingly, to date, Denton has failed to bring a criminal action against ACE even though ACE admitted to violating the ordinance. Indeed, ACE provided written confessions to Denton and repeatedly admitted violating the ordinance in pleadings and briefs filed in the trial and appellate courts. By failing to prosecute ACE, Denton has effectively insulated its ordinance from a constitutional attack while still forcing state-licensed CABs to comply with the ordinance by maintaining the penal law's *in terrorem* effect. In short, Denton is having its cake and eating it too.

Unfortunately, if other municipalities utilize Denton's strategy of refusing to prosecute confessed violators of such ordinances in order to insulate the ordinances from constitutional challenges, the CAB industry will be financially ravaged and the CABs' due process rights trampled.

If I can provide you with additional information, please allow me to do so.

Sincerely,



Clayton E. Bailey

Encl.

cc: The Honorable Oscar Longoria	<i>Via email:</i>
The Honorable Giovanni Capriglione	<i>Via email:</i>
The Honorable Dan Flynn	<i>Via email:</i>
The Honorable Brooks Landgraf	<i>Via email:</i>
The Honorable Joe C. Pickett	<i>Via email:</i>
The Honorable Phil Stephenson	<i>Via email:</i>

State lawmakers ready for another run at payday lenders

Posted: Sept. 04, 2016

0 Comments

SHARE

By John Moritz, USA Today Network Austin Bureau

AUSTIN — Attempts were made during the three most recent legislative sessions to put statewide restrictions on payday lenders that mirror many of the local ordinances that are on the books or being considered by several Texas municipalities.

The Austin faith-based nonprofit film company Deidox has produced a 30-minute video called "The Ordinance" about efforts to pass local restrictions on payday and auto title lending.

It features remarks from state Rep. Tom Craddick, a Midland Republican who has made three attempts to pass statewide payday lending legislation. Also appearing in the video is former state Sen. Wendy Davis, the 2014 Democratic nominee for governor, who was an ally of Craddick in the unsuccessful effort. Craddick said he intends to file similar legislation when lawmakers return to Austin in January.

"There continues to be overwhelming evidence that these payday loan businesses hurt Texas families' stability, drain charitable resources and have negative consequences on local economies," Craddick said. "Efforts to address payday loan issues must continue at the local, state and federal level."

Ann Baddour, with the Austin think tank Texas Appleseed, said that while efforts to pass statewide regulations have languished, several locally driven efforts have succeeded.

"We work to keep the products honest," Baddour, director of the Fair Financial Services Project, an organization that serves vulnerable Texans. She said she's worked with San Angelo faith-based groups and other organizations on an effort to push an ordinance to the City Council.

Baddour said her organization and others felt their efforts were validated early this year when the Texas Supreme Court effectively upheld a local ordinance in Denton to place restrictions on payday and auto title lenders.

The Denton measure was challenged in state district court by Ace Cash Express, which argued that the local ordinance violated the Texas Constitution. The trial court ruled in the city's favor, and that ruling was upheld by the Texas 2nd Court of Appeals last year.

In February, after reviewing briefs on the case, the Texas Supreme Court declined to hear Ace's appeal.

The 35 Texas cities that have imposed regulations on payday lending have used nearly identical language in their ordinances, and Baddour said the high court's action means further challenges are unlikely.

In June the U.S. Consumer Finance Protection Bureau unveiled rules aimed at making sure lenders don't issue loans they know borrowers are unable to repay.

"The proposed rule would also cut off repeated debit attempts that rack up fees," according to a statement by the agency. "These strong proposed protections would cover payday loans, auto title loans, deposit advance products, and certain high-cost installment and open-end loans."

The agency will accept public comment through Sept. 14 at [regulations.gov](https://www.regulations.gov).

Payday Lending Concerns and Solutions

Church Concerns:

- We are compelled to speak out on behalf of struggling families who have been caught in an endless cycle of debt by the practices of the payday loan and auto title loan industry.
- We do not seek to shut down this industry. We want a free market, but a fair market that is structured for success of both borrower and lender. We are working to reform the worst practices of these lenders.
- The cycle of debt created by these loans prevents the very self-sufficiency families seek.
- Payday lenders are not banks or credit unions, and are not regulated to nearly the same extent.

Impact on San Angelo Charities:

- Our charitable ministries have found that, when we provide our clients with cash assistance, it is often being used just to keep up with the interest and fees on these loans, without paying off the principal.

Impact on Regional Charities:

- Just in San Angelo and Odessa, poor families have paid over \$30 million in fees for these loans over the course of a year.

Impact on Statewide Charities:

- Statewide, we have found that nearly a third of those we served in financial assistance programs had used payday and auto title loans, and that almost half stated that the financial stress caused by these loans led to their seeking assistance from us.

Impact on San Angelo Economy:

- Storefronts in San Angelo more than tripled over the last decade from 4 in 2004 to 14 in 2015.
- 300% to 500% APR loans are a drain on financially vulnerable families and on the San Angelo economy.
- Charitable donations and tax payer money that is meant to bolster families instead goes to the pockets of payday and auto title loan businesses.

- Every dollar in fees paid to payday loan businesses leads to a 24% net economic drain – San Angelo saw a net economic drain of over \$3.8 million in the two-year period from 2014 to 2015.
- Statewide advocacy experience reveals that families who use payday and auto title loans are more likely to file for bankruptcy, experience eviction, and defer medical care because they are in debt to payday loans.

Access to Credit and Loan Risk:

- Payday lenders say that their loan clients are people without good credit, so they need to charge high rates to protect their risk. These lenders have a right to cover their risk, but the rates being charged go beyond that.
- Payday lenders say that their clients can't get loans anywhere else. We say that now is the time for our communities to try to provide better borrowing alternatives that are structured for their success, while still providing sufficient security for the lender.

Free Market vs. Exploitation:

- We support a free market, but we do not support business practices that lead to excessive profit by taking unfair advantage of those who are poor and desperate. Payday lenders capitalize on that desperation for excessive profit at the expense of poor families.
- One Texas-based payday lender was recently fined over \$14 million by the federal government because their employee-training manual taught employees how to prevent consumers from paying off the loan, to maximize lender profit. That's not free market – that's exploitation.
- We believe that Texas lending law should be consistent, and loans should be fairly structured for borrower and lender success. The lending playing field needs to be more level, to assure that the market operates fairly, with rules that apply across the board to all lenders.
- In recent years, the poor, including senior citizens, have increasingly turned to payday and auto title loans to meet basic or emergency needs, either because they lack family or community resources, or they succumb to the intense and deceptive marketing campaigns of these lenders. Minority women, who are often the single head of a household and struggle to make ends meet for their families are especially vulnerable. Predatory lenders are being misleading by claiming to be credit service organizations while they charge rates upwards of 500% APR.

Solutions:

- We believe that, ultimately, there are three elements of the solution:

- Consumer education: Find ways to teach basic principles of responsible personal money management through schools, churches, and families. Seek to instill the virtues of self-control, budget planning, saving, and simplicity of lifestyle.
- Alternative lending sources: working with credit unions and other interfaith partners to develop alternative lending programs with annual interest rates as low as five percent.
 - Working with a variety of lending options such as credit unions, savings and loans, mutual lending, emergency community assistance programs and other interfaith partners will provide accessible alternatives to payday or auto title loans. These organizations have developed alternative lending programs with annual interest rates as low as five percent.
- Laws that make the lending practices more fair:
 - Federal
 - Marketing to military personnel is against federal law.
 - State
 - Multiple, bipartisan attempts to regulate at the state level have been successfully repelled by the payday loan industry lobby.
 - City:
 - Many cities in Texas are stepping in and adopting ordinances to regulate payday and auto title loan companies. The model ordinance promulgated by the Texas Municipal League has been adopted largely intact by 35 Texas cities, including Dallas, Houston, San Antonio, El Paso, Temple, and Midland, and has withstood challenge in the Texas courts. We hope that the San Angelo City Council will also adopt this ordinance.
 - Ideally, this issue should be governed by state law for the sake of uniformity. One of the goals of supporting adoption of a city ordinance is to put pressure on the state legislature to act.
 - Key provisions of the TML model ordinance are:
 - Loan size is limited according to borrowers' ability to pay.
 - Payments are made more manageable, principal is gradually reduced, and the fees and interest are kept at a reasonable level.

- Payday loans are limited to 20% of the borrower's gross monthly income.
 - Auto title loans are limited to the lesser of 3% of the borrower's gross annual income or 70% of the vehicle value.
 - The number of installments is limited to 4 and rollovers or renewals to 3.
 - Proceeds from each installment or renewal are required to reduce the loan principal by 25%.
 - Rollover or renewal is defined as any extension of consumer credit made within 7 days of the previous extension of credit.
 - Storefronts are to register with the city for enforcement.
- Zoning/Land Use Ordinances
 - So far, 15 Texas cities have opted to enact zoning ordinances which limit the locations where payday lenders may operate. Zoning/land use ordinances do not regulate how the payday lenders operate.
 - We reiterate - we do not seek to shut down the payday loan industry. We want a free market, but a fair market that is structured for success of both borrower and lender. Therefore, we are advocating for the enactment of a regulatory ordinance, not a zoning/land use ordinance.

The State of Payday Lending & Auto Title Lending

San Angelo, TX

San Angelo saw a net economic drain of over \$3.8 million in 2014-2015.

Every dollar in fees paid to a payday loan business leads to a 24% net economic drain.



High fees hurt working families and seniors

In 2015, average charges ranged from 216% APR to 567% APR. The result is that a \$500 loan often costs borrowers \$1,100 or more to repay in just a few short months. Costs can reach over \$3,000 to repay \$500 with on-going refinances.

Payday lending increasing in San Angelo

Storefronts in San Angelo **more than tripled over the last decade** from 4 in 2004 to 14 in 2015.

2014-2015 Estimated Total New Loans: **\$16,541,464**

2014-2015 Estimated Fee Charges: **\$15,855,581**

2014-2015 Estimated Cars Repossessed by Auto Title Lenders: **396**

Negative impacts

- ✓ 300% to 500% APR loans are a drain on financially vulnerable families and on local economies.
- ✓ Losing a family car often means missing work and potentially losing a job.
- ✓ Charitable donations and tax payer money that is meant to bolster families instead goes to the pockets of payday and auto title loan businesses. Recent studies have found that 32% of Texas nonprofit clients asking for assistance were in trouble with a payday or auto title loan; and 76% of nonprofit clients who are in trouble with a payday or auto title loans receive some form of public benefit.
- ✓ Payday and auto title loan stores concentrate in low and moderate income neighborhoods and profit when borrowers fail—renewing the high-cost loans and never getting out of debt.

- ✓ Renewals and fees made up 71% of payday and auto title loan volume Texas in 2015 and three out of five loans are made to borrowers who pay more in fees than the original loan amount.



PayDay and Auto Title Stores

Red dots on the map represent payday and auto title store locations in the San Angelo area.

Faith Leaders
for
Fair Lending



TEXAS
CATHOLIC
CONFERENCE

Impact on
Financial
Industries



CLC

CHRISTIAN LIFE
COMMISSION

ⁱ The Texas Office of Consumer Credit Commissioner (OCCC) collects data for four different loan products that are categorized under payday and auto title lending: single payment (due in 1 full payment) payday loans; single payment auto title loans; installment (including more than 1 payment) payday loans; and installment auto title loans. The OCCC has been collecting data on these loan products since January 1, 2012. The average APR data is based on the average quarterly fee and interest cost statewide for 2015. The data for active store locations is based on licensing data from the OCCC for February of 2016. The fee and repossession data are estimates based on the statewide annual data reported to the OCCC for 2014 and 2015.

ⁱⁱ Texas Office of Consumer Credit Commissioner 2004 list of licensed payday lenders and December 2015 list of active licensed Credit Access Businesses. Between 2004 and 2014, payday and auto title businesses moved from being licensed under Texas consumer lending laws (TX Fin. Code Ch. 342) to credit access businesses (TX Fin. Code Ch.393) in order to evade rate and fee caps under the state licensed lending laws.

ⁱⁱⁱ Tim Lohrentz, *The Net Economic Impact of Payday Lending in the U.S.*, Insight Center for Economic Development (March 2013) at 4.

^{iv} Texas Catholic Conference 2012 Survey of Texas Nonprofit Clients (2013).

^v Texas Catholic Conference 2010 Survey of Texas Nonprofit Clients (2011).

^{vi} Texas Appleseed analysis of OCCC Credit Access Business Annual and Quarterly Reports (2015), available at: https://www.texasappleseed.org/sites/default/files/Payday-Auto-Title-Lending-Tx_MktOv-Trends2012-2015Rev.pdf.

^{vii} Consumer Financial Protection Bureau, "CFPB Finds Four Out Of Five Payday Loans Are Rolled Over Or Renewed: Research Shows the Majority of Payday Loans Are Made to Borrowers Caught in a Revolving Door of Debt," (March 2014) Available at: <http://www.consumerfinance.gov/newsroom/cfpb-finds-four-out-of-five-payday-loans-are-rolled-over-or-renewed/>

April 27, 2016

To the best of TML's knowledge, the following cities have enacted "business regulations" over payday lenders that are similar to the example ordinance available from TML:

1. Amarillo
2. Angleton
3. Arlington
4. Austin
5. Balcones Heights
6. Baytown
7. Bellaire
8. Bryan
9. Brownsville
10. College Station
11. Corpus Christi
12. Dallas
13. Denton
14. Dickinson
15. El Paso
16. Flower Mound
17. Galveston
18. Garland
19. Harker Heights
20. Houston
21. Killeen
22. Longview
23. Mesquite
24. Midland
25. Pharr
26. San Antonio
27. Seguin
28. Somerset
29. South Houston
30. Temple
31. Universal City
32. Waco
33. Weatherford
34. West University Place
35. Willis

transaction. Members agree to disclose the cost of the service fee both as a dollar amount and as an annual percentage rate ("APR");" and

WHEREAS, the Center for Responsible Lending, a non-profit, non-partisan organization, states on its internet site (<http://www.responsiblelending.org/other-consumer-loans/tools-resources/fast-facts.html>) that: "car title loans are based on the value of a borrower's car - the ability to repay the loans is not factor in the lending decision..."; "loan rates for a car title are typically 20-30 times that of rates charged by credit card issuers..."; "the average car title customer renews their loan 8 times..."; and, "on a \$500 title loan, this average customer will pay back \$650 in interest over eight months; the principal borrowed will be in addition;" and

WHEREAS, lenders hold onto the motor vehicle title and when borrowers cannot continue to pay the fees, they can lose their vehicles, which can drastically affect the borrower's means of transportation for work and other essential household functions.

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

Section 1. Chapter ____ - CREDIT ACCESS BUSINESSES

____.010- Short Title and Purpose.

- (a) This article may be known and cited as "Credit Access Businesses Regulation."
- (b) The purpose of this article is to protect the welfare of the citizens of the City of _____ by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices. To this end, this article establishes a registration program for credit access businesses, imposes restrictions on extensions of consumer credit made by credit access businesses, and imposes recordkeeping requirements on credit access businesses.

____.020- Definitions.

As used in this chapter:

- (1) **CERTIFICATE OF REGISTRATION** means a certificate of registration issued by the director under this article to the owner or operator of a credit access business.
- (2) **CONSUMER** means an individual who is solicited to purchase or who purchases the services of a credit access business.
- (3) **CONSUMER'S LANGUAGE OF PREFERENCE** is the language the consumer understands best.
- (4) **CREDIT ACCESS BUSINESS** has the meaning given that term in Section 393.601 of the Texas Finance Code.

____.050- Registration Required

A person commits an offense if the person acts, operates, or conducts businesses as a credit access business without a valid certificate of registration. A certificate of registration is required for each physically separate credit access business.

____.060- Registration Application

(a) To obtain a certificate of registration for a credit access business, a person must submit an application on a form provided for that purpose to the director. The application must contain the following:

(1) The name, street address, mailing address, facsimile number, and telephone number of the applicant.

(2) The business or trade name, street address, mailing address, facsimile number, and telephone number of the credit access business.

(3) The names, street addresses, mailing addresses, and telephone numbers of all owners of the credit access business, and the nature and extent of each person's interest in the credit access business.

(4) A copy of a current, valid state license held by the credit access business pursuant to Chapter 393, Subchapter G of the Texas Finance Code.

(5) A copy of a current, valid certificate of occupancy showing that the credit access business is in compliance with the City of _____ Code.

(6) A non-refundable application fee for the amount established.

(b) An applicant or registrant shall notify the director within 45 days after any material change in the information contained in the application for a certificate of registration, including, but not limited to, any change of address and any change in the status of the state license held by the applicant or registrant.

____.070- Issuance and Display of Certificate of Registration; Presentment upon Request.

(a) The director shall issue to the applicant a certificate of registration upon receiving a completed application under Section _____.060

(b) A certificate of registration issued under this section must be conspicuously displayed to the public in the credit access business. The certificate of registration must be presented upon request to the director or any peace officer for examination.

____.110- Restriction on Extension of Consumer Credit.

(a) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a deferred presentment transaction may not exceed 20 percent of the consumer's gross monthly income.

(b) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a motor vehicle title loan may not exceed the lesser of:

(1) Three percent of the consumer's gross annual income; or

(2) 70 percent of the retail value of the motor vehicle.

(c) A credit access business shall use a paycheck or other documentation establishing income to determine a consumer's income.

(d) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for repayment in installments may not be payable in more than four installments. Proceeds from each installment must be used to repay at least 25 percent of the principal amount of the extension of consumer credit. An extension of consumer credit that provides for repayment in installments may not be refinanced or renewed.

(e) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for a single lump sum repayment may not be refinanced or renewed more than three times. Proceeds from each refinancing or renewal must be used to repay at least 25 percent of the principal amount of the original extension of consumer credit.

(f) For purposes of this section, an extension of consumer credit that is made to a consumer within seven days after a previous extension of consumer credit has been paid by the consumer will constitute a refinancing or renewal.

____.120- Requirement of Consumer Understanding of Agreement.

(a) Every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer), must be written in the consumer's language of preference. Every credit access business location must maintain on its premises, to be available for use by consumers, agreements in the English and Spanish languages.

(b) For every consumer who cannot read, every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not

**AN ORDINANCE AMENDING CHAPTER 5 “BUSINESS AND
COMMERCE” OF THE CODE OF ORDINANCES, CITY OF SAN
ANGELO TEXAS, BY ADDING ARTICLE 5.11 “CREDIT ACCESS
BUSINESSES” AS SET OUT BELOW, PROVIDING FOR
SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, certain credit access businesses engage in abusive and predatory lending practices, offering easy money to those members of our community who are in a tight spot with onerous terms and fees; and

WHEREAS, a credit access business is defined in the Texas Finance Code §393.601 as a “credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of credit in the form of a deferred presentment transaction or a motor vehicle title loan”; and

WHEREAS, the practices of certain credit access businesses cause members of our community to become trapped in a cycle of short term, high interest loans resulting in large debt and huge payments; and

WHEREAS, there are approximately 18 credit access businesses that have been identified in the City of San Angelo; and

WHEREAS, in order to assist cities in addressing the concerns of credit access businesses the Texas Municipal League has drafted a model ordinance that has been adopted by 38 Texas Cities; and

WHEREAS, the City of San Angelo City Council finds it in the public interest to protect the welfare of the citizens of the City of San Angelo by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices through the adoption of a Credit Access Business Ordinance.

BE IT ORDAINED BY THE CITY OF SAN ANGELO:

- 1) **THAT**, Chapter 5 “Business and Commerce” of the Code of Ordinances, City of San Angelo, Texas is hereby amended by adding Article 5.11 as follows:

ARTICLE 5.11 CREDIT ACCESS BUSINESSES

Sec. 5.11.001. Short Title and Purpose.

(a) This article may be known and cited as "Credit Access Businesses Regulation."

(b) The purpose of this article is to protect the welfare of the citizens of the City of San Angelo by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices. To this end, this article establishes a registration program for credit access businesses, imposes restrictions on extensions of consumer credit made by credit access businesses, and imposes recordkeeping requirements on credit access businesses.

Sec. 5.11.002. Definitions.

As used in this chapter:

- (1) CERTIFICATE OF REGISTRATION means a certificate of registration issued by the director under this article to the owner or operator of a credit access business.
- (2) CONSUMER means an individual who is solicited to purchase or who purchases the services of a credit access business.
- (3) CONSUMER'S LANGUAGE OF PREFERENCE is the language the consumer understands best.
- (4) CREDIT ACCESS BUSINESS has the meaning given that term in Section 393.601 of the Texas Finance Code as amended.
- (5) DEFERRED PRESENTMENT TRANSACTION has the meaning given that term in Section 393.601 of the Texas Finance Code.
- (6) DIRECTOR means the director of the department designated by the City Council, City Manager, or City Councilor City Manager's Designee, to enforce and administer this chapter.
- (7) EXTENSION OF CONSUMER CREDIT has the meaning given that term in Section 393.001 of the Texas Finance Code.
- (8) MOTOR VEHICLE TITLE LOAN has the meaning given that term in Section 393.601 of the Texas Finance Code.
- (9) PERSON means any individual, corporation, organization, partnership, association, financial institution, or any other legal entity.
- (10) REGISTRANT means a person issued a certificate of registration for a credit access business under this chapter and includes all owners and operators of the credit access business identified in the registration application filed under this chapter.
- (11) STATE LICENSE means a license to operate a credit access business issued by the Texas Consumer Credit Commissioner under Chapter 393, Subchapter G of the Texas Finance Code.

Sec. 5.11.003. Violations; Penalty.

- (a) A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, commits an offense. A person commits a separate offense for each

and every violation relating to an extension of consumer credit, and for each day during which a violation is committed, permitted, or continued.

- (b) An offense under this chapter is punishable by a fine of not more than \$500.
- (c) A culpable mental state is not required for the commission of an offense under this article and need not be proved.
- (d) The penalties provided for in Subsection (b) are in addition to any other remedies that the city may have under city ordinances and state law.

Sec. 5.11.004. Defenses.

It is a defense to prosecution under this article that at the time of the alleged offense the person was not required to be licensed by the state as a credit access business under Chapter 393, Subchapter G, of the Texas Finance Code.

Sec. 5.11.005. Registration Required.

A person commits an offense if the person acts, operates, or conducts businesses as a credit access business without a valid certificate of registration. A certificate of registration is required for each physically separate credit access business.

Sec. 5.11.006. Registration Application.

- (a) To obtain a certificate of registration for a credit access business, a person must submit an application on a form provided for that purpose to the director. The application must contain the following:
 - (1) The name, street address, mailing address, facsimile number, and telephone number of the applicant.
 - (2) The business or trade name, street address, mailing address, facsimile number, and telephone number of the credit access business.
 - (3) The names, street addresses, mailing addresses, and telephone numbers of all owners of the credit access business, and the nature and extent of each person's interest in the credit access business.
 - (4) A copy of a current, valid state license held by the credit access business pursuant to Chapter 393, Subchapter G of the Texas Finance Code.
 - (5) A copy of a current, valid certificate of occupancy showing that the credit access business is in compliance with the City of San Angelo Code.

- (6) A non-refundable application fee for the amount established.
- (b) An applicant or registrant shall notify the director within 45 days after any material change in the information contained in the application for a certificate of registration, including, but not limited to, any change of address and any change in the status of the state license held by the applicant or registrant.

Sec. 5.11.007. Issuance and Display of Certificate of Registration; Presentment upon Request.

- (a) The director shall issue to the applicant a certificate of registration upon receiving a completed application under Section 5.11.006.
- (b) A certificate of registration issued under this section must be conspicuously displayed to the public in the credit access business. The certificate of registration must be presented upon request to the director or any peace officer for examination.

Sec. 5.11.008. Expiration and Renewal of Certificate of Registration.

- (a) A certificate of registration expires on the earliest of:
 - (1) One year after the date of issuance; or
 - (2) The date of revocation, suspension, surrender, expiration without renewal, or other termination of the registrant's state license.
- (b) A certificate of registration may be renewed by making application in accordance with Section 5.11.006. A registrant shall apply for renewal at least 30 days before the expiration of the registration.

Sec. 5.11.009. Non-transferability.

A certificate of registration for a credit access business is not transferable.

Sec. 5.11.010. Maintenance of Records.

- (a) A credit access business shall maintain a complete set of records of all extensions of consumer credit arranged or obtained by the credit access business, which must include the following information:
 - (1) The name and address of the consumer.
 - (2) The principal amount of cash actually advanced.

- (3) The length of the extension of consumer credit, including the number of installments and renewals.
 - (4) The fees charged by the credit access business to arrange or obtain an extension of consumer credit; and
 - (5) The documentation used to establish a consumer's income under Section 5.11.011 of this ordinance.
- (b) A credit access business shall maintain a copy of each written agreement between the credit access business and a consumer evidencing an extension of a consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer).
 - (c) A credit access business shall maintain copies of all quarterly reports filed with the Texas Consumer Credit Commissioner under Section 393.627 of the Texas Finance Code.
 - (d) The records required to be maintained by a credit access business under this section must be retained for at least three years and made available for inspection by the city upon request during the usual and customary business hours of the credit access business.

Sec. 5.11.011. Restriction on Extension of Consumer Credit.

- (a) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a deferred presentment transaction may not exceed 20 percent of the consumer's gross monthly income.
- (b) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a motor vehicle title loan may not exceed the lesser of:
 - (1) Three percent of the consumer's gross annual income; or
 - (2) 70 percent of the retail value of the motor vehicle.
- (c) A credit access business shall use a paycheck or other documentation establishing income to determine a consumer's income.
- (d) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for repayment in installments may not be payable in more than four installments. Proceeds from each installment must be used to repay at least 25 percent of the principal amount of the extension of consumer credit. An extension of consumer credit that provides for repayment in installments may not be refinanced or renewed.
- (e) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for a single lump sum repayment may not be refinanced or renewed more than three times. Proceeds from each refinancing or renewal must

be used to repay at least 25 percent of the principal amount of the original extension of consumer credit.

- (f) For purposes of this section, an extension of consumer credit that is made to a consumer within seven days after a previous extension of consumer credit has been paid by the consumer will constitute a refinancing or renewal.

Sec. 5.11.012. Requirement of Consumer Understanding of Agreement.

- (a) Every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer), must be **made available to consumers in all languages that are used on ballots in local elections**. Every credit access business location must maintain on its premises, to be available for use by consumers, agreements in the English and Spanish languages.
- (b) For every consumer who cannot read, every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer) must be read to the consumer in its entirety in the consumer's language of preference, prior to the consumer's signature.
- (c) For every consumer who cannot read, every disclosure and notice required by law must be read to the consumers in its entirety in the consumer's language of preference, prior to the consumer's signature.

Sec. 5.11.013. Referral to Consumer Credit Counseling.

A credit access business shall provide a form, to be prescribed by the Director, to each consumer seeking assistance in obtaining an extension of consumer credit which references non-profit agencies that provide financial education and training programs and agencies with cash assistance programs. The form will also contain information regarding extensions of consumer credit, and must include the information required by 5.11.010(a)(1-5) of this ordinance specific to the loan agreement with the consumer. If the Director has prescribed a form in the consumer's language of preference, the form must be provided in the consumer's language of preference.

2) THAT all remaining subsections of Chapter 5 not amended by this ordinance remain in full force and effect.

3) THAT, the following severability clause is hereby adopted with this amendment:

SEVERABILITY:

That the terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance shall be declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

4) THAT, this Ordinance shall be effective on, from and after publication as required by law. **Enforcement of the Ordinance shall not occur until January 1, 2017 to allow time for businesses to come into compliance.**

5) THAT, this ordinance will be reviewed and revised periodically to accommodate any changes in State or Federal requirements that may be necessary.

INTRODUCED with public hearing on the 1st day of November, 2016, and finally PASSED, APPROVED and ADOPTED on this the 15th day of November, 2016.

CITY OF SAN ANGELO

ATTEST:

Dwain Morrison, Mayor

Bryan Kendrick, City Clerk

Approved as to Form:

Theresa James
City Attorney

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Bryan Kendrick, City Clerk, Planning and Development Services,

Meeting Date: November 15, 2016

Item type: Regular Item

Caption:

Second reading and consider adopting an ordinance for Case Z16-07, approving a request for a rezoning from the Ranch and Estate (R&E) Zoning District to the General Commercial (CG) Zoning District for property generally located along the west side of Knickerbocker Road, between Red Bluff Road and Hilltop Drive, on 30.00 acres (J. James)

Summary/History:

The vacant subject property, as part of an overall 96-acre unplatted tract, was annexed in June of 2011 and contained the former West Texas Utilities Generation Facility, which was decommissioned in 2003 and demolished in 2014. As part of the annexation, the subject area was initially zoned Ranch and Estate (R&E), in accordance with §302 of the Zoning Ordinance, to function as a holding or reserve zone until such time when the Planning Commission recommends a zoning plan of the property to the City Council. The 2013 Lake Nasworthy Master Plan designates the area within which the subject property is situated as an Area of Special Opportunity (Zone 4). Among the desired land uses programmed for the overall area include recreational trails, recreational activities such as windsurfing and zip-lining, development of a nature center, hotel, residential development and retail/commercial development. The subject property is designated as a "Transitional" Future Land Use under the current Vision Plan and has over 1,700 linear feet of frontage along Knickerbocker Road (Texas Ranch-to-Market Road 584). The owner/petitioner, Glen Meadows Baptist Church, is requesting approval of an application to rezone the subject property from the Ranch and Estate (R&E) Zoning District to the General Commercial (CG) Zoning District for a proposed religious institution.

Financial Impact:

N/A

Other Information/Recommendation:

On September 19, 2016, the Planning Commission reviewed the subject request. Commissioner Jackson made a Motion to recommend APPROVAL of the Zone Change from "Ranch and Estate (R&E)" to "General Commercial (CG)." Commissioner Farmer seconded the Motion. The Motion passed, 5-2 (Stribling and Smith dissenting).

Attachments:

- | | | |
|----|-----------------|---------------------------------------|
| 1. | Draft Ordinance | Z16-07 Ordinance.docx |
| 2. | Exhibit A | Z16-07 Ordinance_Ex-A.pdf |
| 3. | Staff Report | Z16-07_Staff_Report_City Council.docx |

Presentation:

Jon James

Approvals/Reviews:

Bryan Kendrick

Created/Initiated

Theresa James
Becky Dunn
Bryan Kendrick

Approved
Approved
Final Approval

AN ORDINANCE AMENDING CHAPTER 12, EXHIBIT "A" OF THE CODE OF ORDINANCES, CITY OF SAN ANGELO, TEXAS, WHICH ADOPTS ZONING REGULATIONS, USE DISTRICTS AND A ZONING MAP, IN ACCORDANCE WITH A COMPREHENSIVE PLAN, BY CHANGING THE ZONING AND CLASSIFICATION OF THE FOLLOWING PROPERTY: **A 30.00-acre unaddressed tract; generally located along the west side of Knickerbocker Road, between Red Bluff Road and Hilltop Drive, and more specifically being 30.00 acres out of the C. Damman Survey, Number 180, Abstract 141, Tom Green County, Texas, as recorded under Document 201600574, Official Property Records, Tom Green County, Texas** FROM RANCH AND ESTATE (R&E) ZONING DISTRICT TO GENERAL COMMERCIAL (CG) ZONING DISTRICT; AND PROVIDING FOR SEVERABILITY

WHEREAS, the Planning Commission and the City Council for the City of San Angelo, in compliance with the City Charter and state law regarding zoning regulations and zoning map, having given requisite notice of public hearing by publication and otherwise, and having afforded a full and fair hearing to all property owners and persons interested, including persons situated in the vicinity of the affected area, being of the opinion that zoning changes should be made as set out herein;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SAN ANGELO:

SECTION 1: Chapter 12 of the Code of Ordinances of the City of San Angelo, the basic Zoning Ordinance for the City adopted on January 4, 2000, and the Zoning Map be and the same are hereby amended as follows:

A 30.00-acre unaddressed tract; generally located along the west side of Knickerbocker Road, between Red Bluff Road and Hilltop Drive, and more specifically being 30.00 acres out of the C. Damman Survey, Number 180, Abstract 141, Tom Green County, Texas, as recorded under Document 201600574, Official Property Records, Tom Green

County, Texas, zoned Ranch and Estate (R&E) Zoning District shall henceforth be permanently zoned General Commercial (CG) Zoning District.

SECTION 2: The Director of the Planning and Development Services Department is hereby authorized and directed to correct Zoning District Maps in the Office of the Director of the Planning and Development Services Department, to reflect the herein described changes in zoning.

SECTION 3: In all other respects, the use of the hereinabove described property shall be subject to all applicable regulations contained in Chapter 12 of the Code of Ordinances for the City of San Angelo, as amended.

SECTION 4. The remaining provisions of Chapter 12 of the Code of Ordinances of the City of San Angelo, Texas, not amended under Sections 1 and 2 of this Ordinance shall remain in full force and effect.

SECTION 5 The terms and provisions of this Ordinance shall be deemed to be severable in that, if any portion of this Ordinance shall be declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

SECTION 6: This Ordinance shall be effective on, from and after the date of adoption.

INTRODUCED on the **18th day of October, 2016**, and finally PASSED, APPROVED AND ADOPTED on this, the **1st day of November, 2016**.

THE CITY OF SAN ANGELO

Dwain Morrison, Mayor

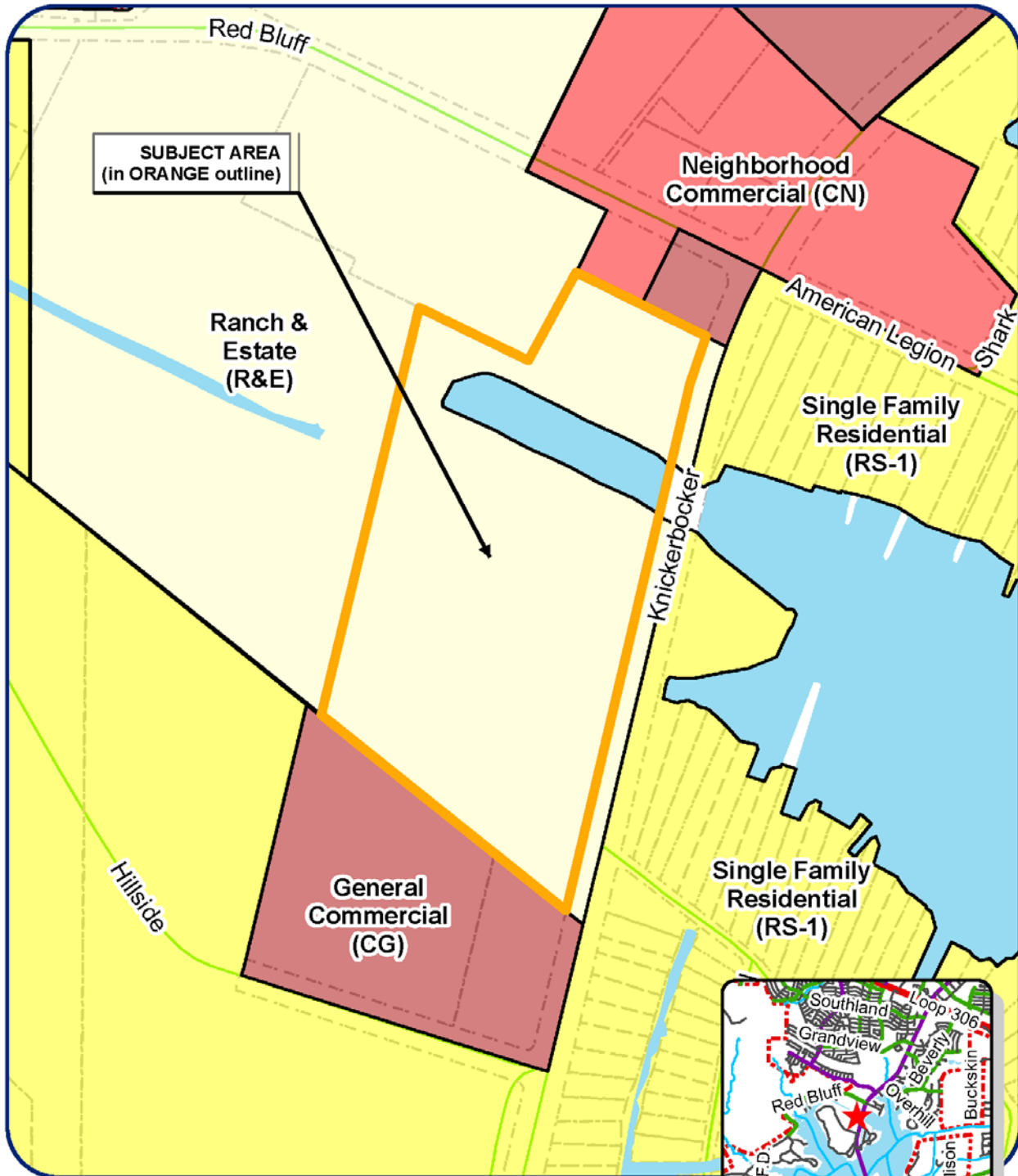
ATTEST:

APPROVED AS TO FORM:

Bryan Kendrick, City Clerk

Theresa James, City Attorney

EXHIBIT A (PG 1 OF 6)



Zoning Case Files

Z16-07 Glen Meadows Baptist Church

Council District: SMD #1 (Richardson)

Neighborhood: Nasworthy

Scale: 1 inch :: 400 feet

Legal Description: 30.00 ac out of the C. Damman Survey 180, ABS-141 (Doc 201600574, OPR)

Legend

Subject Properties:

Current Zoning: R&E

Requested Zoning Change: CG

Vision: Transition



EXHIBIT A (PG 2 OF 6)

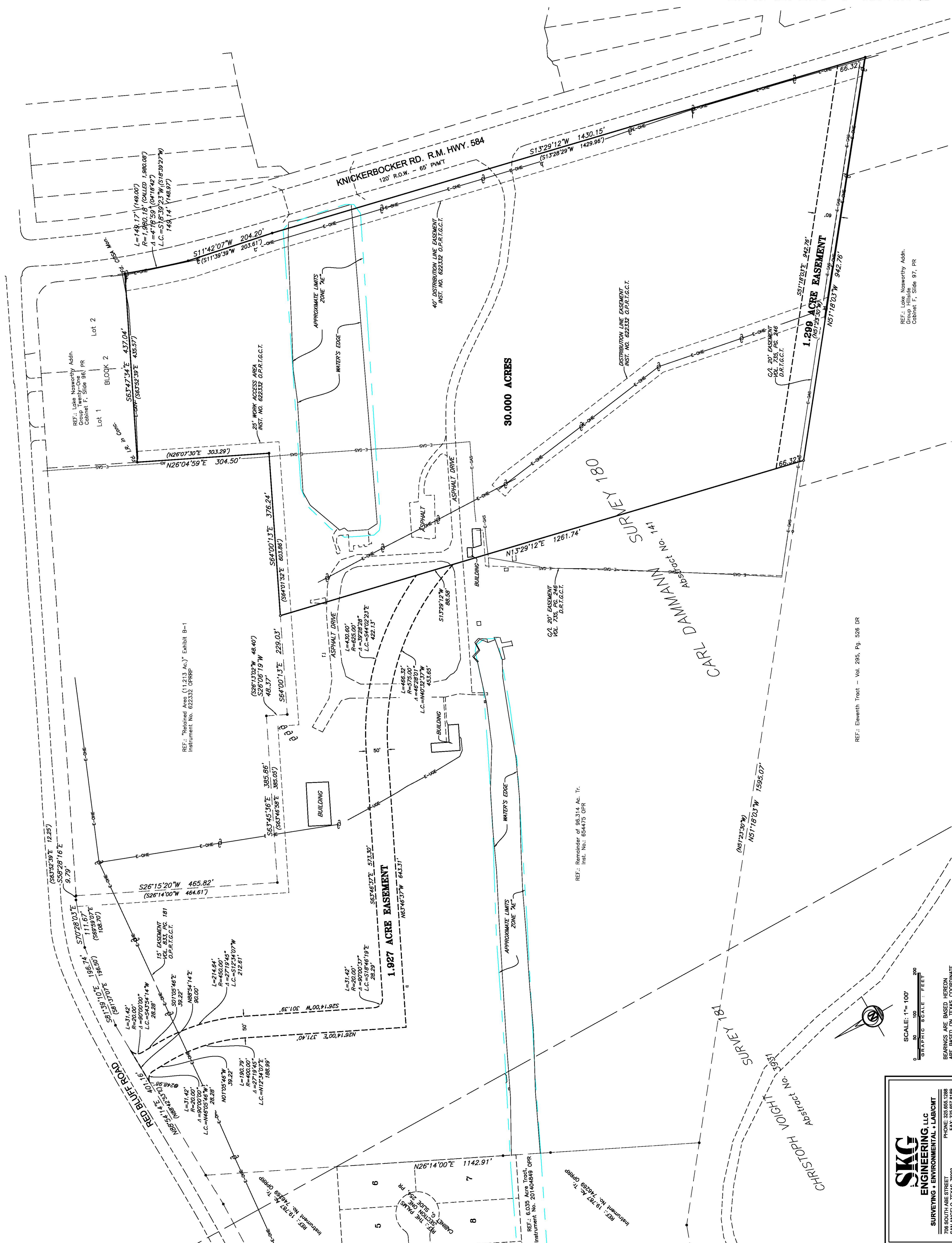
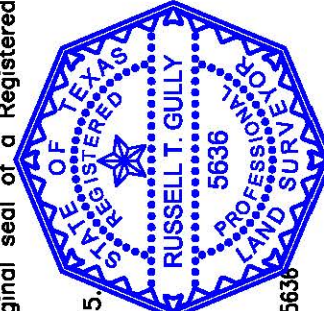
PLAT SHOWING A SURVEY OF 30.000 ACRES OF
LAND, A 1.299 ACRE EASEMENT AND A 1.927
ACRE EASEMENT OUT OF CARL DAMMANN
SURVEY 180, ABSTRACT NO. 141, CITY OF SAN
ANGELO, TOM GREEN COUNTY, TEXAS AND ALSO
BEING OUT OF THAT CERTAIN 96.314 ACRE
TRACT DESCRIBED AND RECORDED IN
INSTRUMENT NO. 654475, OFFICIAL PUBLIC
RECORDS OF REAL PROPERTY OF TOM GREEN
COUNTY, TEXAS.

(REFER TO ATTACHED FIELD NOTES.)

Certification is hereby made that a survey was made on the ground under my
personal supervision and in accordance with the Rules and Regulations of the
Texas Board of Professional Land Surveying.
This survey is prepared for the exclusive use and benefit of the parties listed.
It is not to be used for any other purpose, and it is not to be relied upon for
any other purpose, without the signature and the original seal of a Registered
Professional Land Surveyor.

Surveyed on the 9th day of December 2015
Dated January 8, 2016.

Russell T. Gully
RUSSELL T. GULLY
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5638



REF.: Lake Neworthy Adm.
Group Twenty-One
Cabinet F, Side 96, PR

REF.: Eleventh Tract - Vol. 295, Pg. 526 DR

REF.: Remainder of 96.314 Ac. Tr.
Inst. No.: 654475 OPR

REF.: Retained Area (11.213 Ac.) Exhibit B-1
Instrument No. 622332 OPR

SCALE: 1" = 100'
GRAPHIC SCALE - FEET
0 50 100 200
BEARINGS ARE BASED UPON
ARE BASED ON TEXAS COORDINATE
SYSTEM NAD83 - TEXAS CENTRAL
ZONE BY GPS OBSERVATION.

SKG
ENGINEERING, LLC
SURVEYING • ENVIRONMENTAL • LAB/CMT
706 SOUTH ABE STREET
SAN ANGELO, TEXAS 76903
PHONE: 325.653.1588
FAX: 325.653.1588
FIRM NO.: 10102400
WWW.SKG.COM

EXHIBIT A (PG 3 OF 6)

201600574 01/19/2016 11:42:48 AM Page 5 of 8

EXHIBIT <u>A</u>
Page <u>1</u> of <u>2</u> Pages

FIELD NOTES

30.000 Acres

January 7, 2016
15-S-1520_30 Ac.

Being an area of 30.000 acres of land out of and a part of Carl Damman Survey 180, Abstract No. 141, Tom Green County, Texas and said 30.000 acre tract also being out of that certain 96.314 acre tract described and recorded in Instrument No. 654475, Official Public Records of Tom Green County, Texas and said 30.000 acre tract being more particularly described by metes and bounds as follows:

Beginning at a City of San Angelo (COSA) monument found for the northeast corner of this tract and said 96.314 acre tract and also being in the west right-of-way line of Knickerbocker Road (R. M. Highway 584);

Thence with the east line of this tract and said 96.314 acre tract and west line of said Knickerbocker Road (R. M. Highway 584) with a curve to the left, having a radius of 1980.18 feet (Called 1980.08 feet), central angle of $04^{\circ} 18' 59''$ (Called $04^{\circ} 18' 42''$), arc length of 149.17 feet (Called 149.00 feet) and whose long chord bears S. $18^{\circ} 39' 23''$ W. 149.14 feet, (Called S. $18^{\circ} 39' 27''$ W. 148.97 feet) to a $\frac{1}{2}$ " iron rod with cap found for the end of this curve;

Thence continuing with the east line of this tract and west line of said Knickerbocker Road (R. M. Highway 584), S. $11^{\circ} 42' 07''$ W. 204.20 feet (Called S. $11^{\circ} 39' 39''$ W. 203.61 feet) to a $\frac{1}{2}$ " iron rod with cap found for angle corner, S. $13^{\circ} 29' 12''$ W. 1430.15 feet (Called S. $13^{\circ} 28' 29''$ W. 1429.96 feet) to a $\frac{1}{2}$ " iron rod with cap found for the southeast corner of this tract and said 96.314 acre tract;

Thence with the south line of this tract and said 96.314 acre tract, N. $51^{\circ} 18' 03''$ W. (Called N. $51^{\circ} 23' 30''$ W.) 942.76 feet to a $\frac{1}{2}$ " iron rod with cap set for the southwest corner of this tract;

Thence with the west line of this tract and across said 96.314 acre tract, N. $13^{\circ} 29' 12''$ E. 1261.74 feet to a $\frac{1}{2}$ " iron rod with cap set for angle corner and being in the south line of a certain "Retained Area (11.213 Ac.)" Exhibit B-1, described and recorded in Instrument No. 622332, Official Public Records of Tom Green County, Texas;

Thence with the south line of said Retained Area (11.213 Ac.), S. $64^{\circ} 00' 13''$ E. (Called S. $64^{\circ} 01' 52''$ E.) 376.24 feet to a $\frac{1}{2}$ " iron rod with cap found for the southeast corner of said Retained Area (11.213 Ac.) and an ell corner of this tract;

Thence with the east line of said Retained Area (11.213 Ac.), N. $26^{\circ} 04' 59''$ E. 304.50 feet (Called N. $26^{\circ} 07' 30''$ E. 303.29 feet) to an iron rod in concrete found for an ell corner of this tract and said 96.314 acre tract;

EXHIBIT A (PG 4 OF 6)

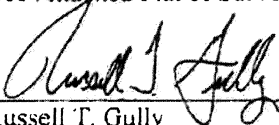
201600574 01/19/2016 11:42:48 AM Page 6 of 8

EXHIBIT A
Page 2 of 2 Pages

Thence with the easterly north line of this tract and said 96.314 acre tract, S. 63° 47' 34" E. 437.04 feet (Called S. 63° 52' 39" E. 435.57 feet) to the place of beginning and containing an area of 30.000 acres of land.

Bearings recited hereon are based on Texas Coordinate System NAD83 - Texas Central Zone by GPS observation.

See Attached Plat of Survey.


Russell T. Gully
Registered Professional Land Surveyor No. 5636
SKG Engineering, LLC
Firm No. 1010240

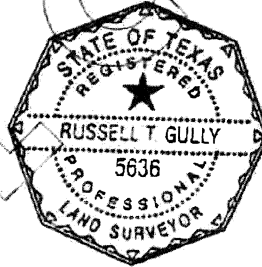


EXHIBIT A (PG 5 OF 6)

201600574 01/19/2016 11:42:48 AM Page 7 of 8

EXHIBIT B
Page 1 of 2 Pages

FIELD NOTES

1.927 Acre Easement

January 8, 2016
15-S-1520_1.927 Ac.

Being an area of 1.927 acres of land out of and a part of Carl Damman Survey 180, Abstract No. 141, Tom Green County, Texas and said 1.927 acre tract also being out of that certain 96.314 acre tract described and recorded in Instrument No. 654475, Official Public Records of Tom Green County, Texas and said 1.927 acre tract being more particularly described by metes and bounds as follows:

Beginning at a point in the south Right-of-Way line of Red Bluff Road and in the north line of said 96.314 acre tract and being the northwest corner of this tract from which the northeast corner of a certain 19.787 acre tract described and recorded in Instrument Number 746269, Official Public Records of Tom Green County, Texas bears S. 88° 54' 14" W. (Called S. 88° 42' 53" W.) 248.98 feet;

Thence with said south Right-of-Way line of Red Bluff and the north line of said 96.314 acre tract N. 88° 54' 14" E. (Called N. 88° 42' 53" E.) 90.00 feet to the most northerly corner of this tract and the beginning of a curve to the left;

Thence with said curve to the left, having a radius of 20.00 feet, central angle of 90° 00' 00", arc length of 31.42 feet and whose long chord bears S. 43° 54' 14" W. 28.28 feet to a point of tangency;

Thence S. 01° 05' 46" E. 39.22 feet to a point of curvature and the beginning of a curve to the right;

Thence with said curve to the right, having a radius of 450.00 feet, central angle of 27° 19' 45", arc length of 214.64 feet and whose long chord bears S. 12° 34' 07" W. 212.61 feet to a point of tangency;

Thence S. 26° 14' 00" W. 301.39 feet to a point of curvature and the beginning of a curve to the left;

Thence with said curve of the left, having a radius of 20.00 feet, central angle of 90° 00' 37", arc length of 31.42 feet and whose long chord bears S. 18° 46' 19" E. 28.29 feet;

Thence S. 63° 46' 37" E. 573.30 feet to a point of curvature and the beginning of a curve to the right;

Thence with said curve to the right, having a radius of 625.00 feet, central angle of 39° 28' 28", arc length of 430.60 feet and whose long chord bears S. 44° 02' 23" E. 422.13 feet;

EXHIBIT A (PG 6 OF 6)

201600574 01/19/2016 11:42:48 AM Page 8 of 8

EXHIBIT B

Page 2 of 2 Pages

Thence S. $13^{\circ} 29' 12''$ W. 88.58 feet to the beginning of a curve of the left;

Thence with said curve to the left, having a radius of 575.00 feet, central angle of $46^{\circ} 28' 01''$, arc length of 466.32 feet and whose long chord bears N. $40^{\circ} 32' 37''$ W. 453.65 feet to a point of tangency;

Thence N. $63^{\circ} 46' 37''$ W. 643.31 feet to an angle corner of this tract;

Thence N. $26^{\circ} 14' 00''$ E. 371.40 feet to the beginning of a curve to the left;

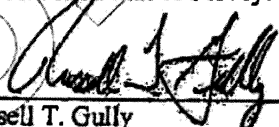
Thence with said curve to the left, having a radius of 400.00 feet, central angle of $27^{\circ} 19' 45''$, arc length of 190.79 feet and whose long chord bears N. $12^{\circ} 34' 07''$ E. 188.99 feet to a point of tangency;

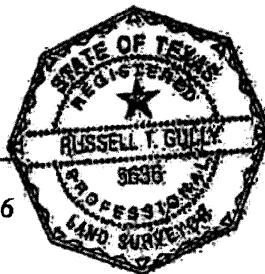
Thence N. $01^{\circ} 05' 46''$ W. 39.22 feet to a point of curvature and the beginning of a curve to the left;

Thence with said curve to the left, having a radius of 20.00 feet, central angle of $90^{\circ} 00' 00''$, arc length of 31.42 and whose long chord bears N. $46^{\circ} 05' 46''$ W. 28.28 feet to the place of beginning and containing an area of 1.927 acres of land.

Bearings recited hereon are based on Texas Coordinate System NAD83 - Texas Central Zone by GPS observation.

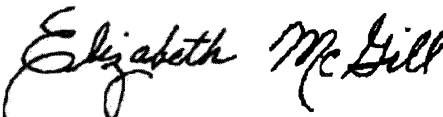
See Attached Plat of Survey.


Russell T. Gully
Registered Professional Land Surveyor No. 5636
SKG Engineering, LLC
Firm No. 1010240



CERTIFIED FILED AND RECORDED
OFFICIAL PUBLIC RECORDS





Elizabeth McGill County Clerk
Tom Green County, Texas
01/19/2016 11:42 AM
Fee: \$54.00
201600574 DE

STAFF REPORT



City Council

Meetings:

November 1, 2016
November 15, 2016

From:

Jon James, AICP
Director of Planning and Development Services

Through:

Rebeca A. Guerra, AICP, LEED-AP, CPD
Planning Manager

Case:

Z16-07: Glen Meadows Baptist Church

Request:

A request for approval of a Zone Change from the Ranch and Estate (R&E) Zoning District to the General Commercial (CG) Zoning District

Location:

A 30.00-acre unaddressed tract; generally located along the west side of Knickerbocker Road, between Red Bluff Road and Hilltop Drive

Legal

Description:

30.00 acres out of the C. Damman Survey, Number 180, Abstract 141, Tom Green County, Texas, as recorded under Document 201600574, Official Property Records, Tom Green County, Texas.

Size:

30.00 acres

SYNOPSIS (KEY POINTS):

After careful analysis, the following conclusions were reached:

- Religious Institutions, and their accessory uses like schools, day care, etc. are permitted by right in the Neighborhood Commercial (CN) Zoning District, and

staff is supportive of both the proposed use and a rezoning to the Neighborhood Commercial District.

- The proposed General Commercial (GC) zoning carries numerous land uses that do not appear to further the goals and objectives of both the City's Comprehensive Plan and the Lake Nasworthy Master Plan and would allow for more lot coverage, more outdoor storage, and no height limit as compared to the Neighborhood Commercial (CN) zoning district.
- Adjacency to a major arterial roadway does not always constitute sufficient grounds for this level of intense zoning. In this particular instance, the City has determined that whatever develops in this area will greatly impact Lake Nasworthy to the south, therefore thoughtful development is essential.
- It does not appear that adequate public facilities are currently in place to support new development. Any further contributions to existing sewer facilities will either greatly diminish levels of service or result in general failure, despite whatever stop-gap measures may be provided.

Based on the analysis and conclusions, as referenced under this synopsis, staff recommends APPROVAL of a rezoning to the **Neighborhood Commercial (CN) Zoning District** instead of the requested General Commercial (CG) Zoning District, as it will be more in keeping with the property's Future Land Use designation of "Transitional" and the Lake Nasworthy Master Plan designation of the site as an "Area of Special Opportunity."

General Information

Future Land Use:	Transitional
Current Zoning:	Ranch and Estate (R&E) Zoning District
Existing Land Use:	Former W.T.U. Electric Power Plant

Surrounding Zoning / Land Use:

North:	General Commercial (CG); Neighborhood Commercial (CN)	Commercial Retail
West:	Ranch & Estate (R&E)	Vacant land
South:	General Commercial (CG)	Commercial Campground (KOA); Vacant Land

East:	Single-family Residential (RS-1)	Public Park; Single-family Residential
-------	----------------------------------	--

District: SMD #1 – Richardson

Neighborhood: Nasworthy

Thoroughfares/Streets:

Knickerbocker Road (RM 584) is defined as an Urban “Major Arterial” roadway in the City’s Master Thoroughfare Plan (MTP) and is under TX-DOT jurisdiction. Urban Arterial Roads have their origin and termination at some point outside of the City limits and are designed to connect Collector Streets to freeways and other arterials that carry large volumes of traffic at high speeds and typically require a minimum right-of-way width of 80 feet and a minimum paving width of 64 feet.

History and Background:

The vacant subject property, as part of an overall 96-acre unplatted tract, was annexed in June of 2011 and contained the former West Texas Utilities Generation Facility, which was decommissioned in 2003 and demolished in 2014. As part of the annexation, the subject area was initially zoned Ranch and Estate (R&E), in accordance with §302 of the Zoning Ordinance, to function as a holding or reserve zone until such time when the Planning Commission recommends a zoning plan of the property to the City Council. The 2013 Lake Nasworthy Master Plan designates the area within which the subject property is situated as an Area of Special Opportunity (Zone 4). Among the desired land uses programmed for the overall area include recreational trails, recreational activities such as windsurfing and zip-lining, development of a nature center, hotel, residential development and retail/commercial development. The subject property is designated as a “Transitional” Future Land Use under the current Vision Plan and has over 1,700 linear feet of frontage along Knickerbocker Road (Texas Ranch-to-Market Road 584). The owner/petitioner, Glen Meadows Baptist Church, is requesting approval of an application to rezone the subject property from the Ranch and Estate (R&E) Zoning District to the General Commercial (CG) Zoning District for a proposed religious institution. Details on the CG Zoning District, including development standards and allowable land uses, are furnished with this report.

Analysis:

Zoning: The subject property is presently classified as Ranch and Estate (R&E). The Ranch and Estate District is intended to provide opportunities for development of low density, detached single-family residences on lots of at least one acre in a suburban or

rural setting. This District is also intended to serve as a holding zone for vacant land areas annexed to the City.

The Petitioner is seeking a rezoning to General Commercial (CG). The CG District is intended to provide opportunities for development of commercial establishments of higher intensity, with larger trade area, floor area and traffic generation than Neighborhood Commercial uses. Properties within the CG zoning district are allowed to contain Type-2 limited outdoor storage, provided that this type of storage is screened from adjacent residential uses and does not exceed 1,000 square feet or 10 percent of the total site area, whichever is greater. Vehicles, including boats, are not considered merchandise, material or equipment and are therefore exempt from this requirement, however.

Under GC zoning, unlimited numbers of shipping containers may be used as accessory storage buildings. Although religious institutions and their accessory components are allowed in the CG zone, the proposed rezoning could potentially facilitate the development of these other uses, as well:

- Carnivals, concerts and fairs
- Bars and taverns as conditional uses
- Automobile and boat dealerships
- Game halls as conditional uses
- Outdoor recreational venues as special uses
- Equipment, machinery and heavy vehicle rental as a conditional use
- Self-storage
- Vehicle repair as a conditional use
- Car wash, automated and self-service
- Industrial service firm as a conditional use
- Bus terminal as a conditional use
- Small scale fabrication, craft work generally for on-site resale
- Warehousing and freight movement as a conditional use

The proposed use, a Religious Institution, is also the more benign of uses when compared to what could be allowed under the proposed CG zoning, and such use would appear to be in keeping with both the City's 2009 Comprehensive Plan and the Lake Nasworthy Master Plan with respect to gateway development along this segment of Knickerbocker. The Petitioner has indicated that the proposed use for the property is a "Religious Institution." All things considered, the proposed rezoning to GC is too intensive for the intended use, therefore a lesser classification such as Neighborhood Commercial is more appropriate. Religious Institutions, and their accessory uses like schools, day care, etc. are permitted by right in the Neighborhood Commercial Zoning District, and Staff is supportive of both the proposed use and a rezoning to Neighborhood Commercial. The General Commercial Zoning District, however, does not appear to be in keeping with either the Comprehensive Plan or the Lake's Master Plan, since this would lay the foundation

for subsequent unfettered commercial development within the gateway, which is contrary to the intent of either plans as indicated in the following analyses.

Lake Nasworthy Master Plan: This Plan was adopted by City Council in November of 2013. According to the adopted Master Plan, this site would be optimal for lodging, multi-family residential and roadside retail and restaurant uses. The subject property will be located in an area that will have special access to fitness trails and will have close proximity to other lake-related assets. This area will function as a gateway to Lake Nasworthy and the lake's Harbor Village, proposed for the south end of the causeway.

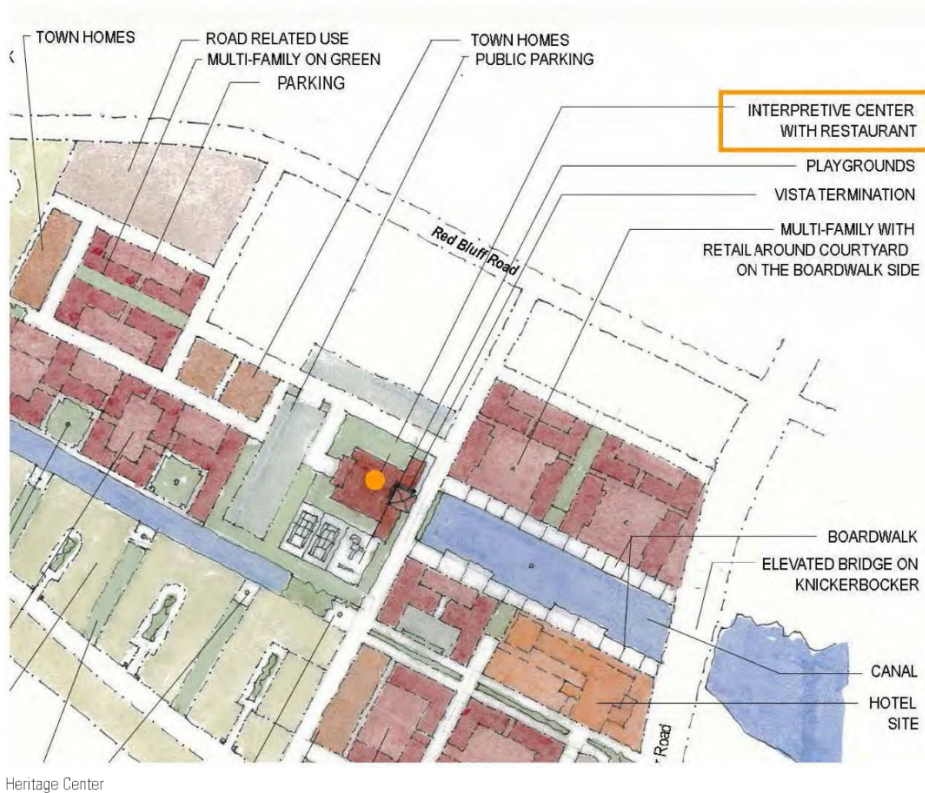


Zone 4: Special Opportunity

The complete dismantling of the power plant was intended to create an attractive piece of property near Lake Nasworthy available for redevelopment (p. 56). The subject property is part of an overall unique parcel because of its proximity to the lake as well as the canal that bisects the property, not to mention its frontage along Knickerbocker Road. City leaders at the time that the Master Plan was adopted envisioned the site to be a mixed use concept with a single family neighborhood, multifamily buildings, and a hotel served by neighborhood retail and commercial.

The exhibit below provides a concept as to how the hotel, restaurants, retail and housing could be incorporated with pocket parks and public spaces on the power plant site; functional access to the canal for recreation; and access points for new roadway connections and trails through the area consistent with the proposed trail plan. Finally, the illustrative concept shows a

Image 60



Comprehensive (Vision) Plan: This update to the original 2003 Comprehensive Plan, also known as the City's Vision Plan, was adopted by City Council in 2009. The subject area currently has a Future Land Use designation of "Transitional." This designation extends along the property's entire Knickerbocker Road frontage. Based on the relationship of the subject property to the Lake Nasworthy Master Plan, the current Future Land Use designation appears reasonable and appropriate.

According to the Comprehensive Plan, there are two types of Transitional areas, the first involving conversions of commercial corridor frontage from CG/CH zoning and related strip-style development, and the second involving the logical and proportional bridging between Neighborhood Centers or other Commercial areas and nearby neighborhoods. In either case, Transitional areas should provide for a progressive scaling of activity from more intense areas to neighborhoods which should be more passive in character. In general, Transition Areas imply increased density and greater mix of uses than neighborhoods, but not as much as in Neighborhood Centers, Downtown, or other Commercial areas. This is further expressed in Goal number two, which seeks to "...blend intensive commercial areas into neighborhoods seamlessly." The Comprehensive Plan recognizes that "commercial areas often do not make for compatible neighbors for residential uses, but rather than completely turning their back on neighborhoods, Transition Areas should be used to graduate density and intensity of activity to maintain connectivity, improve pedestrian experience, and provide areas for increased housing and nonresidential options not currently being met."

Criteria: Section 212(G) of the Zoning Ordinance requires that the Planning Commission and City Council consider, at minimum, seven factors in determining the appropriateness of any Rezoning request.

1. **Compatible with Plans and Policies.** *Whether the proposed amendment is compatible with the Comprehensive Plan and any other land use policies adopted by the Planning Commission or City Council.*

Both the Lake Nasworthy Master Plan and the City's Comprehensive Plan appear to agree that any development on the subject property will require a zoning category that provides for more opportunities for mixed use in an integrated context. Both Plans acknowledge that proper zoning should be in place to allow flexibility in uses while having the end products resemble as close to a master development as possible. Staff believes that a Rezoning to the Neighborhood Commercial District would be compatible with these plans.

2. **Consistent with Zoning Ordinance.** *Whether and the extent to which the proposed amendment would conflict with any portion of this Zoning Ordinance.*

As part of the 2011 annexation, the subject property was initially zoned Ranch and Estate (R&E), in accordance with §302 of the Zoning Ordinance, to function as a holding or reserve zone until such time when the Planning Commission recommends a zoning plan of the property to the City Council. The proposed GC District will provide opportunities for development of commercial establishments of higher intensity, with larger trade area, floor area and traffic generation than Neighborhood Commercial uses. It also appears that the GC Zoning District is disproportionate to the proposed use, a Religious Institution, and therefore a lesser non-residential zoning district, like Neighborhood Commercial, may be more appropriate and reasonable.

3. **Compatible with Surrounding Area.** *Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land.*

The proposed GC Zoning District does not appear to be compatible with the area. Both the Comprehensive Plan and the Lake Nasworthy Master Plan address this area in a manner quite different from other areas of the City. The 2009 Vision Plan update designated this property as "Transitional" with the realization that this area could potentially serve as the gateway to a regional recreational amenity and flourishing economic generator. The Lake's 2013 Master Plan reinforces this position by identifying the "unique nature of the varying development opportunities around the lake." If the purpose of the rezoning is for the development of a Religious Institution, as indicated in the application, then a rezoning to the Neighborhood Commercial District would be appropriate and supported by staff. A rezoning to CG, however, will potentially introduce incompatible uses that will not only have an adverse impact on

the immediately surrounding area, but on the future development of Lake Nasworthy as well.

4. **Changed Conditions.** *Whether and the extent to which there are changed conditions that require an amendment.*

There have been no recent initiatives that have called for a change in direction from smaller, neighborhood-scaled development to more intense general commercial development for this particular area.

5. **Effect on Natural Environment.** *Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment, including but not limited to water and air quality, noise, storm water management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.*

There could be some appreciable effect on the natural environment. The subject property contains a canal that feeds directly into the lake. Any untreated storm run-off generated on the property could find its way into the lake through this canal, potentially cause some degree of contamination and subsequent adverse environmental impact on the lake's ecosystem.

6. **Community Need.** *Whether and the extent to which the proposed amendment addresses a demonstrated community need.*

Religious Institutions serve many community needs, and staff believes such a use would be appropriate in this area. The request for CG Zoning appears somewhat disproportionate to the scale of the use being facilitated and should be reconsidered. The Petitioner has not provided evidence to suggest a need for the more intensive General Commercial zoning, when the Neighborhood Commercial zoning district is adequate for the proposed use of the property for a religious institution and related uses.

7. **Development Patterns.** *Whether and the extent to which the proposed amendment would result in a logical and orderly pattern of urban development in the community.*

The proposed request for CG Zoning would appear to be counter to desired development patterns as indicated in both the Lake Nasworthy Master Plan and the City's Comprehensive Plan, which call for more scaled-down, less intensive development opportunities. A rezoning to Neighborhood Commercial, however, would support the development of a Religious Institution, which staff believes in turn would result in a logical and orderly pattern of development in this special and unique area.

Notification:

On September 2, 2016, 11 notifications were mailed out to property owners of record within a 200-foot radius of the subject area. On September 9, 2016, a separate written notice was mailed out to the local school district, in accordance with Section 211.007, Texas Local Government Code. As of the date of this publication, staff has received three responses in favor of, and zero responses in opposition to, the request.

Planning Commission Action:

This request was scheduled for review and consideration on the September 19, 2016, Planning Commission docket as Regular Agenda Item *III.2.A*. Below is an excerpt from the meeting's unofficial minutes:

Chairperson Preiss introduced Regular Agenda Item *III.2.A* and read the project description into the record. David Stallworth, Principal Planner, provided a brief synopsis of the case. Mr. Stallworth indicated the location for the subject area, showed existing site conditions as well as various perspectives of the surrounding area. Mr. Stallworth concluded his presentation with a recommendation of DENIAL, along with his basis for the recommendation. Mr. Stallworth indicated, however, that a zone change to the "Neighborhood Commercial" Zoning District could be supported by Staff.

Mr. Russell Gully, SKG Engineering, representing Glen Meadows Baptist Church, approached the podium, identified himself, and proceeded to address the Commission. Mr. Gully posited that the Commission should approve the Zone Change as requested opining that churches are more of a "Special Opportunity" than an "Interpretive Center," as called for in the Lake Nasworthy Master Plan. Mr. Gully continued to opine that a church-affiliated school could only operate within the General Commercial zone. Mr. Gully provided the Commission with some color renderings of proposed buildings.

Commissioner Crisp asked if the CN zoning category would support a school that was affiliated with a church. Chairperson Preiss asked why the City would do anything against the church, noting the good things they do. Jon James, Planning and Development Services Director, concluded that a church-affiliated school could operate on the property under a CN or CO (Office Commercial) zoning category without the need for a Conditional Use Permit. Commissioner Stribling found Mr. James' clarification acceptable. Mr. James further responded that the concerns weren't with the church itself, but rather with whatever remaining unused portions of the property that would be subject to future speculation, further stating that General Commercial did not fit either the Future Land Use under the City's Vision Plan or the direction of the Lake's

Master Plan. Commissioner Crisp asked if conditions could be imposed to accommodate the zone change request. Mr. James answered no.

Mr. Wesley Mikeska, an officer of Glen Meadows Baptist Church, approached the podium, identified himself, and proceeded to address the Commission. He indicated that about 20-25 acres would be sufficient for their development, but the church intended to sell off any surplus land to a suitable buyer at its discretion. Mr. Mikeska did clarify that a school operation was not in the church's immediate future, however. Mr. Mikeska brought up Staff's point regarding lack of adequate sewer facilities in the area to support any new development and countered that a church would be far less a strain on existing facilities than would what the Lake's Master Plan intends for that area. Mr. Mikeska appeared amenable to the possibility of changing the zoning to a less intensive zoning category. Rebeca Guerra, Planning Manager, clarified that a school affiliated with the church may be allowed under a CN zoning category, but once the school is sold off to an independent entity, Conditional Use approval would then be required. Commissioner Jackson noted that many of the uses cited in the Lake's Master Plan are allowed under the CG zone, while Commissioner Farmer opined that the CG zoning will give the church more latitude when the church divests itself of any surplus property.

Commissioner Stribling asked for clarification on Staff's recommendation for a lesser zoning category. Ms. Guerra explained that Staff did not find the request to be consistent with the City's long term Comprehensive Plan, noting that the area has a Future Land Use designation of "Transitional." Ms. Guerra further noted that the request was not consistent with the Lake's Master Development Plan, which indicates that Neighborhood Commercial would be a better fit for this area as it would employ less intensive commercial development. Mr. Stallworth noted that General Commercial zoning exists at opposite sides of the subject property, as does Neighborhood Commercial. Commissioner Spano opined that he did not see any sense behind the suggested downzoning. Mr. James noted that the KOA to the south could work in a CN zoning category. Mr. James further noted that although existing commercial uses to the north was not as intense as they could be, the underlying fear is that more intense and undesirable uses could inevitably be introduced into the area, should GC zoning be approved. Commissioner Smith asked when the existing adjacent CG zoning was put into place. Mr. James responded by stating that these zones predated the Lake's Master Development Plan. Mr. Gully approached the podium once more and reiterated that previous discussions with the City centered on introducing General Commercial-level development within the site along Knickerbocker which would be similar to that found further north along Knickerbocker. Mr. Gully concluded that any transitioning would not be between existing commercial zones along Knickerbocker, but would rather be between potential commercial development along Knickerbocker and residential uses to the west.

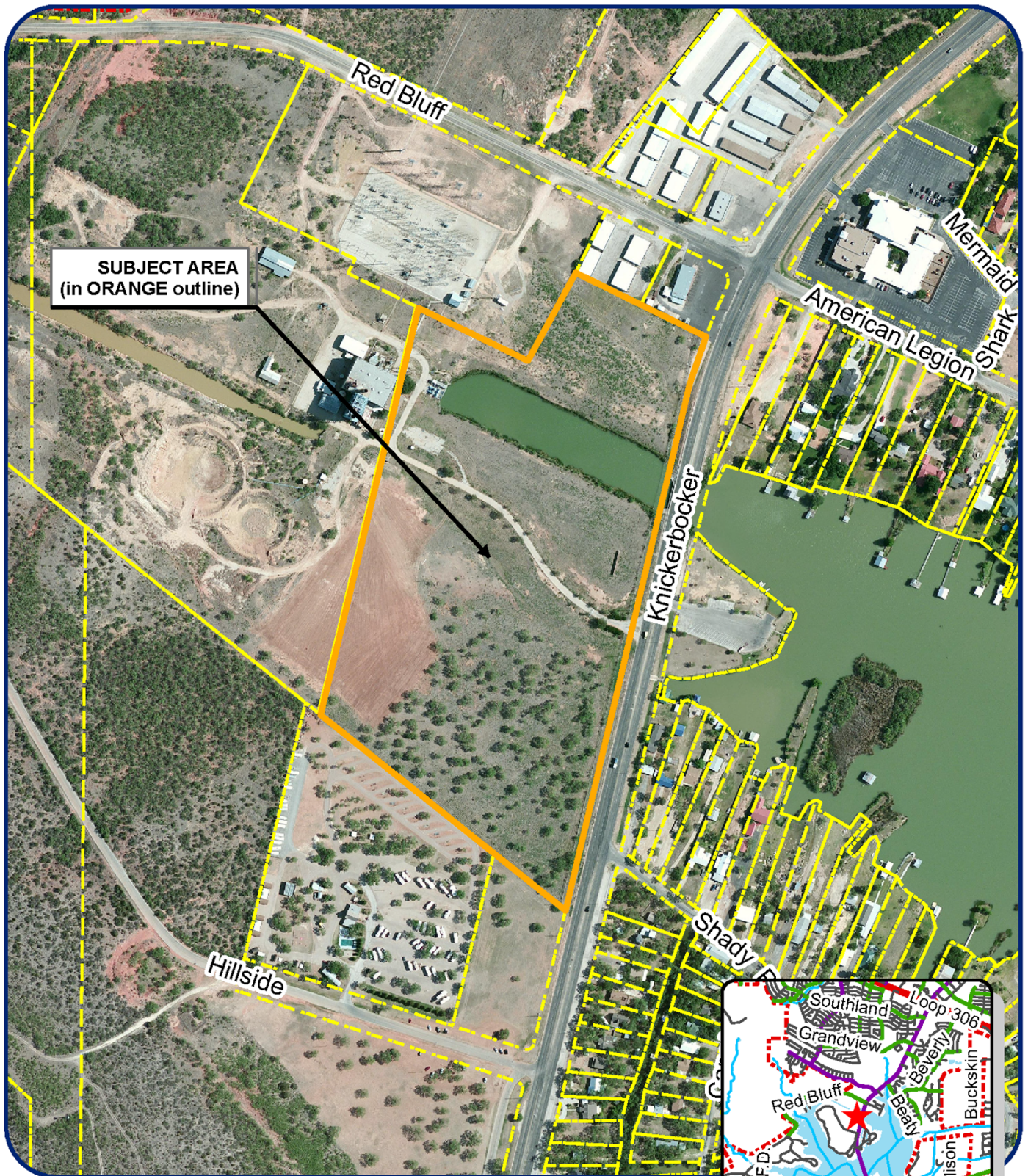
Commissioner Jackson made a Motion to recommend APPROVAL of the Zone Change from “Ranch and Estate (R&E)” to “General Commercial (CG).” Commissioner Farmer seconded the Motion. The Motion passed, 5-2 (Stribling and Smith dissenting).

Staff Recommendation:

Staff’s recommendation is for City Council to **APPROVE** a Zone Change from the Ranch and Estate (R&E) Zoning District to the **Neighborhood Commercial (CN) Zoning District**.

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Major Thoroughfare Plan
Survey
Petitioner Justification
Excerpt of CG Permitted Uses and Provisions
Site Photographs



Zoning Case Files

Z16-07 Glen Meadows Baptist Church

Council District: SMD #1 (Richardson)

Neighborhood: Nasworthy

Scale: 1 inch :: 400 feet

Legal Description: 30.00 ac out of the C. Damman Survey 180, ABS-141 (Doc 201600574, OPR)

Legend

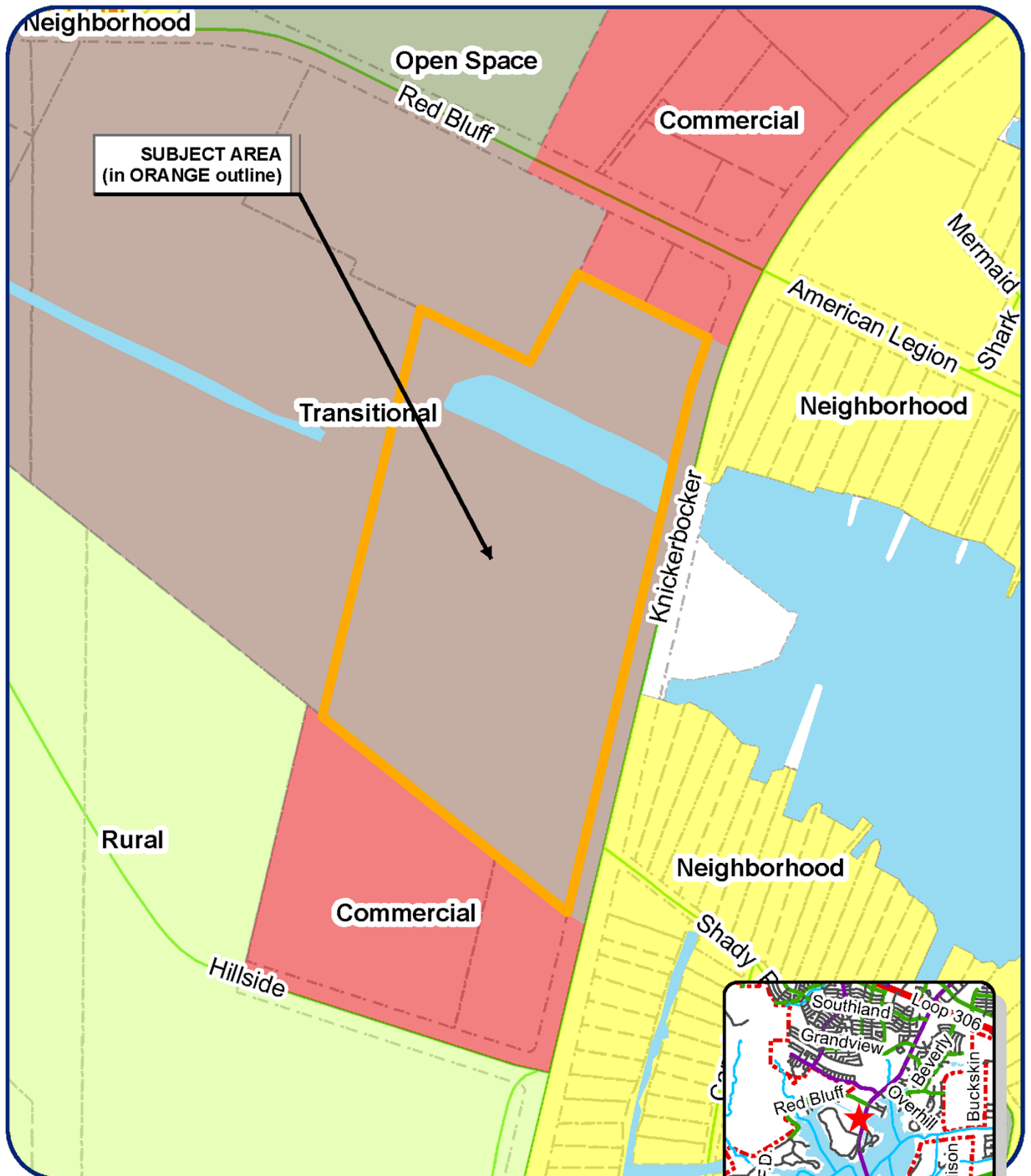
Subject Properties: —

Current Zoning: **R&E**

Requested Zoning Change: **CG**

Vision: **Transition**





Zoning Case Files

Z16-07 Glen Meadows Baptist Church

Council District: SMD #1 (Richardson)

Neighborhood: Nasworthy

Scale: 1 inch :: 400 feet

Legal Description: 30.00 ac out of the C. Damman Survey 180, ABS-141 (Doc 201600574, OPR)

Legend

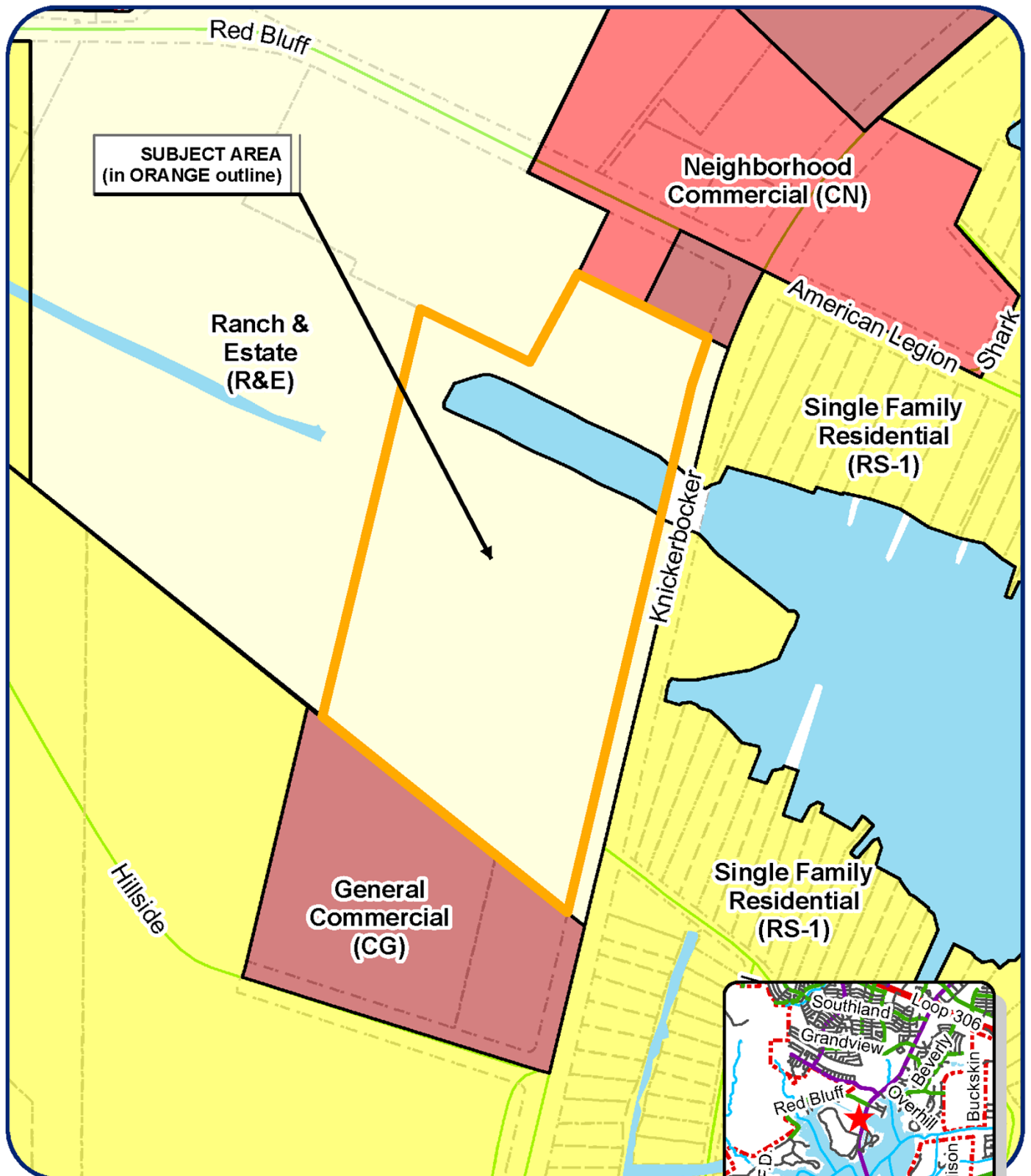
Subject Properties:

Current Zoning: **R&E**

Requested Zoning Change: **CG**

Vision: **Transition**





Zoning Case Files

Z16-07 Glen Meadows Baptist Church

Council District: SMD #1 (Richardson)

Neighborhood: Nasworthy

Scale: 1 inch :: 400 feet

Legal Description: 30.00 ac out of the C. Damman Survey 180, ABS-141 (Doc 201600574, OPR)

Legend

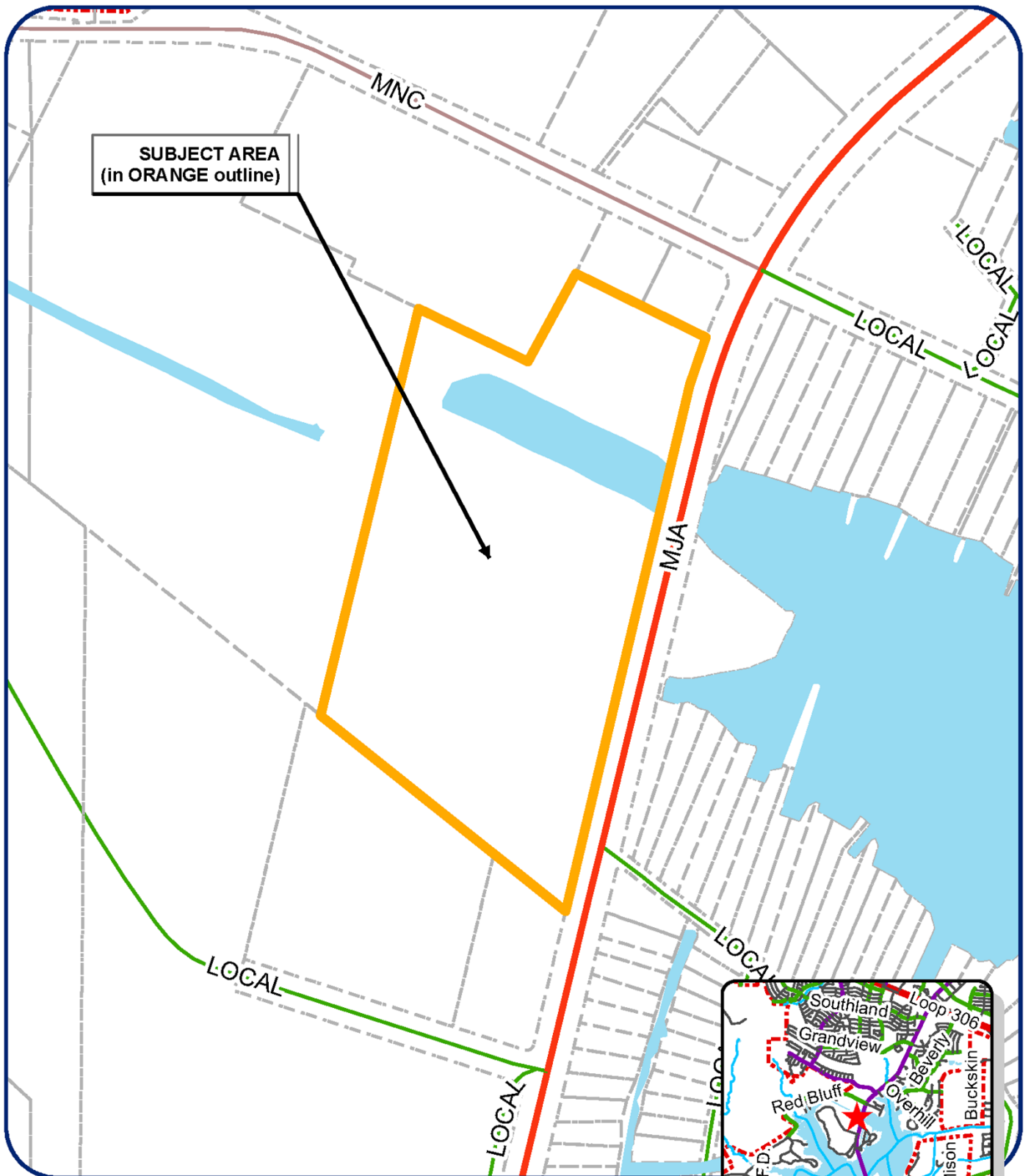
Subject Properties:

Current Zoning: **R&E**

Requested Zoning Change: **CG**

Vision: **Transition**





Zoning Case Files

Z16-07 Glen Meadows Baptist Church

Council District: SMD #1 (Richardson)

Neighborhood: Nasworthy

Scale: 1 inch :: 400 feet

Legal Description: 30.00 ac out of the C. Damman Survey 180, ABS-141 (Doc 201600574, OPR)

Legend

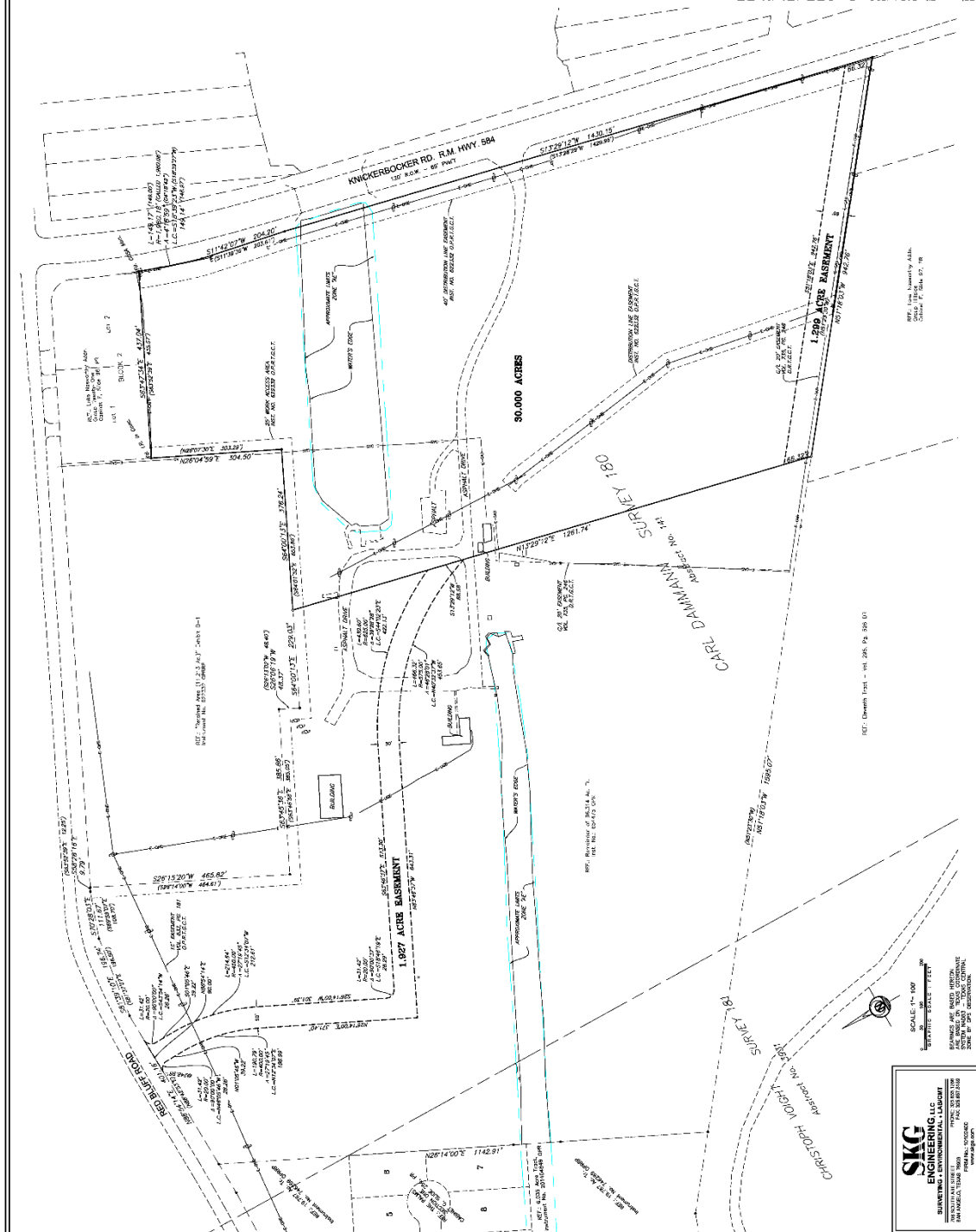
Subject Properties: —

Current Zoning: **R&E**

Requested Zoning Change: **CG**

Vision: **Transition**



[illegible]

City of San Angelo, Texas
Planning Division

Application for Approval of a ZONE CHANGE

Name of Applicant(s): Glen Meadows Baptist Church

– Owner – Authorized Representative (Affidavit required)

Mailing Address: 6002 Knickerbocker Road

Telephone: 942-6601

City/State/Zip: San Angelo, Texas 76904

Fax/other: _____

Subject Property Address and/or Location*:

6400 Knickerbocker Road

Legal Description*:

30.000 acres out of Carl Damman Survey 180, Abs 141, City of San Angelo, Tom Green County
per deed recorded as Instrument No. 201600574

Zoning: R&E

Vision Plan Map Designation: Transitional

Existing Use of Property: Vacant - Former power plant site

Proposed Use of Property: Religious Institution

Requested Zone Change: CG

* use attachment, if necessary

I/We the undersigned acknowledge that the information provided above is true and correct.

Signature

Johnny Coats

Date

8/19/16

NOTE: Please also read information and sign on back of page.

OFFICE USE ONLY

Case no.: Z 16 - 07

8 L R M

Date of application: 8/19/2016

Received by: D. Stallworth

– walk-in – by mail

Nonrefundable application fee: \$ 500.00

Date paid: 8/23/2016

Sign deposit: \$ 37.50

Date paid: 8/23/2016

Affidavit attached? – yes – no – N/A Applicant's signature on information sheet? –

Previous Zone Change Inquiry? – yes – no

If yes, ZCI case no.: _____

River Corridor Commission? – yes – no

If yes, RCC meeting date: _____

Planning Commission hearing date: 9/19/2016

Date notifications due: _____

City Council hearing date: 10/18-11/1/16 Packets due date: _____ Publication date: _____

City of San Angelo, Texas
Department of Planning
Important Information Regarding Zone Change Requests

Please read the following and sign below.

1. An application for a zone change on a property may only be made by the owner of that property, an authorized representative of the property owner, the Planning Director, the Planning Commission or City Council. An authorized representative shall present a notarized affidavit from the property owner.
2. No application will be processed if a zoning violation exists on the property, unless such processing is authorized by City Council. Use of the subject property for any new activity (not allowed by present zoning) cannot occur before City Council's approval of the requested zone change. Any such unauthorized use of the subject property is subject to prosecution in Municipal Court.
3. If approved, **a zone change is applied to the property, not the property owner.**
4. The Planning Commission makes recommendations to City Council. If the Planning Commission recommends approval of a zone change request, the case must still go before City Council for final action.
5. If a zone change request is granted by City Council, permits for building construction and/or utility connection may be obtained from the City's Permits and Inspections Department.
6. Certain minimum building setbacks from some or all property lines must be maintained, and room for a minimum number of off-street parking spaces must be reserved on a subject property, based on that property's zoning classification and the nature of its proposed use. A privacy fence may also be required between more restrictive and less restrictive zoning districts. These requirements are outlined in San Angelo's Zoning Ordinance. It is to the applicant's benefit to make sure that any proposed development will fit onto the subject property, in compliance with these and other applicable requirements of the City's Code of Ordinances.
7. One or more notice sign(s) will be placed on the subject property by the Planning Department. However, it is the applicant's responsibility to ensure that the notice sign(s) has/have been posted at least ten (10) days prior to the Planning Commission meeting. If notice sign(s) is/are not posted accordingly, City Council may delay a request. The Planning Department will also notify, in writing, owners of property within 200-feet of the subject property of the zone change request.
8. If the Planning Commission recommends denial of a request, the applicant will have ten (10) days to appeal this decision, in writing, to City Council. If an appeal is made within three (3) days from the Planning Commission meeting, no re-notification fee will be required. Otherwise, there will be a nonrefundable \$35 fee to re-notify owners of nearby property of City Council's public hearing date. If the Planning Commission's recommendation of denial is not appealed, it will be the final action on a request.
9. The applicant or an authorized representative should attend public hearing(s) pertaining to his/her request, prepared to present his/her case and to answer any relevant questions from Planning Commission or City Council members.

I/We have read and understand the preceding information.

Johnny Coats
Signature

8/19/16
Date

OFFICE USE ONLY

Case no.: Z 16 - 07 Date of application: 8/19/2016 Received by: [Signature]



Planning Division
52 W College Ave.
San Angelo, TX 76903
(325) 657-4210, #2
www.cosatx.us/planning

PLANNING

Planning is a Division of the Department of Planning & Development Services

GENERAL COMMERCIAL (CG) ZONING DISTRICTS

What is the intent of the CG District?

The General Commercial District is intended to provide opportunities for development of commercial establishments of higher intensity, with larger trade area, floor area and traffic generation than Neighborhood Commercial uses. Limited outdoor storage, screened from adjacent residential uses, may be appropriate.

What are the "Allowed" uses in the CG District?

Uses which are allowed by right include, but, are not limited to:

- Group living, day care (for children or adults), alcohol & drug recovery facilities, and bed & breakfasts;
- Colleges, schools, meeting areas for religious institutions, public & nonprofit uses providing service to the community, and public safety & emergency services;
- Restaurants, entertainment-oriented businesses, personal service-oriented or repair-oriented businesses, retail sales, and offices (business, government, professional, medical or financial);
- Commercial parking lots, auto & boat dealers, self-service storage facilities, vehicle washes, and vehicle services (performed while the customer waits); and,
- Small animal veterinary clinics.

What uses are potentially allowed via approval of a Conditional Use?

The Planning Commission can approve a Conditional Use, which may be accompanied by conditions deemed appropriate. Some of the uses allowed by such an approval may include:

- Hospitals, vehicle repair, alcoholic beverage sales (for on-site consumption), warehouse & freight movement, equipment rental, and wholesale trade.

Please see the Conditional Use handout for more information. Applications for a Conditional Use are processed by the Planning Division.

Hours of Operation: 8 AM - 12 PM & 1 PM - 5 PM

What uses are potentially allowed via approval of a Special Use?

The Planning Commission and the City Council can approve a Special Use, which may be accompanied by conditions deemed appropriate. Some of the uses allowed by such an approval may include:

- Detention facilities, facilities for golf, campground and/or recreational vehicle parks, and firearm ranges; and,
- Any use which the Planning Commission and the City Council deem appropriate as a transition between zoning districts.

Please see the Special Use handout for more information. Applications for a Special Use are processed by the Planning Division.

Is there a restriction on how many structures I can build on my property?

There is a floor area ratio (FAR) that must be followed. The FAR refers to a maximum ratio calculated with the gross floor area of *all* buildings on the lot(primary structure, detached garage, and storage buildings) and the square footage of the lot. For CG the FAR is 2 times the size of the lot, or 200%. In other words, for a lot of 6,000 square feet, the floor area of all buildings cannot exceed 12,000 square feet. This figure includes multi-story construction.

What are the lot restrictions?

Minimum lot size in the CG District:

- 6,000 square feet and 50' x 80'

Minimum setbacks in the CG District:

- Front Setback: 25 feet
- Side & Rear Setback: 0 feet *unless* abutting a residential district or use, then 10 feet

What are the parking and loading requirements for the CG District?

Off-street parking requirements are:

- Determined by the use of the property and other related factors. For more information refer to Sec 511.B of the Zoning Ordinance or contact the Planning Division.

Off-street loading requirements are:

- A minimum of one space is required for industrial and commercial uses;
- 1 additional space for each additional 40,000 square feet or major fraction thereof;
- For institutional uses, 1 additional space for each additional 60,000 square feet or major fraction thereof.

Is outdoor storage allowed in the CG District?

Yes, Type 2 - limited outdoor storage; this allows up to 1,000 square feet or 10% of the total site area, whichever is greater.

Hours of Operation: 8 AM - 12 PM & 1 PM - 5 PM

APPROXIMATE LOCATION OF SUBJECT PROPERTY (Bird's Eye Perspective)



IMAGES OF THE SUBJECT PROPERTY (Looking south from Red Bluff Road)





IMAGES OF THE SUBJECT PROPERTY (From Knickerbocker Road Entrance)





AREA CONDITIONS EAST OF THE SITE





EXISTING NON-RESIDENTIAL USES NORTH OF THE SITE
(Near Red Bluff/Knickerbocker Intersection)





REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Bryan Kendrick, City Clerk, Legal,

Meeting Date: November 15, 2016

Item type: Regular Item

Caption:

Second reading and consider adopting an ordinance amending Chapter One "General Provisions" of the Code of Ordinances by amending Section 1.04 through 1.09 (T. James/B. Kendrick)

Summary/History:

In the 2015 City Charter review, some ordinances were identified that were either in conflict or duplicated provisions located in the Charter or State Law.

Per a request from Council Member Harry Thomas in June 2016, staff has begun reviewing the Code of Ordinances chapter by chapter for any items that are in need of deletion, amendment, or clean-up related to the requirements of State Law, the City Charter, or changes in method of operation with the City.

The review of chapter one of the code or ordinances and articles 1 through 1.04 have been approved on first reading August 16, 2016 and finally adopted on September 6, 2016.

This review completes the remainder of chapter one. The attached changes are recommended by staff.

Financial Impact:

None.

Other Information/Recommendation:

Staff recommends approval of the first reading, as presented.

Attachments:

1. Ordinance with changes redlined 1.04 through end of Chapter 1 redlined First Reading.docx

Presentation:

Approvals/Reviews:

Bryan Kendrick
Theresa James
Becky Dunn
Bryan Kendrick

Created/Initiated
Approved
Approved
Final Approval

AN ORDINANCE AMENDING CHAPTER 1 “GENERAL PROVISIONS” OF THE CODE OF ORDINANCES, CITY OF SAN ANGELO TEXAS, BY AMENDING ARTICLES 1.05 THROUGH 1.09 AS SET OUT BELOW, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY OF SAN ANGELO:

- 1) THAT**, Chapter 1 “General Provisions” of the Code of Ordinances, City of San Angelo, Texas is hereby amended by repealing and replacing Articles 1.05 through 1.09 as follows:

“Sec. 1.05.001 Office of emergency management director created; line of succession

There is hereby created the office of emergency management director of the city, which shall be held by the mayor in accordance with state law.

- (1) An emergency management coordinator may be appointed by and serve at the pleasure of the director;
- (2) The director shall be responsible for conducting a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in [section 1.05.004](#) of this article. He may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the director.
- (3) If the mayor is unable to serve as director during an emergency or disaster, the line of succession shall be determined as follows:
 - (A) Mayor pro-tem;
 - (B) City council members starting with single-member district 1 and continuing through single-member district 6;
 - (C) City manager;
 - (D) The most senior assistant city manager, determined by amount of time in such position;
 - (E) Police chief;
 - (F) Fire chief;
 - (G) Finance director;
 - (H) Public works director;
 - (I) The most senior department head, determined by amount of time in such position.

Sec. 1.05.002 Concept of operations; powers of director.

The powers and duties of the director shall include an ongoing survey of actual or potential major hazards which threaten life and property within the city, and an ongoing program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur. As part of his responsibility in hazard mitigation, the director shall supervise the development of an emergency management plan for the city and shall recommend that plan for adoption by the city council along with any and all mutual aid plans and agreements which are deemed essential for the implementation of such emergency management plan. The powers of the director shall include the authority to declare a state of disaster, but such action may be subject to confirmation by the city council at its next meeting. The duties of the director shall also include the causing of a survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein, as well as a continuing study of the need for amendments and improvements in the emergency management plan.

Sec. 1.05.003 Emergency management council

The mayor is hereby authorized to join with the county judge and the mayors of the other cities in the county in the formation of an emergency management council for the county and shall have the authority to cooperate in the preparation of a joint emergency management plan and in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a county-wide program of emergency management insofar as said program may affect the city.

Sec. 1.05.004 Duties of director

The duties and responsibilities of the emergency management director shall include the following:

- (1) The direction and control of the actual disaster operations of the city emergency management organization as well as the training of emergency management personnel.
- (2) The determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.
- (3) The maintenance of necessary liaison with other municipal, county, district, state, regional, federal, or other emergency management organizations.
- (4) The marshaling, after declaration of a disaster as provided for above, of all necessary personnel, equipment or supplies from any department of the city to aid in the carrying out of the provisions of the emergency management plan.
- (5) The issuance of all necessary proclamations as to the existence of a disaster and the immediate operational effectiveness of the city emergency management plan.
- (6) The issuance of reasonable rules, regulations or directives which are necessary for the protection of life and property in the city. Such rules and regulations shall be filed in the office of the city clerk and shall receive widespread publicity unless publicity would be of aid and comfort to the enemy.

(7) The supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with the county in which the city is located and with other municipalities within the county, for the county-wide coordination of emergency management efforts.

(8) The supervision of, and final authorization for, the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.

(9) The authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.

Sec. 1.05.005 Emergency management organization

The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the director in the emergency management plan, as well as all organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan. Such plan shall set forth the form of the organization, establish and designate divisions and functions, assign tasks, duties and powers, and designate officers and employees to carry out the provisions of this article. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the state division of emergency management and of the federal government.

Sec. 1.05.006 Unauthorized operation of siren

Any unauthorized person who shall operate a **vehicle** siren or other device so as to simulate a warning signal, or the termination of a warning, shall be deemed guilty of a violation of this article and shall be subject to the penalties imposed by this article.

Comment [JT1]: The current emergency warning siren system can only be operated from the public safety dispatch center.

Sec. 1.05.007 Effect of emergency regulations

At all times when the orders, rules, and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith. (1959 Code, sec. 2-5-7; 1996 Code, sec. 6.507)

Sec. 1.05.008 Conflicts with state or federal statutes or military regulations

This article shall not be construed so as to conflict with any state or federal statute or with any military or naval order, rule, or regulation. (1959 Code, sec. 2-5-8; 1996 Code, sec. 6.508)

Sec. 1.05.009 Liability

This article is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety and neither the city, the agents and representatives of the city, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with any order, rule, or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to person as the result of said activity. Any person owning or controlling real estate or

other premises who voluntarily and without compensation grants to the city a license or privilege or otherwise permits the city to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for the loss of, or damage to, the property of such person. (1959 Code, sec. 2-5-9; 1996 Code, sec. 6.509)

Sec. 1.05.010 Expenditures

Unless otherwise authorized by state statute, no person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this article without prior approval by the city council, nor shall any person have the right to bind the city by contract, agreement or otherwise without prior and specific approval of the city council.

Comment [JT2]: There are some instances in which council action is not required under emergency powers in state statutes as well as for purchases less than \$50,000. This change brings the language into line with the state statutes.

Sec. 1.05.011 Unlawful acts

It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any rule or regulation issued pursuant to this article, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this article. It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the emergency management organization of the city, unless authority to do so has been granted to such person by the proper officials. Convictions for violations of the provisions of this article shall be punishable by fine as set forth in [section 1.01.009](#) of this code.

Sec. 1.05.012 Oath

Each employee or any individual that is assigned as either a part time or full time employee in the San Angelo/Tom Green County Office of Emergency Management function or responsibility shall solemnly swear or affirm to support and defend the Constitution of the United States, the laws of the state and the ordinances of the city.

ARTICLE 1.06 COMMUNITY DEVELOPMENT PROGRAM

Sec. 1.06.001 Adoption of program

The city hereby adopts a "community development program" under the Texas Community Development Act of 1975, V.T.C.A., Local Government Code 373.001 et seq.

Sec. 1.06.002 Goals

The goals of the city's community development program are to:

- (1) Improve the living and economic conditions of persons of low and moderate income;
- (2) Benefit low or moderate income neighborhoods;
- (3) Aid in the prevention or elimination of slums and blighted areas;

- (4) Aid a federally assisted new community; or
- (5) Meet other urgent community development needs, including an activity or function specified for a community development program that incorporates a federally assisted new community.

Sec. 1.06.003 Authorized acts

- (a) Under the community development program the city shall be authorized to:
 - (1) Acquire real property, including air rights, water rights, and other interests in real property, that:
 - (A) Is blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;
 - (B) Is appropriate for rehabilitation or conservation activities;
 - (C) Is appropriate for the preservation or restoration of historic sites, the beautification of urban land, or the conservation of open spaces, natural resources, and scenic areas;
 - (D) Is appropriate for the provision of recreational opportunities or the guidance of urban development; or
 - (E) Is to be used for the provision of public works, facilities, or other improvements eligible for assistance under this article or is to be used for other public purposes;
 - (2) Acquire, construct, reconstruct, or install public works, facilities, sites, or other improvements, including construction, reconstruction, or installation that implements design features or makes improvements that promote energy efficiency;
 - (3) Implement municipal code enforcement in a deteriorated or deteriorating area in which enforcement, combined with public improvements and public services, may stop the decline of the area;
 - (4) Clear, demolish, remove, and rehabilitate buildings and improvements, including rehabilitation that promotes energy efficiency, including assistance in and financing of public or private acquisition of those properties for rehabilitation, and including the renovation of closed school buildings;
 - (5) Rehabilitate privately owned properties;
 - (6) Implement special projects related to the removal of barriers that restrict the mobility of elderly and handicapped persons;
 - (7) Pay housing owners for losses of rental income incurred in holding for temporary periods housing units used for the relocation of persons displaced by programs conducted under this article;

(8) Dispose of, by sale, lease, donation, or otherwise, real property acquired under this article, or retain the property for public purposes;

(9) Provide public services not otherwise available if the services are designed to improve the community's public services and facilities, including services related to employment opportunities, economic development, crime prevention, child care, health, drug abuse, education, welfare, or recreational needs of persons residing in those areas, or are designed to coordinate public and private development programs;

(10) Pay the non-federal share required in connection with a federal grant-in-aid program undertaken as part of a local community development program;

(11) Pay the cost of completing a project funded under title I of the Housing Act of 1949 (42 U.S.C.A. section 1450 et seq.) or a federally assisted new community assisted by loan guarantees under title X of the National Housing Act (12 U.S.C.A. section 1749aa et seq.) if a portion of the federally assisted area has received grants under section 107(A)(1) of the Housing and Community Development Act of 1974 (42 U.S.C.A section 5307(a)(1));

(12) Make relocation payments and provide relocation assistance for individuals, families, businesses, organizations, and farm operations;

(13) Initiate activities necessary to develop a comprehensive community development plan and to develop a policy-planning-management capacity in order that recipients of assistance under this article may more rationally and effectively determine their needs, set long-term goals and short-term objectives, devise programs and activities to meet those goals and objectives, evaluate the progress of the programs, and carry out management, coordination, and monitoring of activities necessary for effective implementation of the programs;

(14) Pay reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of those activities and including the carrying out of activities described by section 701(e) of the Housing Act of 1954 on the day before the date of the enactment of the federal Housing and Community Development Amendments of 1981;

(15) Assist activities that are conducted by public or private entities if the activities are necessary or appropriate to meet the needs and objectives of the community development plan, including:

(A) Acquisition of real property;

(B) Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities, site improvements, utilities, commercial or industrial buildings or other structures, or other commercial or industrial real property improvements; and

(C) Planning;

(16) Make grants to:

(A) Neighborhood-based nonprofit organizations, local development corporations, or other entities organized to implement neighborhood revitalization projects, community economic development projects, or energy conservation projects;

(B) Federally assisted new communities; or

(C) Neighborhood-based nonprofit organizations or other private or public nonprofit organizations for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities in which elderly families benefit as a result of living in a dwelling in which facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and as a result reduces their cost of housing;

(17) Provide assistance to private, for-profit entities if the assistance is necessary or appropriate to carry out an economic development project; and

(18) Rehabilitate or develop housing assisted under section 17 of the United States Housing Act of 1937.

(b) The city may implement programs to provide financing for the acquisition, construction, improvement, or rehabilitation of privately owned buildings and other improvements or to assist private, for-profit entities if the assistance is necessary or appropriate to carry out an economic development project, through the use of loans and grants from federal money remitted to the municipality at the interest rates and on the terms and conditions determined by the municipality. A municipality may not provide municipal property or municipal funds for private purposes. The programs and financing must be in keeping with an approved community development plan that the municipality has determined to be a public purpose. A program established for financing the acquisition, construction, improvement, or rehabilitation of buildings and improvements, or for financing economic development projects, through the use of federal funds may prescribe procedures under which the owners of the buildings, improvements, or economic development projects agree to partially or fully reimburse the municipality.

(c) The city may issue notes or other obligations guaranteed by the Secretary of Housing and Urban Development under section 108, Housing and Community Development Act of 1974 (42 U.S.C. section 5308), as amended, for the purpose of providing financing for those activities described in section 108, Housing and Community Development Act (42 U.S.C. section 5308), as amended, in furtherance of an approved community development program. The Section 108 guaranteed notes additionally may be secured by and made payable from the same sources as obligations issued under subchapter C, chapter 271, Local Government Code, subject to the notice provisions set forth therein. The Section 108 guaranteed notes or other obligations may be issued in such form, denominations, manner, terms, and conditions, bear interest at such rates, be interim or permanent notes or obligations, be subject to transfer, exchange, change, conversion, or replacement, and be sold in such manner, at such price, and under such terms, all as provided in the ordinance or resolution authorizing the issuance of such Section 108 guaranteed notes or obligations.

(1996 Code, sec. 2.3703; Ordinance adopted 2/16/99)

Comment [JT3]: Section 1.06.004, 1.06.005, and 1.06.006 are not necessary as they discuss how the original program should have been adopted and providing severability and effective date language that is unnecessary.

~~Sec. 1.06.004~~ **Prerequisites for adopting program**

~~Before exercising its authority under section 1.06.003, the city shall:~~

- ~~(1) — Identify areas of the city in which predominantly low and moderate income persons reside, that are blighted or slum areas, or that are federally assisted new communities;~~
- ~~(2) — Establish community development program areas in which community development activities, building rehabilitation, or the acquisition of privately owned buildings or land is proposed;~~
- ~~(3) — Adopt, by resolution, a plan under which citizens may publicly comment on the proposed community development program;~~
- ~~(4) — Conduct public hearings on the proposed program before the 15th day before the date of its final adoption by the governing body; and~~
- ~~(5) — Adopt the community development program by resolution or ordinance.~~

~~(1996 Code, sec. 2.3704; Ordinance adopted 2/16/99)~~

~~Sec. 1.06.005~~ **Severability**

~~The terms and provisions of this article shall be deemed to be severable in that, if any portion of this article shall be declared to be invalid, the same shall not affect the validity of the other provisions of this article. (1996 Code, sec. 2.3705; Ordinance adopted 2/16/99)~~

~~Sec. 1.06.006~~ **Effective date**

~~This article shall be effective on, from and after the date of adoption. (1996 Code, sec. 2.3706; Ordinance adopted 2/16/99)~~

ARTICLE 1.07 DISCRIMINATION

Division 1. Generally

~~Secs. 1.07.001–1.07.030~~ **Reserved**

~~Division 2. Fair Housing~~^{*}

~~Sec. 1.07.031~~ **Definitions**

~~For the purpose of this division, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words so used in the present tense include the future, words in the masculine gender include the feminine, words in the plural number include the singular, and words in the singular number include the plural.~~

~~*Discriminatory housing practice.*~~ An act that is unlawful under ~~section 1.07.032, 1.07.033, or 1.07.034~~ of this division.

~~*Dwelling.*~~ Any building, structure or portion thereof which is occupied as, or designed and intended for, occupancy as a residence by one or more families or any vacant land which is offered for sale or lease for the structure or portion thereof.

~~*Family.*~~ Includes a single individual.

~~*Person.*~~ Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, fiduciaries, and any other organization or entity of whatever character.

~~*To rent.*~~ Includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

~~(1959 Code, sec. 5-14-1; 1996 Code, sec. 5-1001)~~



~~**Sec. 1.07.032 Discrimination in sale or rental of housing**~~

Except as exempted by ~~section 1.07.035~~, it shall be unlawful for any person to:

- ~~(1) — Refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, sex, religion or national origin.~~
- ~~(2) — Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, sex, religion, or national origin.~~
- ~~(3) — Make, print, publish, or cause to be made, printed, or published any notice, statement or advertisement regarding the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, sex, religion or national origin, or an intention to make any such preference, limitation or discrimination.~~
- ~~(4) — Represent to any person because of race, color, sex, religion or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.~~
- ~~(5) — For profit, or with the hope or expectation of profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, sex, religion or national origin.~~
- ~~(6) — For profit, or with the hope or expectation of profit, influence or attempt to influence, by any words, acts, or failure to act, any seller, purchaser, landlord or tenant of a dwelling so as to promote the maintenance or racially segregated housing or so as to retard, obstruct, or discourage racially integrated housing.~~

~~(1959 Code, sec. 5-14-2; 1996 Code, sec. 5-1002)~~



Sec. 1.07.033 — Discrimination in financing of housing

~~It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise, whose business consists in whole or in part of the making of commercial or residential real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against any such person in the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or other financial assistance, because of:~~

- ~~(1) — The race, color, sex, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance; or~~
- ~~(2) — The race, color, sex, religion, or national origin of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made or given.~~

~~(1959 Code, sec. 5-14-3; 1996 Code, sec. 5.1003)~~



Sec. 1.07.034 — Discrimination in provision of brokerage services

~~It shall be unlawful for any person to deny access to, or membership or participation in, any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership or participation, on account of race, color, sex, religion or national origin. (1959 Code, sec. 5-14-4; 1996 Code, sec. 5.1004)~~



Sec. 1.07.035 — Exemptions and exclusions

- ~~(a) — There shall be exempted from the application of this division all transactions involving:~~
 - ~~(1) — The rental of units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other if the owner actually maintains and occupies one of such units as his residence.~~
 - ~~(2) — The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one family if the person offering such room for rental actually maintains and occupies the remainder of such dwelling as his residence and not more than four (4) such rooms are offered.~~
 - ~~(3) — The sale or rental of any single house by a private individual who owns such house, provided that:~~
 - ~~(A) — The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman or person;~~
 - ~~(B) — The sale is made without the publication, posting or mailing of any advertisement or written notice in violation of section 1.07.032(3) of this division (this shall not prohibit the use of~~

~~attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title);~~

~~(C) — The owner does not own more than three (3) single-family houses at the time of sale or rental;~~

~~(D) — The owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time; and~~

~~(E) — If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period.~~

~~(b) — Nothing in this division shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious association, or society from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, or national origin.~~

~~(c) — Nothing in this division shall prohibit a bona fide private club, not in fact open to the public, which, as an incident to its primary purpose, provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.~~

~~(d) — Nothing in this division shall bar any person from owning and operating a housing accommodation in which a room or rooms are leased, subleased or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.~~

~~(1959 Code, sec. 5-14-5; 1996 Code, sec. 5.1005)~~



~~Sec. 1.07.036 — Fair housing administrator~~

~~There is hereby created a fair housing administrator (hereinafter referred to as “administrator”), to be appointed by the city manager, who shall have the responsibility for implementing this division. The administrator may delegate his authority to investigate and conciliate complaints to other city employees under his direction. (1959 Code, sec. 5-14-6; 1996 Code, sec. 5.1006)~~



~~Sec. 1.07.037 — Complaints~~

~~(a) — Only the person who claims to have been injured by a discriminatory housing practice or who believes he will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring (hereafter referred to as “person aggrieved”) may file a complaint with the administrator. Such complaint shall be in writing and shall identify the person or persons alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based.~~

~~The administrator shall prepare complaint forms and furnish them without cost to any person, upon request.~~

~~(b) — If at any time the administrator shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed or are committing a discriminatory housing practice as to which no complaint has been filed, the administrator may prepare and file a complaint upon his own motion and in his own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.~~

~~(c) — The administrator shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of title VIII, Fair Housing Act of 1968, Public Law 90-284, and shall treat such complaints hereunder in the same manner as complaints filed pursuant subsection (a) of this section.~~

~~(d) — All complaints shall be filed within sixty (60) days following the occurrence of an alleged discriminatory housing practice. Not more than fifteen (15) days after the filing or referral of any complaint, the administrator shall provide notice of the complaint by furnishing a copy of such complaint to the person or persons named therein who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The accused may file a written, subscribed and sworn answer to the complaint within fifteen (15) days of receipt of the copy of such complaint.~~

~~(e) — All complaints shall be subscribed and sworn to before an officer authorized to administer oaths.~~

~~(1959 Code, sec. 5-14-7; 1996 Code, sec. 5-1007)~~



~~Sec. 1.07.038 — Investigation~~

~~(a) — Upon the filing or referral of a complaint as herein provided, the administrator shall cause to be made a prompt and full investigation of the matter stated in the complaint to determine whether or not there is probable cause to believe a discriminatory housing practice has occurred or is about to occur and to determine the facts of the alleged discriminatory housing practice.~~

~~(b) — If the administrator determines that there is not probable cause to believe a discriminatory housing practice upon which a complaint is based has occurred or is about to occur, the administrator shall take no further action with respect to such complaint and shall notify the person aggrieved accordingly.~~

~~(c) — During or after the investigation, but subsequent to the mailing of the notice of the complaint, the administrator shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of further voluntary compliance with the provisions of this division, agreement to which may be manifested by a written document executed and verified by the administrator and all other parties to such agreement. Such written conciliation agreement shall be in a form approved by the city attorney. Nothing said or done in the course of such informal endeavors may be made public by the administrator, by the aggrieved party or by any other party to the proceedings without the written consent of all persons concerned; provided, however, that~~

~~violation or breach of any term of a written conciliation agreement by any party thereto shall serve to nullify the confidential aspects of such agreement.~~

~~(d) — Upon completion of the investigation and informal endeavors at conciliation by the administrator, if the efforts of the administrator to secure voluntary compliance have been successful, the administrator shall take no further action with respect to the complaint other than in accordance with the terms of any written conciliation agreement entered into by the administrator and all other parties to such agreement.~~

~~(e) — If the administrator shall receive or discover credible evidence and shall have probable cause to believe that any party to a written conciliation agreement has committed or is committing a discriminatory housing practice at any time during the period that such conciliation agreement is in effect, the administrator may prepare and file a complaint, based upon such discriminatory housing practice, upon his own motion and in his own name, and shall consider such discriminatory housing practice as prima facie evidence that said complaint cannot be successfully resolved by efforts of the administrator to secure voluntary compliance.~~

~~(f) — Upon completion of the investigation and informal endeavors at conciliation by the administrator, but within thirty (30) days of the filing of the complaint with the administrator, if the efforts of the administrator to secure voluntary compliance have been unsuccessful, or if the administrator has determined that a charge cannot be successfully resolved in accordance with subsection (d) of this section, and if the administrator has probable cause to believe that a discriminatory housing practice has in fact occurred, the administrator shall recommend to the city attorney that such violation be prosecuted in the municipal court of the city. With such recommendation, the administrator shall refer his entire file to the city attorney. The city attorney shall, within thirty (30) days after such referral, make a determination as to whether to proceed with prosecution of such charge in municipal court.~~

~~(g) — If the city attorney determines to prosecute, he shall institute a complaint and prosecute same to conclusion within thirty (30) days after such determination, or as soon after as practicable.~~

~~(1959 Code, sec. 5-14-8; 1996 Code, sec. 5.1008)~~



~~**Sec. 1.07.039 — Cumulative legal effect**~~

~~This division is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue. (1959 Code, sec. 5-14-9; 1996 Code, sec. 5.1009)~~



~~**Sec. 1.07.040 — Unlawful intimidation**~~

~~It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because he or they have complied with the provisions of this division, because he or they have exercised his or their rights under this division or enjoyed the benefits of this division, or because he or they have made a complaint, testified or assisted in any manner in any investigation or in any proceeding hereunder or have made any report to the administrator. (1959 Code, sec. 5-14-10; 1996 Code, sec. 5.1010)~~



~~**Sec. 1.07.041 — Cooperation with Secretary of Housing and Urban Development**~~

The administrator and the city attorney are authorized to cooperate with the Secretary of Housing and Urban Development and the U.S. Attorney General pursuant to the provisions of the title VIII, Fair Housing Act of 1968, Public Law 90-284, and may render such service to the Secretary as they shall deem appropriate to further the policies of this division. (1959 Code, sec. 5-14-11; 1996 Code, sec. 5.1011)

Sec. 1.07.042 — Education and public information

In order to further the objectives of this division, the administrator may conduct education and public information programs. (1959 Code, sec. 5-14-12; 1996 Code, sec. 5.1012)

Sec. 1.07.043 — Penalty

Any person violating any provisions of this division shall be guilty of a misdemeanor, and upon conviction shall be fined in accordance with the general penalty provision found in section 1.01.009 of this code. Each day a violation continues from the date of the filing of a complaint in the municipal court of the city shall constitute a separate and distinct offense. (1959 Code, sec. 5-14-13; 1996 Code, sec. 5.1013) (Reserved)

Comment [JT4]: The fair housing provisions of the Code have been codified in State statutes in The Texas Fair Housing Act (Texas Property Code Chapter 301)

ARTICLE 1.08 MUNICIPAL COURT*

Division 1. Generally

Sec. 1.08.001 Seal

The municipal court of the city shall have a seal having engraved thereon a star of five points in the center, and words "Municipal Court, San Angelo, Texas," around the margin thereof. A facsimile of said described seal is as follows:



State law reference—Municipal court seal, Tex. Code Crim. Proc. art. 45.012(g).

Secs. 1.08.002–1.08.030 Reserved

Division 2. Judge*

Sec. 1.08.031 Appointment; organization of court

(a) Appointment. The city council shall appoint a presiding judge of the municipal court, who shall hold office for the duration of his/her appointment unless removed at will by the city council. The city council may appoint an associate judge, who shall hold office for the duration of his/her appointment, unless removed at will by the city council.

(b) Organization.

(1) The municipal court shall be divided into two (2) divisions, one (1) of which shall be presided over by the presiding judge and the other division of which shall be presided over by an associate judge. Each division shall have and exercise concurrent jurisdiction with the other division of such court within the corporate limits of the city and any other area provided by law, and such jurisdiction shall be the same as is now or may hereafter may be conferred upon all municipal courts by the general laws of the state. Such divisions of the municipal court shall be in concurrent and continuous session, day and night.

(2) The municipal court and its judges may transfer cases from one division to another, and any judge or division may exchange benches and preside over any other division of such court.

(3) The presiding judge shall have authority to administer the municipal court.

(1996 Code, sec. 2.1201; Ordinance adopted 10/29/96)

Sec. 1.08.032 Duties

(a) Presiding judge. The presiding judge of the municipal court shall preside over the first division of the municipal court and shall have and exercise the same power and authority and perform the same duties as that of the recorder or judge as prescribed by the laws of the state and the city charter.

(b) Associate judge. The associate judge of the municipal court shall preside over the second division of the municipal court and shall have the same powers as those conferred on the presiding judge.

(1996 Code, sec. 2.1202; Ordinance adopted 10/29/96)

Secs. 1.08.033–1.08.060 Reserved

Division 3. Fees*

Sec. 1.08.061 Building security fund

(a) All defendants convicted in trial of a misdemeanor offense in municipal court shall be assessed a three dollar (\$3.00) security fee as cost of court.

(b) A person shall be considered convicted if:

- (1) A sentence is imposed on the person;
- (2) The person receives community supervision, including deferred adjudication; or
- (3) The court defers final disposition of the person's case.

(c) The costs collected shall be paid to the finance director and deposited in a fund to be known as the municipal court building security fund. This fund shall be administered under the direction of the city council and may be used only to finance the following items when used for the purpose of providing security services for the municipal court building:

- (1) The purchase or repair of X-ray machines and conveying systems;
- (2) Hand-held metal detectors;
- (3) Walk-through metal detectors;
- (4) Identification cards and systems;
- (5) Electronic locking and surveillance equipment;
- (6) Bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;
- (7) Signage;
- (8) Confiscated weapon inventory and tracking systems;
- (9) Locks, chains, or other security hardware;
- (10) Video Teleconferencing systems
- (11) The purchase or repair of bullet-proof glass
- (12) Continuing education on security issues for court personnel and security personnel; and
- (13) Warrant officers and related equipment.

Sec. 1.08.062 School crossing guard fund

(a) All defendants convicted of violating the city's parking ordinances authorized under section 542.202, Transportation Code, or chapter 682, Transportation Code in municipal court shall be assessed a five dollar (\$5.00) fee as a cost of court.

(b) A person shall be considered convicted if:

- (1) A sentence is imposed on the person;
- (2) The person receives probation or deferred adjudication; or

Comment [JT5]: Added additional uses allowed by Texas Code of Criminal Procedure Article 102.017

(3) The court defers final disposition of the person's case.

(c) The costs collected shall be paid to the finance director and deposited in a fund to be known as the school crossing guard fund. This fund shall be administered under the direction of the city council and may be used only for the following purposes:

(1) Operating a school crossing guard program;

(2) If the money received exceeds the amount necessary to fund the school crossing guard program the money may be:

(A) Deposited in an interest-bearing account; or

(B) Expended for programs designed to enhance child safety, health or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention.

Sec. 1.08.063 Technology fund

(a) All defendants convicted in trial of a misdemeanor offense in municipal court shall be assessed a four dollar (\$4.00) technology fee as cost of court.

(b) A person shall be considered convicted if:

(1) A sentence is imposed on the person;

(2) The person is placed on community supervision, including deferred adjudication community supervision; or

(3) The court defers final disposition of the person's case.

(c) The costs collected shall be paid to the finance director and deposited in a fund to be known as the municipal court technology fund. This fund shall be administered under the direction of the city council and may be used only to finance the following items when used for the purpose of technological enhancements for a municipal court:

(1) Computer systems;

(2) Computer networks;

(3) Computer hardware;

(4) Computer software;

(5) Imaging systems;

(6) Electronic kiosks;

(7) Electronic ticket writers; and

- (8) Docket management systems.

Sec. 1.08.064 Collection fee

Defendants owing a debt or having an account receivable, other than a forfeited bond, with the city municipal court more than sixty (60) days past due shall be assessed a collection fee equal to thirty (30) percent of the debt owed if the account or debt has been referred to an attorney or collection agency for collection.

(1) A defendant is not liable for the collection fees authorized under this section if the judge of the municipal court determines that the defendant is indigent, or has insufficient resources or income, or is otherwise unable to pay all or part of the underlying fine.

(2) In the event the amount collected from a defendant is less than the total costs owed by the defendant, the amount paid to the comptroller and the amount permitted to be retained by the municipal court will be reduced by an equal percentage in order to fully compensate the attorney or collection agency, not to exceed the percentage specified as allowable collection costs in the contract between the city and the attorney or collection agent.

Sec. 1.08.065 Special warrant expense

(a) After due notice, a special expense of twenty-five dollars (\$25.00) shall be assessed against each person for whom a warrant of arrest is issued and served for an offense under section 38.10 of the Penal Code or section 543.009 of the Transportation Code.

(b) The costs collected shall be paid to the finance director or his designee and deposited in the municipal treasury for the use and benefit of the municipality.

(c) The presiding judge of the municipal court or his designee shall promulgate a procedure to ensure that due notice is provided before the special expense is assessed against any person.

Sec. 1.08.066 Juvenile case manager fund

(a) All defendants convicted of a fine-only misdemeanor offense in municipal court shall be assessed a five dollar (\$5.00) juvenile case manager fee as cost of court.

(b) A person shall be considered convicted if:

(1) A sentence is imposed on the defendant; or

(2) The defendant receives deferred disposition, including dismissal of a misdemeanor charge on commitment of a chemically dependent person.

(c) The costs collected shall be paid to the finance director and deposited in a fund to be known as the juvenile case manager fund. This fund shall be administered under the direction of the city council and may be used only to finance the salary and benefits of juvenile case managers employed by the municipal court.

(d) The municipal court judge is authorized to waive the fee in a case where financial hardship is demonstrated.

Sec. 1.08.067 Credit card processing fees

(a) Payment of fees or costs by credit card or electronic means. The municipal court clerk and any other municipal officer collecting fees, fines, court costs and other charges for the municipal court for the city are hereby authorized to accept payment by credit card of such fees, fines, court costs or other charge and to collect a fee for processing the payment by credit card.

(b) Processing or handling fee. The municipal court clerk and any other municipal officer is hereby authorized and directed to assess a processing fee not to exceed five percent (5%) of the amount of the fee, fine, court cost, or other charge being paid by the use of a credit card, as an amount reasonably necessary and related to the expense incurred by the city, as authorized by section 132.003(b), Texas Local Government Code.

(c) Service charge. If for any reason a payment by credit card is not honored by the credit card company on which the funds are drawn, the municipal officer shall collect a service charge from the person who owes the fee, fine, court cost, or other charge to the city. The service charge is in addition to the original fee, fine, court cost, or other charge and is for the collection of that original amount. The amount of the service charge shall be the same amount as the fee charged for the collection of a check drawn on an account with insufficient funds, as authorized by section 132.004, Texas Local Government Code.

(d) Encumbrance of credit cards. The presiding judge is hereby authorized to enter into agreements with companies which issue credit cards to collect and seize credit cards issued by the company that are outdated or otherwise unauthorized and the judge is further authorized to charge the company a fee for the return of said credit cards, as authorized by section 132.005, Texas Local Government Code.

(e) Disposition of fees and charges. Processing fees and service charges collected pursuant to this section shall be deposited in the general fund of the city, as provided by section 132.006(b), Texas Local Government Code.

ARTICLE 1.09 TAXATION*

Division 1. Generally

Secs. 1.09.001–1.09.030 Reserved

Division 2. Ad Valorem Taxation†

Sec. 1.09.031 Optional residence homestead exemption

Effective May 17, 2005, all previously adopted optional residence homestead exemptions for individuals who are sixty-five years of age or older or who are disabled shall be repealed.

Sec. 1.09.032 Tax freeze for residence homesteads

(a) Definitions.

Disabled. Has the same meaning as set forth in Texas Tax Code section 11.13(m)(1), as it currently exists or may be amended.

Residence homestead. Has the same meaning as set forth in Texas Tax Code section 11.13(j)(1), as it currently exists or may be amended.

Tax Code. The Texas Tax Code as it currently exists or may be amended.

(b) Residence homestead tax freeze for elderly and disabled people. There is hereby created and established a tax freeze on the amount of property taxes imposed by the city on the residence homesteads of individuals age sixty-five or older or who are disabled, which shall be governed by section 11.261 of the Tax Code, as follows:

(1) The tax freeze shall become effective beginning with the 2004 tax year, and shall remain effective for each successive tax year.

(2) The total amount of ad valorem taxes imposed on the residence homestead of a person who qualified that residence homestead for the exemption in accordance with the Tax Code as that of a person who is sixty-five years of age or older or who is disabled shall not be increased while it remains the residence homestead of that person or that person's spouse who is disabled or sixty-five years of age or older.

(3) If the person who is sixty-five years of age or older or who is disabled dies in a year in which the person received a residence homestead exemption, the total amount of ad valorem taxes imposed on the residence homestead shall not be increased while it remains the residence homestead of that person's surviving spouse if:

(A) The surviving spouse is disabled or fifty-five years of age or older at the time of the person's death;

(B) The residence homestead of the deceased person is also the residence homestead of the surviving spouse on the date of the person's death; and

(C) The residence homestead remains the residence homestead of the surviving spouse.

(4) Notwithstanding anything contained herein, taxes on the residence homestead may be increased to the extent the value of the homestead is increased by improvements other than repairs and other than improvements made to comply with governmental requirements.

(5) A person may not freeze taxes for more than one residence homestead, no matter where located, in the same year. A person may designate a new residence homestead within the city in accordance with the Tax Code.

(6) The limitation on taxes provided by this section may expire in accordance with section 11.261(d) of the Tax Code. If a tax limitation is erroneously allowed, back taxes may be assessed in accordance with section 11.261(e) of the Tax Code.

Division 3. Uniform Tax Abatement Policy

Sec. 1.09.061 Policy adopted

The city adopts this policy of tax abatement ("policy") for qualified business that proposes a project ("project") to develop, redevelop and improve taxable qualifying real property or tangible personal property located on the real property, or both ("property"). The city is willing to provide a subsidy to a property owner(s) in the form of a special exemption from certain ad valorem taxes provided the real property owner and, where applicable, its lessee, agrees to accept and abide by this policy. The city will, on a case-by-case basis, give consideration to providing tax abatement as a stimulation for economic development. Nothing herein shall imply or suggest that the city is under any obligation to provide tax abatement to any applicant. All applicants shall be considered on a case-by-case basis, and the decision to approve or deny tax abatement shall be at the discretion of the city council.

Sec. 1.09.062 Definitions

(a) Qualified business. A person or business entity that meets the following criteria:

- (1) The person or business entity owns qualifying real property ("real property owner"); or
- (2) The person or business entity leases qualifying real property from the real property owner ("lessee") and authorizes its lessor real property owner to contract on its behalf for tax abatement on the lessee's qualifying tangible personal property; and
- (3) The real property owner or its lessee is engaged in or has provided substantial commitment to initiate the active conduct of trade or business in a reinvestment zone; and
- (4) The real property owner or its lessee is engaged in one or more of the following activities:
 - (A) "Manufacturing," as defined by the Standard Industrial Classification (SIC), series 2000 and 3000.
 - (B) "Regional distribution facilities," as defined by SIC Code series 4200, and as further defined by SIC Code 4200, and as further defined by serving areas outside the San Angelo Metropolitan Statistical Area (MSA).
 - (C) "Data processing services," as defined by SIC Code series 4800 or SIC Code series 7300.
 - (D) "Telecommunications services," as defined by SIC Code series 4800 or SIC Code series 7300.
 - (E) "Renovation or restoration" of any commercial building located in a district established by ordinance by the city council as an historic, cultural, heritage, or conservation district, if the value added to the ad valorem tax base is certified by the director of the Tom Green County appraisal district to be equal to, or greater

than, \$30,000.00. Tax abatement will be available for rental residential buildings. Abatement is not available for homes or apartments occupied by their owners. Building enlargement costs do not qualify.

(F) "Corporate offices" of eligible businesses and other businesses, including retail establishments, not necessarily listed in the SIC series in subsections (A), (B), (C), and (D) above, as the job and capital criteria are met for the corporate office location.

(5) The person or business entity or its lessee creates new permanent jobs and capital investment and generally imports new wealth into the city.

(b) Property owner. Means, as appropriate to the context, either or both of the following:

(1) The owner of qualifying real property.

(2) A person or business entity which leases qualifying real property and owns qualifying tangible personal property located on said real property.

(c) Permanent job. A full-time or full-time equivalent employment position created by the qualified business in which a minimum of 2,080 hours are required annually.

(d) Abatement period. (Hereinafter defined) is seven years; limited, however, to no more than five tax years next following the timely and successful completion of the project. The period of time that the taxes are abated will be referred to as the "abatement period."

(e) First tax year. The commencement of construction of the project.

(f) Tax year. A calendar year.

(g) Actual construction. Site improvement activity initiated more than thirty days prior to the submission of an application for tax abatement and is concluded with the completion of the project qualifying for tax abatement under this policy.

Sec. 1.09.063 Abatement schedule

Subject to the remaining terms of this policy, the abatement of ad valorem taxes on property shall be according to the following formula:

(1) For projects eligible under [section 1.09.062\(a\)\(4\)\(A\), \(B\), \(C\), \(D\), and \(F\)](#):

Percent of Created Value to be Abated	Capital Cost of the Project* or Permanent Jobs**	
0%	\$0 - \$249,999	0 - 4
20%	\$250,000 - \$500,000	5
30%	\$500,001 - \$750,000	10
40%	\$750,001 - \$1,000,000	15

50%	\$1,000,001 - \$2,500,000	20
60%	\$2,500,001 - \$5,000,000	25
75%	Over \$5,000,000	30

*Minimum \$250,000 capital required

**Minimum of 5 jobs required to be created, regardless of capital investment

- (2) For projects eligible under [section 1.09.062](#)(a)(4)(E): 100% of created value to be abated.

Sec. 1.09.064 Tax abatement request procedure

Prior to beginning the actual construction work on the project proposed for tax abatement, the real property owner requesting tax abatement and its lessee, where the request includes a request for tax abatement on the lessee's qualifying tangible personal property, must submit an official application form to the city and:

- (1) Provide the city with:
 - (A) A description of the project clearly defining the work to be performed;
 - (B) A statement agreeing to expend a designated amount ("project cost") for the project;
 - (C) A separate statement agreeing that the required minimum number of full-time jobs will be created ("required jobs") and maintained during the term of the contract; and
 - (D) An explanation as to how the project will provide long-term significant positive economic benefit to the community, the city and its taxpayers.
- (2) Furnish the city with a written statement that tax abatement will be a significant factor in determining whether the project for the development, redevelopment or improvement of the property will take place.
- (3) Agree to execute a contract (herein so called) with the city containing the covenants and conditions required by the city.

Sec. 1.09.065 Contract compliance

Should the city agree to grant an abatement to the property owner after compliance with the procedure outlined above, then:

- (1) Subject to the terms and conditions of the contract, a stipulated percentage as set forth in [section 1.09.063](#) above of those particular ad valorem real and personal property taxes ("taxes") which are generated by virtue of fair market value created

("created value") solely due to the construction and completion of the project on the real property will be abated.

(2) The period of construction ("construction period") for the project shall not go beyond the end of the third tax year. During the construction period the property owner must actually expend the project cost and within six months next following the completion of the project must submit to the city receipts verifying expenditures, and a statement that the required jobs have been created. On January 1st of each tax year following completion of the project, the property owner must submit a statement to the city that the required jobs have been continuously maintained.

(3) Within six months next following the end of the construction period, the project must be in operation, i.e., it must actively serve the purpose for which it is designed.

(4) In the event the project is either:

(A) Not complete at the minimum cost by the end of the construction period; or

(B) Is timely completed at the minimum cost but is not operational within six months next following the end of the construction period, unless granted a six-month extension by the city council; or

(C) Is timely completed at the minimum cost of less than \$5,000,000.00 but the required jobs are not created or maintained as set forth in subsection (2); or

(D) Is timely completed at the minimum cost, is operational within six months next following the end of the construction period and, meets the permanent job requirements as defined in [section 1.09.063](#), but its operations are discontinued for a continuous period of twelve months;

then the contract shall terminate with respect to the project and so shall the abatement of taxes for the created value of the project. The taxes otherwise abated with respect to the project shall be paid to the city on the date specified by law, or, if such date has passed, then within sixty (60) days of the accelerated termination of the abatement period.

(5) Employees and/or designated representatives of the city will have access to the project during the term of the contract for inspection purposes so as to determine if the terms and conditions of the contract are being met. All inspections will be made only after the giving of twenty-four (24) hours' prior notice and will only be conducted in such a manner as to not unreasonably interfere with the construction and/or operation of the project. Inspections will be made with representatives of the property owner, and in accordance with its safety standards.

(6) In the event that:

(A) The property owner allows its ad valorem taxes owed the city to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest;

(B) The property owner violates any of the terms and conditions of the contract, and fails to cure during the cure period (as hereinafter provided);

then the contract may be terminated by the city, and all taxes otherwise abated by virtue of the contract will be recaptured and paid to the city by the property owner within sixty (60) days of the termination.

(7) If on January 1st of any tax year the legally determined fair market value of all realty improvements owned by the real property owner within the jurisdiction of the city ("realty improvements") is less than the legally determined fair market value of all realty improvements as of January 1 of the calendar year in which the contract is executed ("base value") and/or in the event that the real property owner reduces its ad valorem taxes on personal property otherwise payable to the city by participation in a foreign trade zone or by having otherwise taxable property exempt pursuant to special legislation, e.g., the "freeport amendment" ("special treatment"), then the abatement otherwise available shall be reduced for each dollar that the fair market value of realty improvements is less than the base value and, also, for each dollar of tax reduction attributable to special treatment; provided, however, that in no event shall the offset exceed the created value of the project otherwise subject to the abatement of taxes.

(8) If on January 1st of any tax year the legally determined fair market value of all tangible personal property owned by a lessee owning qualifying tangible personal property within the jurisdiction of the city ("personal property") is less than the legally determined fair market value of all personal property as of January 1 of the calendar year in which the contract is executed ("base value") and/or in the event that the lessee reduces its ad valorem taxes on personal property otherwise payable to the city by participating in a foreign trade zone, then the abatement otherwise available shall be reduced for each dollar that the fair market value of personal property is less than the base value and, also, for each dollar of tax reduction attributable to special treatment; provided, however, that in no event shall the offset exceed the created value of the project otherwise subject to the abatement of taxes.

(9) Notwithstanding any other provision herein to the contrary, in the event the city adopting this policy is required to adopt a tax rate which would subject the city to a tax rollback election under section 26.07 of the Property Tax Code, and this increase is caused by requirements set forth by the state; mandated by the judiciary; expenses required to repair, rebuild or rehabilitate improvements which are damaged or destroyed; or due to a significant decline in value of a major industrial complex located in the jurisdiction of the city, then the city may allocate the taxable value necessary to reduce the actual rate below the rollback rate to the owners of abated property based on the owner's pro-rata share of the total abated value for the current tax year.

(10) Should the city determine that the property owner is in default in the terms and conditions of the contract, then the city will notify the property owner at the address stated in the contract of such claimed default, and if such is not cured within sixty (60) days from the date of such notice ("cure period"), the contract may be terminated by the city. Any notice of default shall be in writing and shall be given by personal delivery or by certified mail, return receipt requested. In the event the notice is effected by personal delivery, the date and hour of actual delivery shall be the time and date of such notice to the business. Absent a postal strike or the stoppage of the mails, in the event of delivery of notice by registered or certified United States mail, the date and hour following 48 hours after the date and hour at which the sealed envelope

containing the notice is deposited in the United States mail, properly addressed, and with postage prepaid, shall be the time and date of such notice to the property owner.

Sec. 1.09.066 Full and final authority

The city shall have the final decision with respect to interpretation of the policy and, also, as to whether the minimum standards set forth above have been met by the property owner. (1996

Sec. 1.09.067 Termination

The policy shall terminate on the second anniversary from the date of its adoption by the city.

Secs. 1.09.068–1.09.090 Reserved

Division 4. Hotel Occupancy Tax*

Sec. 1.09.091 Definitions

As herein employed, the following words, terms and phrases are defined as follows:

Consideration. The cost of the room in such hotel only if the room is one ordinarily used for sleeping, and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

Finance director. The finance director of the city.

Hotel. Any building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, houses, or courts, lodging houses, inns, rooming houses or other buildings where rooms are furnished for a consideration, but "hotel" shall not be defined so as to include hospitals, sanitariums or nursing homes.

Monthly period. The regular succeeding calendar months of each calendar year beginning with the month of January and ending with the month of December.

Occupancy. The use or possession or the right to the use or possession of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession extends for a period of less than thirty (30) consecutive days.

Occupant. Any person, who, for a consideration, uses, possesses, or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

Permanent resident. Any occupant who has or shall have the right to occupancy of any room or rooms in a hotel for at least thirty (30) consecutive days during the current calendar year or preceding year, so long as there is no interruption of payment for the period.

Person. Any individual, company, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

Sec. 1.09.092 Levy of tax; rate; exceptions

(a) There is hereby levied a tax upon the cost of occupancy of any hotel where the cost of occupancy is at the rate of two dollars (\$2.00) or more per day, such tax to be equal to ~~five and one-half percent (5-1/2%) effective October 1, 1983, and~~ seven percent (7%) of the consideration paid by the occupant of such room to such hotel, exclusive of the occupancy taxes imposed by other governmental agencies.

Comment [JT6]: Deleted unnecessary language

Comment [JT7]: This deletion is removing unnecessary enacting language.

(b) No tax shall be imposed hereunder on a permanent resident.

(c) No tax shall be imposed on the United States, the state or an agency, institution, board, or commission of this state other than an institution of higher education.

(d) No tax shall be imposed hereunder on all foreign diplomatic personnel and federal and Texas state employees traveling on official business, except state college and university personnel.

Sec. 1.09.093 Collection

Every person owning, operating, managing or controlling any hotel shall collect the tax imposed for the city.

Sec. 1.09.094 Reports

(a) On or before the last day of the month following each calendar month, every person required to collect the tax imposed herein shall file a report with the director of finance showing the consideration paid for all room or sleeping place accommodations in the preceding month, the amount of tax collected on such occupancies, and any other information as the director of finance may reasonably require. Such persons shall pay the tax due on such occupancies at the time of filing the report. There shall also be furnished to the director of finance, at the time of payment of said tax, a copy of ~~the quarterly~~ tax report filed with the state comptroller in connection with the state hotel occupancy tax, such report to be furnished to such director of finance on or before the date the report is required to be filed with the state comptroller. The director of finance shall, upon reasonable notice, have access to books and records kept by any person required to collect the tax imposed herein which may be necessary to enable him to determine the correctness of any report filed as required by this division and the amount of taxes due under the provisions of this division.

Comment [JT8]: Deleted quarterly as in some instances there is no required quarterly report.

(b) This division shall take effect as provided by the city charter. The implementation of reporting and tax collection shall be effective from and after October 1, 1987.

Sec. 1.09.095 Use of revenue

(a) The revenue derived from this hotel occupancy tax shall only be used to promote tourism and the convention and hotel industry as limited by the Texas Tax Code, chapter 351 (Municipal Hotel Occupancy Taxes), as now enacted or hereafter amended, in accordance with resolution of the city council.

(b) The city council by contract may delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the tax authorized by this division. The city council shall approve in writing in

advance the annual budget of the person, governmental entity or private organization to which it delegates those functions and shall require the person, governmental entity or private organization to make periodic reports to the city council at least quarterly listing the expenditures made by the person, governmental body or private organization with revenue from the tax provided by the city as authorized by law. The person, governmental entity or private organization must maintain revenue provided by the city from the tax in a separate account established for that purpose and may not commingle that revenue with any other money or maintain it in any other account. The approval by the city council of the annual budget of that person, governmental entity or private organization to whom it delegates those functions creates a fiduciary duty in that person, governmental entity or private organization with respect to the revenue provided by the city from the tax.

(c) This section shall become effective on the date of its adoption, and shall apply to taxes due and received from and after April 2, 2013.

Sec. 1.09.096 Penalties

(a) If any persons required by the provisions of this division to collect the tax imposed herein, or to make reports as required herein, and pay to the director of finance the tax imposed herein, shall fail to collect such tax, file such report or pay such tax or if any such person shall file a false report, such person shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine in accordance with the general penalty provision found in [section 1.01.009](#) of this code.

(b) Additionally, if any person shall fail to file a report as required herein, or shall fail to pay the director of finance the tax as imposed herein when said report or payment is due, the city may bring suit to collect the tax or to enjoin the person from operating a hotel in the city until the tax is paid or the report filed. In addition to the amount of tax owed, such person is liable to the city for reasonable attorney's fees and a penalty of up to fifteen percent (15%) of the tax owed. Such person shall pay the director of finance the tax due, together with a penalty of seven and one-half percent (7-1/2%) of the tax due for the first thirty (30) days or part thereof that the same is not timely filed, and after the first thirty (30) days, such person shall pay an additional penalty of seven and one-half percent (7-1/2%) of such tax. Delinquent taxes shall draw interest at the rate of twelve percent (12%) per annum beginning sixty (60) days from the date due.

Sec. 1.09.097 Reimbursement

Any person required by this division to collect hotel occupancy taxes may deduct and withhold from that person's payment to the city, as reimbursement for the cost of collecting the tax, an amount not to exceed one percent (1%) of the amount of the tax collected and required to be reported to the city. Provided, however, any person required to pay said tax and file said reports with the city shall forfeit all rights to reimbursement for failure to pay the tax or file the reports required by the city on the dates such payments and reports are due.

Sec. 1.09.098 Successor liability

(a) If a person who is liable for the payment of a tax under this division is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt from the director of finance or his designate showing that the amount has been paid or a certificate showing that no tax is due.

(b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a hotel may request that the director of finance or his designate issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The director of finance or his designate shall issue the certificate or statement not later than the 60th day after the date that he receives the request.

(d) If the director of finance or his designate fails to issue the certificate or statement within the period provided by subsection (c), the purchaser is released from obligation to withhold the purchase price or pay the amount due.”

2) THAT all remaining subsections of Chapter 1 not amended by this ordinance remain in full force and effect.

3) THAT, the following severability clause is hereby adopted with this amendment:

SEVERABILITY:

That the terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance shall be declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

4) THAT, this Ordinance shall be effective on, from and after passage.

INTRODUCED on the 1st day of November, 2016, and finally PASSED, APPROVED and ADOPTED on this the 15th day of November, 2016.

CITY OF SAN ANGELO

ATTEST:

Dwain Morrison, Mayor

Bryan Kendrick, City Clerk

Approved as to Form:

Theresa James
City Attorney

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Jeremy Miller, Solid Waste Contract Manager, Solid Waste, (325) 486-3798

Meeting Date: November 15, 2016

Item type: Regular Item

Caption:

Discussion and direction on feedback received from waste collection survey and public forums regarding possible changes to waste collection service - (Presentation by Operations Director Shane Kelton)

Summary/History:

The City entered into a new contract for waste collection with Republic Services LTD. on August 1, 2014. The new contract created a new system of automated curbside waste collection for the citizens of San Angelo. Over the course of the last several months, citizens have had to adjust to the new system. Staff has received feedback from citizens regarding the new system, and possible changes that need to be made to meet the demands of our population. Based on this feedback, staff proposed amending the waste collection contract at the June 7, 2016 Council Meeting. The proposed amendment would have allowed for increased collection of bulk items on a monthly basis in exchange for reducing the recycle collection to once every other week. Council voted to postpone the item and directed staff to gather more feedback from the citizens on what changes they would like to see in the waste collection system. Staff has held two public forums and published a survey to gather the requested feedback from citizens.

Financial Impact:

Changes to the current waste collection contract could result in an increased rate for waste collection services.

Other Information/Recommendation:

Staff is seeking direction from council on how they would like to proceed with possible changes to the waste collection contract.

Attachments:

Presentation:

Director of Operations Shane Kelton

Approvals/Reviews:

Jeremy Miller	Created/Initiated
Theresa James	Approved
Anthony Wilson	Approved
Julia Antilley	Approved
Tina Dierschke	Approved
Theresa James	Approved
Becky Dunn	Approved
Bryan Kendrick	Final Approval

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Bob Salas, Neighborhood Services Director, Community and Housing Support, 325-655-0824

Meeting Date: November 15, 2016

Item type: Regular Item

Caption:

Consider approval and public hearing of the 2015 Consolidated Annual Performance and Evaluation Report (CAPER) - (Presentation by Neighborhood & Family Services Director Bob Salas)

Summary/History:

The 2015 CAPER is a document required of all entitlement cities receiving annual Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) funds from the U.S. Department of Housing and Urban Development (HUD). The CAPER is the City's performance evaluation for the 2015 Program Year covering Oct 1, 2015 thru Sep 30, 2016. The CAPER includes a summary of expended resources, objectives and goals as they relate to affordable housing, outcome measures, geographic distribution, and barriers to affordable housing.

This report is the product of public outreach consistent with the City of San Angelo's 2015-2019 Five-Year Consolidated Plan. Public notices were posted in a newspaper article in the Standard Times and draft copies of the CAPER were posted at various locations throughout the city.

Approval the 2015 CAPER will authorize the City to forward the final CAPER to the HUD Regional Office in Ft Worth.

Financial Impact:

No fiscal impact associated with this item.

Other Information/Recommendation:

Staff recommends approval of the 2015 CAPER.

Attachments:

1. Draft Caper CAPER Draft 10.31.2016.pdf

Presentation:

By Robet Salas, Director Neighborhood & Family Services Dept

Approvals/Reviews:

Bob Salas	Created/Initiated
Theresa James	Approved
Anthony Wilson	Approved
Tina Dierschke	Approved
Theresa James	Approved
Becky Dunn	Approved

Bryan Kendrick

Final Approval

CITY OF SAN ANGELO

2015 Program Year

Consolidated Annual Performance & Evaluation Report (CAPER)



***NEIGHBORHOOD & FAMILY SERVICES DEPT
COMMUNITY & HOUSING SUPPORT DIVISION***

Introduction

The City of San Angelo (COSA) annually receives two grants from the U. S. Department of Housing and Urban Development (HUD): The Community Development Block Grant (CDBG) and the HOME Investment Partnership Program (HOME) grant. CDBG grants are awarded to entitlement communities (principal cities of a Metropolitan Statistical Area (MSA) or with a population greater than 50,000) to carry out a wide range of community development activities directed toward revitalization of neighborhoods and improved facilities and services within the community. Maximum feasible priority must be given to activities that benefit low- moderate-income persons (including neighborhoods). HOME grants must be used to provide affordable housing for low- moderate-income persons. Income levels are set annually by HUD and are a percentage of the area median income (AMI), which in 2015 was \$47,850 in San Angelo for a family of four.

The majority of the CDBG funds and all of the HOME funds must have beneficiaries earning 80% or less of the AMI, either as a neighborhood or as individual households. To continue to receive the grants, the City must develop a Consolidated Plan every five years to identify the community's needs and goals to meet the needs and then an Annual Action Plan for each of the five years. The current Consolidated Plan is for the years 2015-2019. At the conclusion of each action year, the City must also prepare a Consolidated Annual Performance and Evaluation Report (CAPER) that describes for the public and HUD how federal assistance was used during that action year. The CAPER that follows is for the first year of the current Consolidated Plan. The City's 2015 grants were as follows:

- CDBG - \$ 675,246
- HOME- \$ 229,439

Additionally, the City received program income in the amount of \$31,664.29 for CDBG, \$40,035.68 for HOME, and \$335,000 in local economic development sales tax funds earmarked for affordable housing. The City's CHDO leverages these funds to build new homes for low-moderate income families in the neighborhoods targeted for revitalization. COSA receives payments on loans provided with grant funds for housing rehabilitation or mortgage payments from new home construction, a program that is no longer active.

Reporting to HUD is done online through the Integrated Disbursal and Information System (IDIS). Specific questions are completed for each step of the process: Consolidated Plan, Action Plan and the CAPER. Each has specific questions to which the City must respond. Terminology may not be familiar to the general public; definitions or further explanation of any information in the CAPER is available from the COSA Community & Housing Support Division (325-655-0824). Information in forms other than written English may be provided upon request by contacting COSA.

CR-05 - Goals and Outcomes

Progress the jurisdiction has made in carrying out its strategic plan and its action plan.

91.520(a)

This could be an overview that includes major initiatives and highlights that were proposed and executed throughout the program year.

The City of San Angelo focuses the use of its Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) funding on a combination of housing and community development activities. The Consolidated Plan includes the following priority goals as the basis for the activities approved in the Program Year (PY) 2015 Action Plan:

1. Expand housing options to create a safe, healthy, accessible, affordable home for every resident.
2. Focus on strategies to achieve a sustainable increase in the homeownership rate.
3. Continue efforts to redevelop the four neighborhoods targeted for revitalization including homebuyer's assistance, code compliance, and rehabilitation of homes in targeted neighborhoods.
4. Continue to make housing affordable by assisting homeowners with repairs and first time homebuyers with closing costs.
5. Assist special needs populations with supportive services, facilities, and housing needs, and expand efforts that eliminate or prevent homelessness.

PY2015 Consolidated Annual Performance Evaluation Report (CAPER) captures the expenditures, accomplishments, and progress made on the strategies and goals outlined in the approved 2015-2019 Consolidated Plan, for HUD programs approved by the City of San Angelo City Council on July 7, 2015. The CAPER outlines achievements in affordable housing, homeless services, and community development programs. The PY2015 CAPER covers the time period starting October 1, 2015 to September 30, 2016, and is the first annual report of the Consolidated Plan. It also includes activities funded in previous fiscal years with accomplishments reported during PY2015. As with most new construction projects, the outcomes are not reported until the completion of the project. The following are several accomplishments achieved during the reporting period:

- Twenty six (26) households identified as Special Needs were assisted with Tenant Based Rental assistance.
- Sixty two (62) low-to-moderate income homeowners were assisted with emergency repairs.
- Fifty five (55) low-to-moderate income homeowners were assisted with minor rehabilitation in the City's Neighborhood Blitz and Helping Hands programs.
- Twenty three (23) low-to-moderate income first-time home buyers were provided with down payment and closing cost assistance.
- Four (4) housing units were built for first-time home owners.

Comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives. 91.520(g)

Categories, priority levels, funding sources and amounts, outcomes/objectives, goal outcome indicators, units of measure, targets, actual outcomes/outputs, and percentage completed for each of the grantee's program year goals.

Goal	Category	Source / Amount	Indicator	Unit of Measure	Expected – Strategic Plan	Actual – Strategic Plan	Percent Complete	Expected – Program Year	Actual – Program Year	Percent Complete
Affordable Housing	Affordable Housing	HOME: \$	Homeowner Housing Added	Household Housing Unit	15	4	26.67%	3	4	133.33%
Decent Housing	Affordable Housing	CDBG: \$	Homeowner Housing Rehabilitated	Household Housing Unit	125	62	49.60%	31	62	200.00%
Home Ownership	Affordable Housing	HOME: \$	Direct Financial Assistance to Homebuyers	Households Assisted	65	23	35.38%	16	23	143.75%
Neighborhood Revitalization	Affordable Housing	CDBG: \$	Homeowner Housing Rehabilitated	Household Housing Unit	160	55	34.38%	40	55	137.50%
Neighborhood Revitalization	Affordable Housing	CDBG: \$	Buildings Demolished	Buildings	5	0	0.00%	1	0	0.00%
Neighborhood Revitalization	Affordable Housing	CDBG: \$	Housing Code Enforcement/Foreclosed Property Care	Household Housing Unit	12000	2723	22.69%	4000	2723	68.08%
Special Needs & Homelessness	Homeless Non-Homeless Special Needs	HOME: \$	Tenant-based rental assistance / Rapid Rehousing	Households Assisted	150	26	17.33%	21	26	123.81%

Table 1 - Accomplishments – Program Year & Strategic Plan to Date

Assess how the jurisdiction's use of funds, particularly CDBG, addresses the priorities and specific objectives identified in the plan, giving special attention to the highest priority activities identified.

The City has continued to address housing and community development needs in carrying out the PY2015 Action Plan. Actions undertaken during PY2015 were consistent with the primary goals and objectives of the Consolidated Plan. The Consolidated Plan identified three key funding priorities:

1. Assist in the creation and preservation of affordable housing opportunities for low income and special needs households.

2. Support activities to end homelessness.
3. Support activities that strengthen targeted low income neighborhoods.

Based on these three priorities, COSA developed six major goals that address these three priorities:

1. Expand housing options to create a safe, healthy, accessible home for residents
2. Continue to focus on strategies to achieve a sustainable increase in the home ownership rate
3. Continue efforts to redevelop the four neighborhoods targeted for revitalization
4. Improve livability in targeted neighborhoods by purchasing vacant lots and building new homes
5. Assist special needs/homeless populations with supportive services, facilities, and housing
6. Continue efforts to eliminate slum/blight and conditions detrimental to the health, safety and public welfare of residents in the targeted neighborhoods

All of the funded projects for PY2015 directly addressed the City's priorities and goals.

- Housing rehabilitation – assisted in preserving affordable housing and helped eliminate substandard housing in targeted neighborhoods by rehabilitating 55 homes in those neighborhoods33 Blitz projects22 Helping Hands projectsEmergency Repairs – assisted in preserving affordable housing by addressing needed repairs detrimental to the health and safety of 62 low/moderate income homeownersCode Compliance - funded one Code Compliance Officer to help eliminate slum/blight and maintain community standards in targeted neighborhoods. The Code Officer was able to cite and ensure compliance of 2723 code violations including removal of junk vehicles, mowing tall grass and weeds, and removal of junk and debris from properties.Homebuyers Assistance Program (HAP) – helped create affordable housing opportunities for 23 low/moderate income individuals and families by assisting them in the purchase of new homesCHDO activities – Galilee CDC, the City's CHDO helped create affordable housing opportunities for low/moderate income individuals and families by constructing and selling 6 affordable housing units in targeted neighborhoods which also helped maintain and strengthen those targeted neighborhoods. While Galilee CDC used HOME grant funds on four of the six homes, they were able to leverage local funds to complete the other two units.

CR-10 - Racial and Ethnic composition of families assisted

Describe the families assisted (including the racial and ethnic status of families assisted).

91.520(a)

	CDBG	HOME
White	0	117
Black or African American	0	5
Asian	0	0
American Indian or American Native	0	0
Native Hawaiian or Other Pacific Islander	0	0
Total	0	122
Hispanic	0	39
Not Hispanic	0	83

Table 2 – Table of assistance to racial and ethnic populations by source of funds

Narrative

The City tracked demographics of the households directly benefiting from the CDBG and HOME grant programs, including race, ethnicity, family size, which had female heads of households, and how many persons had a disability. The direct benefit activities included housing rehab and emergency repairs grants, HAP financing, and CHDO activities. This information is used for reporting in IDIS and also (in the case of housing activities) for fair housing statistics.

The City identified the Hispanic ethnicity as the only minority group with a large percentage of persons in San Angelo. Of the number of persons directly receiving benefits, 32% were Hispanic and 4% were African American while the rest were White not Hispanic. That closely coincides with the City's minority makeup of 38% Hispanic and 4.6% African American.

CR-15 - Resources and Investments 91.520(a)

Identify the resources made available

Source of Funds	Source	Resources Made Available	Amount Expended During Program Year
CDBG		2,698,935	782,699
HOME		966,868	387,280

Table 3 - Resources Made Available

Narrative

The City of San Angelo began the Fiscal Year with a reported balance of \$97,136.73 CDBG funds at the end of the previous program year. According to the PR26 report (Attachment A), \$789,624.53 in CDBG funds were expended in the program year.

Identify the geographic distribution and location of investments

Target Area	Planned Percentage of Allocation	Actual Percentage of Allocation	Narrative Description
BLACKSHEAR			
FORT CONCHO			
REAGAN			
RIO VISTA			

Table 4 – Identify the geographic distribution and location of investments

Narrative

The City tracked demographics of the households directly benefiting from the CDBG and HOME grant programs, including race, ethnicity, family size, which had female heads of households, and how many persons had a disability. The direct benefit activities included housing rehab and emergency repairs grants, HAP financing, and CHDO activities. This information is used for reporting in IDIS and also (in the case of housing activities) for fair housing statistics.

The City identified the Hispanic ethnicity as the only minority group with a large percentage of persons in San Angelo. Of the number of persons directly receiving benefits, 32% were Hispanic and 4% were African American while the rest were White not Hispanic. That closely coincides with the City's minority makeup of 38% Hispanic and 4.6% African American.

Leveraging

Explain how federal funds leveraged additional resources (private, state and local funds), including a description of how matching requirements were satisfied, as well as how any publicly owned land or property located within the jurisdiction that were used to address the needs identified in the plan.

Community & Housing Support leveraged other City departments in order to obtain operating support to include financial, legal, planning, human resources, and purchasing. Community & Housing Support also leveraged over \$275K of local sales tax revenue for gap financing provided to low to moderate income first time homebuyers. The city also undertook a Neighborhood Blitz using community resources leveraging over 600 volunteers to paint and clean up neighborhoods targeted for revitalization. Moreover, the city received a grant from Atmos to continue a housing weatherization program, expending \$28,500 to assist 22 homeowners.

Fiscal Year Summary – HOME Match	
1. Excess match from prior Federal fiscal year	2,097,220
2. Match contributed during current Federal fiscal year	64,835
3. Total match available for current Federal fiscal year (Line 1 plus Line 2)	2,162,055
4. Match liability for current Federal fiscal year	62,489
5. Excess match carried over to next Federal fiscal year (Line 3 minus Line 4)	2,099,566

Table 5 – Fiscal Year Summary - HOME Match Report

Match Contribution for the Federal Fiscal Year								
Project No. or Other ID	Date of Contribution	Cash (non-Federal sources)	Foregone Taxes, Fees, Charges	Appraised Land/Real Property	Required Infrastructure	Site Preparation, Construction Materials, Donated labor	Bond Financing	Total Match
TBRA Addressees	09/30/2016	64,835	0	0	0	0	0	64,835

Table 6 – Match Contribution for the Federal Fiscal Year

Program Income – Enter the program amounts for the reporting period				
Balance on hand at begin-ning of reporting period \$	Amount received during reporting period \$	Total amount expended during reporting period \$	Amount expended for TBRA \$	Balance on hand at end of reporting period \$
0	40,036	40,036	10,959	0

Table 7 – Program Income

HOME MBE/WBE report

Minority Business Enterprises and Women Business Enterprises – Indicate the number and dollar value of contracts for HOME projects completed during the reporting period						
	Total	Minority Business Enterprises				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Contracts						
Dollar Amount	0	0	0	0	0	0
Number	0	0	0	0	0	0
Sub-Contracts						
Number	0	0	0	0	0	0
Dollar Amount	0	0	0	0	0	0
	Total	Women Business Enterprises	Male			
Contracts						
Dollar Amount	0	0	0			
Number	0	0	0			
Sub-Contracts						
Number	0	0	0			
Dollar Amount	0	0	0			

Table 8 – Minority Business and Women Business Enterprises

Minority Owners of Rental Property – Indicate the number of HOME assisted rental property owners and the total amount of HOME funds in these rental properties assisted						
	Total	Minority Property Owners				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Number	0	0	0	0	0	0
Dollar Amount	0	0	0	0	0	0

Table 9 – Minority Owners of Rental Property

Relocation and Real Property Acquisition – Indicate the number of persons displaced, the cost of relocation payments, the number of parcels acquired, and the cost of acquisition						
Parcels Acquired		0		0		
Businesses Displaced		0		0		
Nonprofit Organizations Displaced		0		0		
Households Temporarily Relocated, not Displaced		0		0		
Households Displaced	Total	Minority Property Enterprises				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Number	0	0	0	0	0	0
Cost	0	0	0	0	0	0

Table 10 – Relocation and Real Property Acquisition

CR-20 - Affordable Housing 91.520(b)

Evaluation of the jurisdiction's progress in providing affordable housing, including the number and types of families served, the number of extremely low-income, low-income, moderate-income, and middle-income persons served.

	One-Year Goal	Actual
Number of Homeless households to be provided affordable housing units	0	0
Number of Non-Homeless households to be provided affordable housing units	0	0
Number of Special-Needs households to be provided affordable housing units	33	26
Total	33	26

Table 11 – Number of Households

	One-Year Goal	Actual
Number of households supported through Rental Assistance	20	26
Number of households supported through The Production of New Units	3	4
Number of households supported through Rehab of Existing Units	10	32
Number of households supported through Acquisition of Existing Units	0	0
Total	33	62

Table 12 – Number of Households Supported

Discuss the difference between goals and outcomes and problems encountered in meeting these goals.

Not applicable. All goals were met or exceeded.

Discuss how these outcomes will impact future annual action plans.

Not applicable.

Include the number of extremely low-income, low-income, and moderate-income persons served by each activity where information on income by family size is required to determine the eligibility of the activity.

Number of Persons Served	CDBG Actual	HOME Actual
Extremely Low-income	68	0

Low-income	10	2
Moderate-income	16	6
Total	94	8

Table 13 – Number of Persons Served

Narrative Information

The City's activities that were required to serve extremely low-income, low-income, and/or moderate-income persons to meet the eligibility requirements of CDBG and HOME served the intended populations. There were no extremely low-income in homebuyers.

DRAFT

CR-25 - Homeless and Other Special Needs 91.220(d, e); 91.320(d, e); 91.520(c)

Evaluate the jurisdiction's progress in meeting its specific objectives for reducing and ending homelessness through:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The City of San Angelo deems homelessness a major concern that must be dealt with on a strategic level. CHS staff are members of the Board of Directors for the Concho Valley Homeless Planning Coalition (CVHPC) and routinely attends local homeless coalition meetings to discuss homeless issues. In addition, the City of San Angelo is working with the Texas Homeless Network, Balance of State Continuum of Care to create a West Texas Region Homeless Consortium.

Annually, the CVHPC executes a Point-in Time Homeless Count to obtain data on city homeless individuals and families. The data obtained is used to determine the extent of the problem, reasons for homelessness, and potential solutions. In addition, the CVHPC holds annual "Homeless Awareness Day" which provides homeless individuals with medical screening, food, and clothing and provides awareness of the homeless to the rest of the City.

There are several "soup kitchens" that provide food to the homeless on a daily basis except Sundays and second hand stores that will provide free clothing. Some of these agencies include Catholic Outreach, Project Dignidad, Rust Street Ministries, Salvation Army, Wesley Trinity Daily Bread Program.

La Esperanza Health & Dental Centers provide medical services for those who cannot pay, including those that are homeless.

Addressing the emergency shelter and transitional housing needs of homeless persons

There are several programs and services, including shelters, to assist the homeless in San Angelo. Included are agencies that provide outreach, intake, assessment, and also emergency shelters and transitional housing. The major gap that exists is permanent supportive housing for homeless. Some of the main facilities are:

- The Salvation Army - provides emergency housing, meals, and outreach for homeless, low income
- Alcohol & Drug Abuse Council - provides shelter, intake, and assessment for homeless alcohol & drug abuse
- ICD - provides shelter, intake, assessment for victims made homeless due to domestic violence
- The City is in the processing of developing a Rapid Re-housing program to address the housing needs of homeless families. The City is partnering with the Housing Authority San Angelo (HASA) who is the City's Public Housing Authority and will use Homeless Preference Vouchers to

house homeless families. The program is set to start in FY2017.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: likely to become homeless after being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

The City in partnership with HASA will begin administering a Rapid Re-housing program to provide some assistance to households experiencing housing instability or homelessness such as those temporarily residing in shelters. Unfortunately, the HASA receives very limited funding, and therefore only about 10 households are assisted with this program each year.

It continues to be a challenge for the community to provide adequate housing for persons discharged from publicly funded institutions and systems of care. Currently, the network of emergency shelter providers, human services programs, the parole and probation departments, the judicial system, MHMR, Homeless Coalition, work together as much as possible to identify persons exiting these programs without adequate housing and to work to assimilate them into either the emergency shelters or other housing programs. The community has much work to do in this area and is acutely aware of the great challenges this population faces in finding employment and housing.

In PY2015, HASA, through the Housing Choice Voucher Program (Section 8) provided 8467 months of rental assistance for low-income families at a total annual cost of \$3,919,526. Rent assistance was provided to an average of 703 families a month at an average cost of \$462 per month per household.

In addition, MHMR of the Concho Valley expended \$66,175 to assist 22 individuals with special needs with rental assistance who would be homeless if not for the program assistance.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

The City of San Angelo is working to prevent homelessness through the allocation of HOME funds to MHMR Services of the Concho Valley which provides rental stipends to individuals with mental health problems. Without the stipends, these individuals are at risk of being homeless.

In addition, HASA manages the Veteran Affairs Supportive Housing (VASH) voucher program that

provides rental stipends for eligible homeless veterans in need of housing. HASA provides supportive case management to help homeless veterans transition into more permanent housing and into homeownership through its Family Self Sufficiency (FSS) program that provides opportunities for homeownership education and other various forms of assistance. The FSS Coordinator works with the families and individuals to establish goals to be accomplished and to help open doors to a new future. Family Self-Sufficiency is a program designed to help anyone who is on the Section 8 program who is interested in eliminating their family's dependence on the welfare system and into homeownership.

Concho Valley Home for Girls provides shelter, intake, assessment for girls made homeless due to domestic violence and other problems at home. The teenagers living at the Girls Home are provided shelter, life skills, job skills, and education in a safe environment that allows them to transition into adulthood lowering the risk of these girls becoming homeless.

DRAFT

CR-30 - Public Housing 91.220(h); 91.320(j)

Actions taken to address the needs of public housing

In PY2015, HASA, through the Housing Choice Voucher Program (Section 8) provided 8467 months of rental assistance for low-income families at a total annual cost of \$3,919,526. Rent assistance was provided to an average of 703 families a month at an average cost of \$462 per month per household.

Public Housing is at 174 units with no vacancies. No new units were added in PY2015.

The Housing Authority of San Angelo (HASA) has determined a need to replace the current single pane windows with clear low- E insulated DSB glass. After installation the window will be weathertight. This contract began in April of 2016 and is a 120 day contract. All sixty units in the Alta Loma development will receive new windows as well as the community building on site.

In the acquisition development or scattered sites, the Housing Authority has rehabbed one single family home. The rehabilitation of these single family homes is part of the Housing Authorities five year plan to maintain the twenty-four scattered homes. The home rehab this year was 1721 Parkview. This home received an exterior face lift, with the replacement of the trim and fascia as needed and fresh paint. All of the windows and exterior doors were replaced in an effort to conserve energy. Upgrades were also made to the interior as needed, to include fresh paint and replacement of cabinets and countertops in the restrooms and kitchen.

Actions taken to encourage public housing residents to become more involved in management and participate in homeownership

The Housing Authority of San Angelo encourages resident involvement in management by filling a spot on the HASA Board of Directors with a Resident commissioner and promoting a separate Resident Advisory Board. The Housing Authority swore in a Ms. Becky Fraser this year to serve as the Public Housing resident commissioner on our HASA Board of directors.

The Housing Authority promotes homeownership by encouraging participants to apply for the Homeownership voucher program. The Housing Authority also encourages participants to join the voluntary Family Self Sufficiency program. The program's goal is to help residents achieve self-sufficiency and homeownership. A third of the monthly meetings are dedicated to homeownership education. Guest speakers and program staff work with residents on sound budgeting practices as well as ways to improve credit scores. The FSS program also offers education on other resources available to assist first time homebuyers.

Actions taken to provide assistance to troubled PHAs

Not applicable.

DRAFT

CR-35 - Other Actions 91.220(j)-(k); 91.320(i)-(j)

Actions taken to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment. 91.220 (j); 91.320 (i)

Per the Analysis of Impediments to Fair Housing Choice, the City was unable to identify public policies that are detrimental to the return on residential investment. City policies have acted to support affordable housing programs and projects that have allowed homes across neighborhoods targeted for revitalization to increase in value.

Actions taken to address obstacles to meeting underserved needs. 91.220(k); 91.320(j)

There were no specific activities to address obstacles to meeting the underserved needs in the PY2015 Annual Action Plan; however, actions and activities throughout the year and as described in this CAPER benefited the underserved as a whole. These activities that helped meet underserved needs included the City's affordable housing programs and rental assistance programs.

Actions taken to reduce lead-based paint hazards. 91.220(k); 91.320(j)

The City addresses LBP on all owner-occupied residential homes that have been approved for rehabilitation work and were built prior to 1978 (includes Emergency Repair Program projects) or on any post-1978 constructed home where a child or person resides who has been identified with an Elevated Blood Lead Level (EBLL). A Lead Inspection and or Risk Assessment will be done on these homes to determine if there is any lead-based paint in the home or in the soil around the home. If lead is found, a determination of the lead-based paint hazards associated with the presence of the detected lead will be conducted.

The requirements for rehabilitation will correspond to the three approaches of lead hazard evaluation and reduction. Complete rehabilitation work must meet more stringent requirements than emergency repairs. The three approaches and the levels of rehabilitation assistance (costs) are:

- 1) Do No Harm (<\$5,000) - Perform the rehabilitation in a way that does not create additional lead hazards. Clearance of work site.
- 2) Identify and Control Lead Hazards (\$5,000 to \$25,000) - Identify lead-based paint and hazards and use a range of interim control and abatement methods to address the hazards. Clearance of unit.
- 3) Identify and Abate Lead Hazards (>\$25,000) - Identify lead-based paint hazards and remove them permanently by abatement. Clearance of unit.

4) Identify and Stabilize deteriorated paint – Identify lead-based paint hazards and repair any physical defects causing paint deterioration, removing loose paint, and applying a new protective coating or paint. Assistance will be provided through the CD Housing Rehabilitation Program.

For the PY2015, one hundred thirty nine (139) Lead Risk Assessments were conducted for the following programs:

- 32 House Rehabilitations (Paint Blitz)
- 62 Emergency Repairs
- 23 First-time Homebuyers Assistance
- 22 TBRA

Actions taken to reduce the number of poverty-level families. 91.220(k); 91.320(j)

While the City does not have a mechanism or process to track and report on the number of families removed from poverty, the City recognizes that its future economic viability rests with elimination of poverty. San Angelo has and will continue to undertake efforts in housing and supportive services to improve the quality of life of its low/moderate income residents so long as funding for such activities is available.

Education and Job Training

Workforce development and area-wide economic development have been identified as priorities which will aid the City in reducing the number of persons living below the poverty level. The West Texas Training Center, San Angelo Independent School District, Angelo State University, Howard College, the Chamber of Commerce, and regional business, industry and health care organizations continued to meet the occupational training needs of the Concho Valley region and West Texas.

Housing

Affordable housing is one of the City's anti-poverty activities. The City oversaw several housing programs aimed at either improving the quality of the housing stock or reducing the housing costs of low/moderate income families in order to help keep families housing costs down and thus helping families from falling into poverty.

- Affordable housing emergency repair and rehabilitation
- First-time homebuyers
- Tenant-based Rental Assistance
- CHDO new home construction

Actions taken to develop institutional structure. 91.220(k); 91.320(j)

The City's institutional structure is solid and City staff that oversees and manages federal grants has been in place for over ten years. The team is tenured and experienced and are provided training that is required and appropriate. To ensure widespread information and access to the programs, especially by LMI households, the funding process involved the participation of representatives from several governmental entities, non-profit organizations, and grass roots citizen support group. In this way, local policy makers and administrators were able to identify the needs of LMI neighborhoods and evaluate applications accordingly.

Running concurrently with the City's review process was a series of hearings and meetings at the local City and neighborhood level. These meetings provided information to local residents, specifically of targeted neighborhoods, regarding the process for preparation, submission, and selection of project proposals. During this project development phase, City staff members worked with the local citizens to assess local needs and develop project proposals. The City held two neighborhood public meetings to discuss potential projects and two City Council public hearings to once again review and approve projects that were selected for funding in PY2015.

Actions taken to enhance coordination between public and private housing and social service agencies. 91.220(k); 91.320(j)

The CHS staff participates in an adhoc Affordable Housing Committee that includes public and private entities that deal with housing. This ad hoc committee discusses issues related to housing to include coordinating areas for housing investment and project development.

While the City does not have a social services department, City staff are members of the Concho Valley Homeless Planning Coalition board of directors and are very active in the planning process and coordination of social services for homeless families and individuals with a goal to help develop and maintain an unofficial continuum of care for those in need.

Identify actions taken to overcome the effects of any impediments identified in the jurisdictions analysis of impediments to fair housing choice. 91.520(a)

The City's Analysis of Impediments to Fair Housing Choice discovered that the major barriers to affordable housing in San Angelo are lack of financial resources and all the implications that are associated with that condition. Low income persons will have a difficult time finding affordable housing, defined as housing that costs less than 30% of gross income. Education and job training may provide a way to higher income and better living conditions for some low income families. However, elderly and disabled individuals are often unable to increase their income or improve their living conditions through these means. In addition to inadequate income and credit worthiness, a growing elderly population, racial and ethnic divergences, and slow economic growth are other contributing factors that help create impediments.

To help ameliorate these impediments, the City worked to develop and further increase the affordable housing stock through several programs and projects that included:

- Affordable housing emergency repair and rehabilitation
- First-time homebuyers
- Tenant-based Rental Assistance
- CHDO new home construction

Additionally, the City supported a senior citizen Low Income Housing Tax Credit (LIHTC) project that was funded by state funds and will be constructed in one of the target revitalization neighborhoods. This LIHTC 72-unit project will provide affordable housing for elderly citizens that are faced with an extremely high housing cost burden.

DRAFT

CR-40 - Monitoring 91.220 and 91.230

Describe the standards and procedures used to monitor activities carried out in furtherance of the plan and used to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements

Monitoring was conducted on a monthly basis for each subrecipient not only to verify that the reimbursements submitted were for eligible expenses, but also to verify that each subrecipient was complying with all the requirements in their agreement. Each reimbursement request was verified for eligibility. Also, each of the participants in each program was examined to verify their eligibility for assistance.

The City does not discriminate against minority or women-owned businesses during the bidding process and awarded several projects to minority and women-owned businesses to include a business owned by a Hispanic male (Joachim Construction), an African American male (Mayberry Electric), and by a female owned business (Electric by Deb). In addition, the bids include an invitation for minorities and women to bid on all projects.

All projects approved for funding listed in the Annual Action Plan comply and follow the 2015-2019 ConPlan. The City met all comprehensive planning requirements.

Citizen Participation Plan 91.105(d); 91.115(d)

Describe the efforts to provide citizens with reasonable notice and an opportunity to comment on performance reports.

A complete draft of this report has been made available for public review and comment for a fifteen (15) day period beginning October 31, 2016. The availability of this report has been publicly advertised consistent with the provisions of the City of San Angelo's Consolidated Plan with printed copies available at strategic locations throughout the city as specified in the Citizen Participation Plan.

CR-45 - CDBG 91.520(c)

Specify the nature of, and reasons for, any changes in the jurisdiction's program objectives and indications of how the jurisdiction would change its programs as a result of its experiences.

This was the first year for the 2015-2019 Consolidated Plan and the objectives did not change from those identified in the plan. The City met the requirements to have no more than 1.5 times the annual grant and activities are reaching completion in a timely manner once underway.

Does this Jurisdiction have any open Brownfields Economic Development Initiative (BEDI) grants?	No
--	----

[BEDI grantees] Describe accomplishments and program outcomes during the last year.

DRAFT

CR-50 - HOME 91.520(d)

Include the results of on-site inspections of affordable rental housing assisted under the program to determine compliance with housing codes and other applicable regulations

Please list those projects that should have been inspected on-site this program year based upon the schedule in §92.504(d). Indicate which of these were inspected and a summary of issues that were detected during the inspection. For those that were not inspected, please indicate the reason and how you will remedy the situation.

The City provided funding in support of a LIHTC 36 single family unit project called Noah Estates. HOME funds covered the construction of two units. The units were inspected on ____.

Provide an assessment of the jurisdiction's affirmative marketing actions for HOME units. 92.351(b)

All units in the Noah Estates were occupied throughout the entire program year so there were no vacancies. In addition, there is a waiting list of over 50 potential renters for any vacancy that may open up, making it unnecessary to market the program outside the normal advertisements in local magazines, websites, and periodicals to include Conexion San Angelo, a Spanish/English bi-weekly newspaper.

Refer to IDIS reports to describe the amount and use of program income for projects, including the number of projects and owner and tenant characteristics

- Program income in the amount of \$25,073.56 was drawn for homebuyer assistance (IDIS activity #s 1458, 1494, 1452, & 1564.) All homebuyers are LMI households
- Program income in the amount of \$10,958.55 was drawn for tenant based rental assistance (IDIS activity #1459). All households are LMI households.

Describe other actions taken to foster and maintain affordable housing. 91.220(k) (STATES ONLY: Including the coordination of LIHTC with the development of affordable housing). 91.320(j)

The City Council approved support for a LIHTC 72-unit senior living apartment development in the Blackshear area which is one of the four neighborhoods targeted for revitalization earmarking \$20K from local Economic Development Sales Tax program funds. The complex received the tax credits in PY2015 and will break ground in December, 2016.

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Rebeca Guerra, Planning Manager, Planning and Development Services, 325-657-4210

Meeting Date: November 15, 2016

Item type: Regular Item

Caption:

First Reading and public hearing of an Ordinance approving a request for the following alley right-of-way abandonments: (a) two 10-foot-wide alleys within Blocks A & B of the J.P. Holmes' Resubdivision, consisting of approximately 1,912 square feet and (b) a 20-foot-wide alley in the south ½ of Block C, Baze Addition of the Malone Subdivision, consisting of approximately 7,898 square feet, generally located north of Upton Street, east of North Baze Street, south of Veck Street and west of the Texas-Pacific Railway line. (Presentation by Planning & Development Services Director Jon James)

Summary/History:

The alley rights-of-way under consideration were platted in 1910 (Malone Subdivision of the South ½ of Block C, Baze Addition) and 1928 (Holmes' Resubdivision of Blocks A and B, Baze Addition). They are situated within an overall approximately 4.86-acre property that is located at the northeast corner of Upton and North Baze Streets and currently house a metals recycling operation. The purpose of this request is to revert otherwise unutilized and platted alley rights-of-way into acreage and incorporate them into the Petitioner's property, thereby satisfying Condition number six of the approved Conditional Use, CU14-12, that was previously approved by the Planning Commission. The subsequent reversion to acreage and land assembly should cure notable and long-standing building and use encroachments.

Financial Impact:

N/A

Other Information/Recommendation:

A Motion to approve the proposed public right-of-way (alley) abandonment was made by Commissioner Smith and seconded by Commissioner Stribling. The motion carried unanimously, 6-0.

Attachments:

1. Staff Report Alley Abandonment (Holmes_Malone) Report_City Council.docx
2. Draft Ordinance 17-070_PLANN_HOLMES_RESUBDIVISION_ALLEY_ABANDON_ORD_11-15-16(R).docx
3. Exhibit A Alley Abandonment (Holmes_Malone)_EX-A.pdf

Presentation:

Jon James

Approvals/Reviews:

Rebeca Guerra
Jon James
Theresa James
Anthony Wilson

Created/Initiated
Approved
Approved
Approved

Jon James
Tina Dierschke
Theresa James
Becky Dunn
Bryan Kendrick

Approved
Approved
Approved
Approved
Final Approval

STAFF REPORT



Meeting: November 15, 2016
December 6, 2016

To: City Council

From: Jon James, AICP
Director of Planning and Development Services

Through: Rebeca A. Guerra, AICP, LEED-AP, CPD
Planning Manager

Request: Alley ROW Abandonment (Oak Cliff Metals) – a request to approve the following alley right-of-way abandonments: (a) all of the 10-foot-wide alley between Lots 20 – 23 and Lot 31 of the J.P. Holmes' Resubdivision of Blocks A and B, Baze Addition (Volume 1, Page 72, OPRTGCTX), consisting of approximately 1,912 square feet; (b) all of the 10-foot-wide alley between Lots 24-27 and Lot 29 of the J.P. Holmes' Resubdivision of Blocks A and B, Baze Addition (Volume 1, Page 72, OPRTGCTX), consisting of approximately 1,912 square feet; and (c) all of the 20-foot-wide alley between Lots 1-6 and Lot 7 and adjoining Lots 7 – 8 of the Malone Subdivision of the South ½ of Block C, Baze Addition (Volume 63, Page 621, OPRTGCTX), consisting of approximately 7,898 square feet

Location: Generally located north of Upton Street, east of North Baze Street, south of Veck Street and west of the Texas-Pacific Railway line

Size: Approximately 0.27 acres (11,722 square feet)

General Information

Future Land Use: Industrial

Zoning: Light Manufacturing (ML)

Existing Land Use: Metals Recycling Operation

Surrounding Zoning/Land Use:

North:	Light Manufacturing (ML)	Metals Recycling Operation
West:	Single-Family Residence (RS-1)	Metals Recycling Operation; Single Family Dwellings
South:	Light Manufacturing (ML)	Metals Recycling Operation
East:	Light Manufacturing (ML)	Metals Recycling Operation; Railroad

District: SMD#3– Harry Thomas

Neighborhood: Paulann

History and Background:

The alley rights-of-way under consideration were platted in 1910 (Malone Subdivision of the South ½ of Block C, Baze Addition) and 1928 (Holmes' Resubdivision of Blocks A and B, Baze Addition). They are situated within an overall approximately 4.86-acre property that is located at the northeast corner of Upton and North Baze Streets and currently house a metals recycling operation. The purpose of this request is to revert otherwise unutilized and platted alley rights-of-way into acreage and incorporate them into the Petitioner's property, thereby satisfying Condition number six of the approved Conditional Use, CU14-12, that was previously approved by the Planning Commission. The subsequent reversion to acreage and land assembly should cure notable and long-standing building and use encroachments.

Planning Staff circulated the application to other City departments and private utility companies in the area. The City's Engineering Department offers no objection to the request. Atmos Energy indicates that there are no existing facilities in these rights-of-way. No other responses were received.

Notification:

Given that the subject alley rights-of-way are contained within the Petitioner's property, no mailed notifications were necessary. The Petition, however, is subject to notice through publication in a newspaper of record.

Planning Commission Recommendation:

On October 17, 2016, the Planning Commission recommended **APPROVAL** for alley right-of-way abandonments encompassing a total area of approximately 11,722 square feet, subject to the three conditions contained in the Staff Report, by a unanimous 6-0 vote. The following is the complete excerpt of the minutes from the October 17, 2016, meeting for this case:

David Stallworth, Principal Planner, outlined the case. Mr. Stallworth provided Planning Staff's rationale for recommending approval, which included satisfying Condition number six of a previously-approved Conditional Use, CU14-12, which required that alleyways "currently encroached upon by existing buildings shall be formally abandoned or said buildings relocated outside of these right-of-ways."

A Motion to approve the proposed public right-of-way (alley) abandonment was made by Commissioner Smith and seconded by Commissioner Stribling. The motion carried unanimously, 6-0.

Staff's Recommendation:

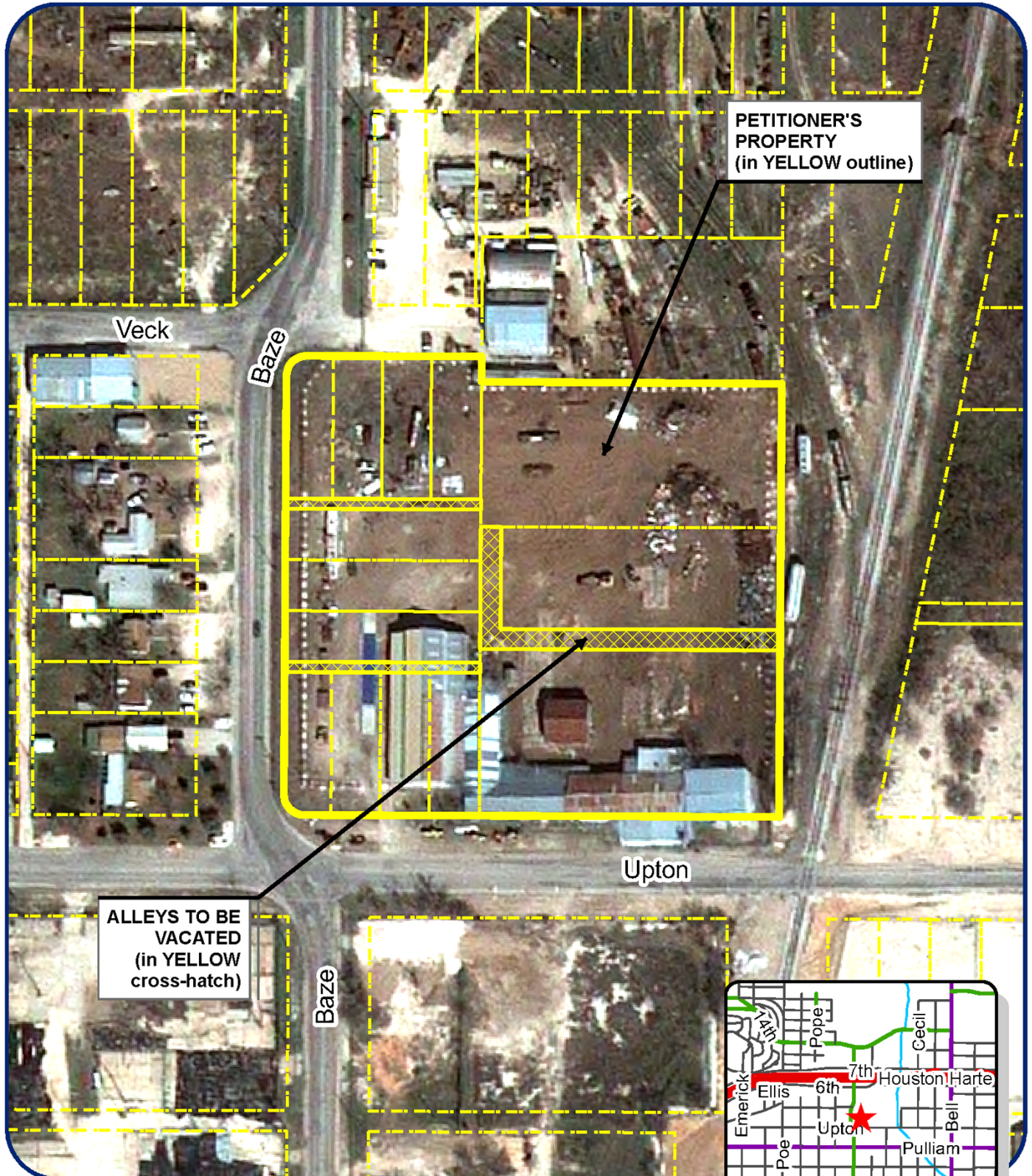
Staff's recommendation is for City Council to **APPROVE** a request for alley right-of-way abandonments encompassing a total area of approximately 11,722 square feet, **subject to the following three Conditions of Approval:**

Proposed Conditions:

1. Per the Code of Ordinances, Section A9.008, payment per the assessment formula outlined in the fee schedule shall be remitted for all of the abandoned right-of-way, if the abandonment is approved.
2. Verification of the recordation of quit claim deed(s) officially abandoning the City's claim to the entirety of the abandoned alley shall be provided.
3. The Petitioner shall record an approved replat that assembles all platted lands and reversions to acreage associated with the overall property into a single lot within a period not to exceed one year from the effective date of this approval.

Attachments:

Aerial Map
Location Map
Metes-and-Bounds Descriptions of Abandonments
Survey Plat
Previous Approvals



ROW Abandonment Case File

Alleys - Oak Cliff Metals Property

Council District: SMD #3 (Thomas)

Neighborhood: Paulann

Scale: 1 inch :: 150 feet

Legal Desc: Alleys within JP Holmes Resubd. and Malone Subd., Baze Addition

Legend

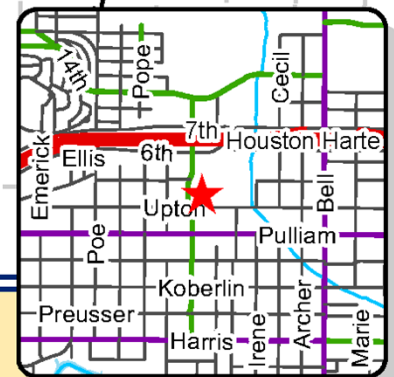
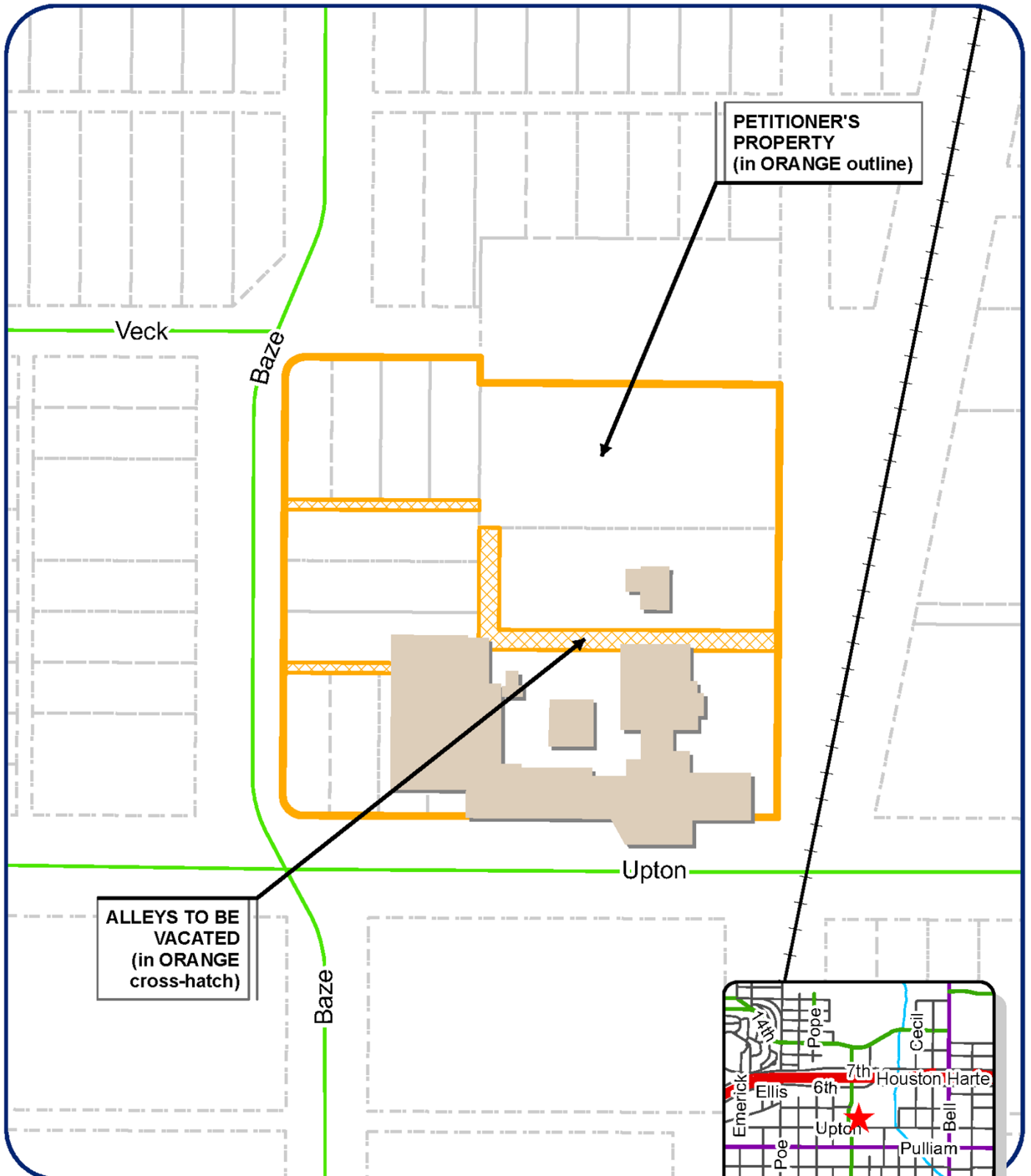
Alleys to be vacated: —

Current Zoning: ML

Requested Zoning Change: N/A

Vision: Industrial





ROW Abandonment Case File

Alleys - Oak Cliff Metals Property

Council District: SMD #3 (Thomas)

Neighborhood: Paulann

Scale: 1 inch :: 150 feet

Legal Desc: Alleys within JP Holmes Resubd. and Malone Subd., Baze Addition

Legend

Alleys to be vacated: —

Current Zoning: ML

Requested Zoning Change: N/A

Vision: Industrial

FIELD NOTES

1912 Square Feet (10' Alley – North)

August 10, 2016
16-S-0986

Being an area of 1912 Square Feet of land and being all of a 10.00 feet wide alley between Lots 20 – 23 and Lot 31, J. P. Holmes's Resubdivision of Blocks A & B, Baze Addition, City of San Angelo, Tom Green County, Texas as per plat recorded in Volume 1, Page 72, Plat Records of Tom Green County, Texas and said 1912 square feet tract being more particularly described by metes and bounds as follows:

Beginning at the northwest corner of this tract in the south line of said Lot 20 and also being the intersection of the east line of North Baze Street, the north line of said alley and the south line of said Lot 20;

Thence with the north line of this tract and said alley and the south line of said Lots 20 – 23, N. 89° 57' 34" E. 191.20 feet to the northeast corner of this tract and said alley and the southeast corner of said Lot 23;

Thence with the east line of this tract and said alley, S. 00° 02' 26" E. 10.00 feet to the southeast corner of this tract and said alley and the northeast corner of said Lot 31;

Thence with the south line of this tract and said alley and the north line of said Lot 31, S. 89° 57' 34" W. 191.20 feet to the southwest corner of this tract and said alley and also being the intersection of the south line of said alley and the north line of said Lot 31 with said east line of North Baze Street;

Thence with the west line of this tract and said alley and the east line of said North Baze Street, N. 00° 02' 26" W. 10.00 feet to the place of beginning and containing an area of 1912 square feet of land.

1912 Square Feet (10' Alley – South)

Being an area of 1912 Square Feet of land and being all of a 10.00 feet wide alley between Lots 24 – 27 and Lot 29, J. P. Holmes's Resubdivision of Blocks A & B, Baze Addition, City of San Angelo, Tom Green County, Texas as per plat recorded in Volume 1, Page 72, Plat Records of Tom Green County, Texas and said 1912 square feet tract being more particularly described by metes and bounds as follows:

Beginning at the northwest corner of this tract in the south line of said Lot 29 and also being the intersection of the east line of North Baze Street, the north line of said alley and the south line of said Lot 29;

Thence with the north line of this tract and said alley and the south line of said Lot 29, N. 89° 57' 34" E. 191.20 feet to the northeast corner of this tract and said alley and the southeast corner of said Lot 29;

Thence with the east line of this tract and said alley, S. 00° 02' 26" E. 10.00 feet to the southeast corner of this tract and said alley and the northeast corner of said Lot 24;

Thence with the south line of this tract and said alley and the north line of said Lot 24 - 27, S. 89° 57' 34" W. 191.20 feet to the southwest corner of this tract and said alley and also being the intersection of the south line of said alley and the north line of said Lot 31 with said east line of North Baze Street;

Thence with the west line of this tract and said alley and the east line of said North Baze Street, N. 00° 02' 26" W. 10.00 feet to the place of beginning and containing an area of 1912 square feet of land.

7868 Square Feet (20' Alley – East)

Being an area of 7868 Square Feet of land and being all of a 20.00 feet wide alley between Lots 1-6 and Lot 7 and adjoining Lots 7 and 8, Malone Subdivision of the S/2 of Block C, Baze Addition, City of San Angelo, Tom Green County, Texas as per plat recorded in Volume 63, Page 621, Deed Records of Tom Green County, Texas and said 7868 square feet tract being more particularly described by metes and bounds as follows:

Beginning at the southeast corner of this tract and said alley and the northeast corner of said Lot 6 and being in the west line of A. T. & S. F. Ry. Co.;

Thence with the south line of this tract and said alley and the north line of said Lots 6 – 1, S. 89° 57' 34" W. 293.40 feet to the southwest corner of this tract and said alley and the northwest corner of said Lot 1;

Thence with the west line of this tract and said alley, N. 00° 02' 26" W. 120.00 feet to the northwest corner of this tract and said alley;

Thence with the north line of this tract and said alley, N. 89° 57' 34" E. 20.00 feet to the north northeast corner of this tract and said alley and the northwest corner of said Lot 8;

Thence with an east line of this this tract and said alley and the west line of said Lots 8 and 7, S. 00° 02' 26" E. 100.00 feet to an ell corner of this tract and said alley and the southwest corner of said Lot 7;

Thence with the easterly north line of this tract and said alley and the south line of said Lot 7, N. 89° 57' 34" E. 273.40 feet to the east northeast corner of this tract and said alley and the southeast corner of said Lot 7 in the west line of said A. T. & S. F. Ry. Co.;

Thence with the most easterly line of this tract and said alley and the west line of said A. T. & S. F. Ry. Co., S. 00° 02' 26" E. 20.00 feet to the place of beginning and containing an area of 7868 square feet of land.

Bearings recited hereon are based on Texas Coordinate System NAD83 – Texas Central Zone by GPS observation.

See attached sketch.

FIELD NOTES

1912 Square Feet (10' Alley – North)

August 10, 2016
16-S-0986

Being an area of 1912 Square Feet of land and being all of a 10.00 feet wide alley between Lots 20 – 23 and Lot 31, J. P. Holmes's Resubdivision of Blocks A & B, Baze Addition, City of San Angelo, Tom Green County, Texas as per plat recorded in Volume 1, Page 72, Plat Records of Tom Green County, Texas and said 1912 square feet tract being more particularly described by metes and bounds as follows:

Beginning at the northwest corner of this tract in the south line of said Lot 20 and also being the intersection of the east line of North Baze Street, the north line of said alley and the south line of said Lot 20;

Thence with the north line of this tract and said alley and the south line of said Lots 20 – 23, N. 89° 57' 34" E. 191.20 feet to the northeast corner of this tract and said alley and the southeast corner of said Lot 23;

Thence with the east line of this tract and said alley, S. 00° 02' 26" E. 10.00 feet to the southeast corner of this tract and said alley and the northeast corner of said Lot 31;

Thence with the south line of this tract and said alley and the north line of said Lot 31, S. 89° 57' 34" W. 191.20 feet to the southwest corner of this tract and said alley and also being the intersection of the south line of said alley and the north line of said Lot 31 with said east line of North Baze Street;

Thence with the west line of this tract and said alley and the east line of said North Baze Street, N. 00° 02' 26" W. 10.00 feet to the place of beginning and containing an area of 1912 square feet of land.

1912 Square Feet (10' Alley – South)

Being an area of 1912 Square Feet of land and being all of a 10.00 feet wide alley between Lots 24 – 27 and Lot 29, J. P. Holmes's Resubdivision of Blocks A & B, Baze Addition, City of San Angelo, Tom Green County, Texas as per plat recorded in Volume 1, Page 72, Plat Records of Tom Green County, Texas and said 1912 square feet tract being more particularly described by metes and bounds as follows:

Beginning at the northwest corner of this tract in the south line of said Lot 29 and also being the intersection of the east line of North Baze Street, the north line of said alley and the south line of said Lot 29;

Thence with the north line of this tract and said alley and the south line of said Lot 29, N. 89° 57' 34" E. 191.20 feet to the northeast corner of this tract and said alley and the southeast corner of said Lot 29;

Thence with the east line of this tract and said alley, S. 00° 02' 26" E. 10.00 feet to the southeast corner of this tract and said alley and the northeast corner of said Lot 24;

Thence with the south line of this tract and said alley and the north line of said Lot 24 - 27, S. 89° 57' 34" W. 191.20 feet to the southwest corner of this tract and said alley and also being the intersection of the south line of said alley and the north line of said Lot 31 with said east line of North Baze Street;

Thence with the west line of this tract and said alley and the east line of said North Baze Street, N. 00° 02' 26" W. 10.00 feet to the place of beginning and containing an area of 1912 square feet of land.

7868 Square Feet (20' Alley – East)

Being an area of 7868 Square Feet of land and being all of a 20.00 feet wide alley between Lots 1-6 and Lot 7 and adjoining Lots 7 and 8, Malone Subdivision of the S/2 of Block C, Baze Addition, City of San Angelo, Tom Green County, Texas as per plat recorded in Volume 63, Page 621, Deed Records of Tom Green County, Texas and said 7868 square feet tract being more particularly described by metes and bounds as follows:

Beginning at the southeast corner of this tract and said alley and the northeast corner of said Lot 6 and being in the west line of A. T. & S. F. Ry. Co.;

Thence with the south line of this tract and said alley and the north line of said Lots 6 – 1, S. 89° 57' 34" W. 293.40 feet to the southwest corner of this tract and said alley and the northwest corner of said Lot 1;

Thence with the west line of this tract and said alley, N. 00° 02' 26" W. 120.00 feet to the northwest corner of this tract and said alley;

Thence with the north line of this tract and said alley, N. 89° 57' 34" E. 20.00 feet to the north northeast corner of this tract and said alley and the northwest corner of said Lot 8;

Thence with an east line of this this tract and said alley and the west line of said Lots 8 and 7, S. 00° 02' 26" E. 100.00 feet to an ell corner of this tract and said alley and the southwest corner of said Lot 7;

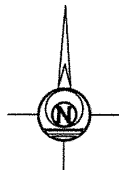
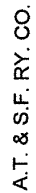
Thence with the easterly north line of this tract and said alley and the south line of said Lot 7, N. 89° 57' 34" E. 273.40 feet to the east northeast corner of this tract and said alley and the southeast corner of said Lot 7 in the west line of said A. T. & S. F. Ry. Co.;

Thence with the most easterly line of this tract and said alley and the west line of said A. T. & S. F. Ry. Co., S. 00° 02' 26" E. 20.00 feet to the place of beginning and containing an area of 7868 square feet of land.

Bearings recited hereon are based on Texas Coordinate System NAD83 – Texas Central Zone by GPS observation.

See attached sketch.

THIS SURVEY IS PROTECTED BY ALL
APPLICABLE STATE AND FEDERAL COPYRIGHT
LAWS. THIS SURVEY IS VOID WITHOUT AN
ORIGINAL SIGNATURE AND SEAL.



0 30 60 120
GRAPHIC SCALE : FEET

dt

SKG

ENGINEERING, LLC
SURVEYING • ENVIRONMENTAL • LAB/CMT

708 SOUTH ABE STREET
SAN ANGELO, TEXAS 76903

PHONE: 325 655 1288
FAX: 325 657 8189

FIRM NO. 10102400
www.sine.com

SKETCH SHOWING 10.00 WIDE ALLEY (TWO (2)) AND A 20' WIDE ALLEY PROPOSED FOR CLOSURE CONTAINING TWO (2) 1912 SQUARE FEET OF LAND AND 7868 SQUARE FEET OF LAND, LYING BETWEEN LOTS 20-23 AND LOT 31, BETWEEN LOTS 24-27 AND LOT 29, J.P. HOLMES'S RESUBDIVISION OF BLOCK A & B, BAZE ADDITION AND BETWEEN LOTS 1-6 AND LOT 7 AND ALSO ADJOINING LOT 7 AND 8, MALONE SUBDIVISION OF THE SOUTH HALF OF BLOCK C, BAZE ADDITION, CITY OF SAN ANGELO, TOM GREEN COUNTY, TEXAS. SEE ATTACHED FIELD NOTES.

This document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document.

16--S--0986



The City Of

San Angelo, Texas

Planning Division

52 West College Avenue, 76903

December 17, 2014

Mr. Benji Smith
Falcon Transit, Inc.
500 Brown Industrial Road
Waxahachie, TX 75167

SUBJECT: CU14-12: Falcon Transit, Inc., a request for approval of a Conditional Use to allow for a metal salvage and recycling facility in a Light Manufacturing (ML) zoning district, on the following property:

PROPERTY: 1000 and 1008 Upton Street, located at the northeast corner of Upton Street and North Baze Street, more specifically occupying the South $\frac{1}{2}$ of the North $\frac{1}{2}$ of Block C, Baze Addition; Lots 1-8, Malones Subdivision; and the J.P. Holmes Resubdivision of Blocks A and B, Lots 20-27 and 29-31; in east San Angelo.

Dear Mr. Smith:

At its meeting on **Monday, October 20, 2014**, the Planning Commission for the City of San Angelo **approved, with conditions** the Conditional Use that will allow for a metal salvage and recycling facility as defined in Section 316.E. of the Zoning Ordinance, on the aforementioned property. The conditions are as follows:

1. Any storage on the western 100 feet of the property (approximate distance from property line to existing building) shall be no more than 7 feet in height.
2. An 8-foot opaque privacy fence shall be constructed along the full length of the western side of the property, beginning 25 feet back from the west property line, tapering to 3 feet, within the bottom 30 feet of North Baze Street, to provide visual clearance for traffic from the intersection of North Street and Upton Street. Any barbed wire from any existing fencing shall be hidden by the opaque fence or removed in its entirety. In addition, the planting of 5 drought-resistant trees, a minimum of 3" caliper and 5-6 feet in height at time of planting, shall be installed in front of the opaque fence.
3. Outdoor activities associated with the metal salvage and recycling facility shall not commence prior to 8AM or later than 7PM. This condition shall expire when there is no longer any residential uses within 200 feet of the properties which are the subject of this request. This shall also include the pickup and loading of collected materials to off-site locations for processing or other means.

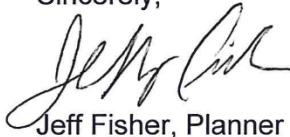
4. Collection of waste materials shall be limited to metals only and there shall be no collection or storage of hazardous wastes on the property.
5. All exterior lighting shall be shielded and positioned in such a manner so as to not spill over onto any adjacent property.
6. Alleyways currently encroached upon by existing buildings shall be formally abandoned or said buildings relocated outside of these right-of-ways. Alternatively, recorded proof from the Tom Green County Clerk that these alleyways have been abandoned shall waive this condition.

Please be advised that a permit may still be necessary, obtainable from the City's Permits and Inspections Division. Their offices are located at 52 West College Avenue, beside San Angelo's City Hall. They may also be reached by phone at (325) 657-4420. We will also send a copy of this clearance letter to their attention so that they will also understand the circumstances and issue the permit accordingly.

Also be advised that, according to Section 208 of San Angelo's City Ordinance, a Conditional Use is null and void if a building permit for the approved use is not acquired within 12 months of the date of approval. Thus, this Conditional Use will expire on **October 20, 2015** if this burden is not met.

If you have any questions concerning these proceedings, please contact the Planning Division at 325-657-4210.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Fisher", is written over the typed name.

Jeff Fisher, Planner



The City Of

San Angelo, Texas

Planning Division

52 West College Avenue, 76903

October 20, 2015

Mr. Benji Smith
Falcon Transit, Inc.
500 Brown Industrial Road
Waxahachie, TX 75167

SUBJECT: CU14-12: Falcon Transit, Inc., a request for approval of a Conditional Use to allow for a metal salvage and recycling facility in a Light Manufacturing (ML) zoning district, on the following property:

PROPERTY: 1000 and 1008 Upton Street, located at the northeast corner of Upton Street and North Baze Street, more specifically occupying the South ½ of the North ½ of Block C, Baze Addition; Lots 1-8, Malones Subdivision; and the J.P. Holmes Resubdivision of Blocks A and B, Lots 20-27 and 29-31; in east San Angelo.

Dear Mr. Smith:

At its meeting on **Monday, October 20, 2014**, the Planning Commission for the City of San Angelo **approved, with conditions** a Conditional Use that will allow for a metal salvage and recycling facility as defined in Section 316.E. of the Zoning Ordinance, on the aforementioned property (see attached approval letter).

Section 208.G of the Zoning Ordinance states that "if the designated use is not made of the property within the time limit granted, the Conditional Use Approval shall be canceled and revoked and be of no effect." The Conditional Use Approval will expire on **October 20, 2015**, if the approved use has not taken affect, and if the conditions of approval have not been fulfilled, unless the Planning Director, "with significant evidence that the designated use cannot be realistically implemented with due diligence within that time period", may grant up to 12 additional months.

We have received your written correspondence from October 7, 2015, regarding abandoning the alleys, Condition #6, and realize you will require more time to complete this process.

Planning Staff have conducted a site visit on Tuesday, October 9, 2015, and confirm that all other Conditions of Approval have been fulfilled as required, as per the attached photos.

By the authority granted in Section 208.G of the Zoning Ordinance, The Planning Manager hereby grants an extension of your Conditional Use until October 20,

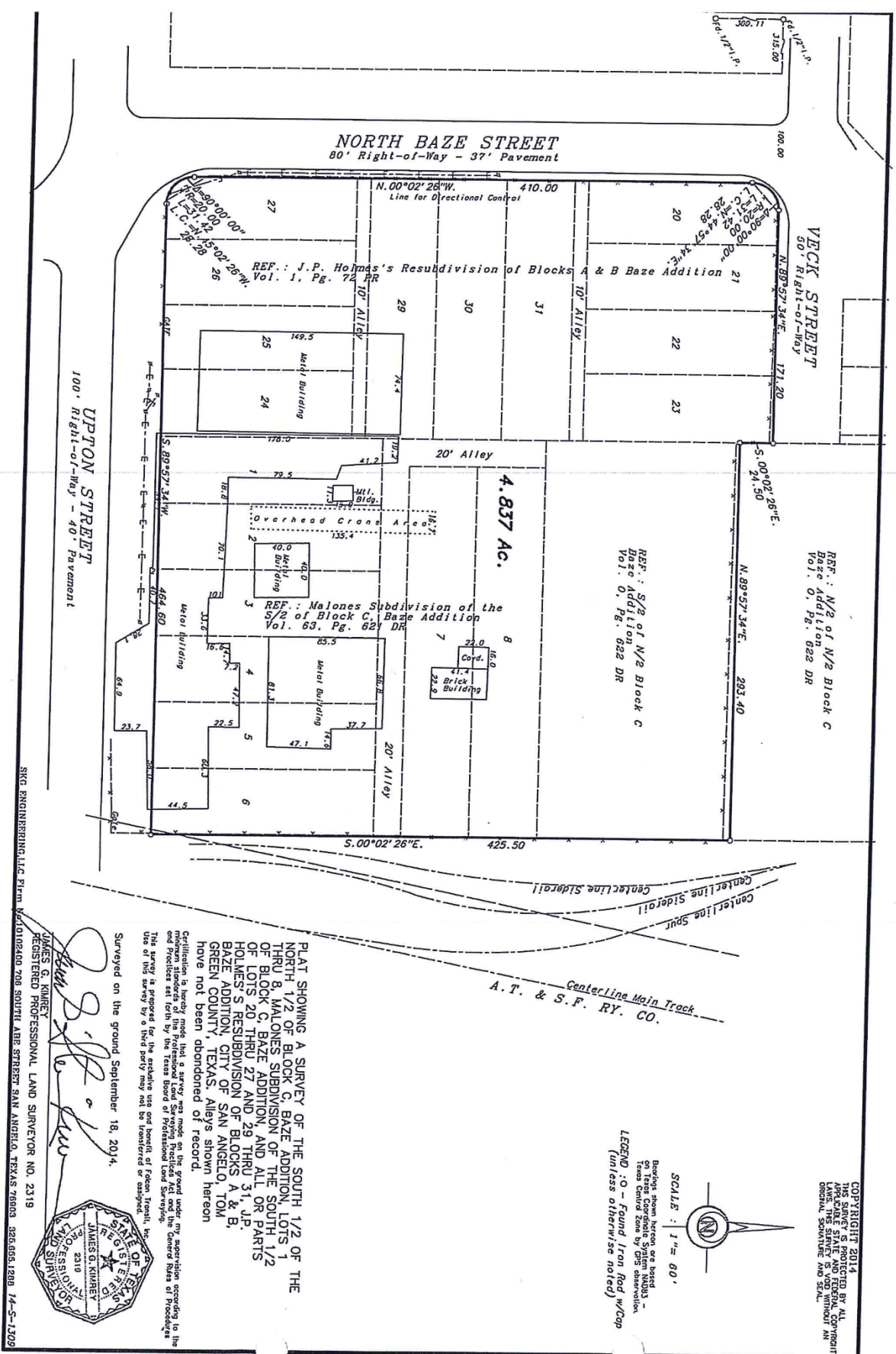
2016. As per Condition #6 in the attached approval letter, please provide recorded proof from the Tom Green County Clerk that the alleyways have been abandoned prior to October 20, 2016, and all conditions of approval will be deemed completed.

If you have any questions concerning these proceedings, please contact the Planning Division at 325-657-4210.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rebeca Guerra', is written over the printed name and title.

Rebeca Guerra, AICP, LEED-AP, CPD
Planning Manager



PLAT SHOWING A SURVEY OF THE SOUTH 1/2 OF THE NORTH 1/2 OF BLOCK C, BAZE ADDITION, LOTS 1 THRU 8, MALONES SUBDIVISION OF THE SOUTH 1/2 OF BLOCK C, BAZE ADDITION, AND ALL OR PARTS OF LOTS 20 THRU 27 AND 29 THRU 31, J.P. HOLMES'S RESUBDIVISION OF BLOCKS A & B, BAZE ADDITION, CITY OF SAN ANGELO, TOM GREEN COUNTY, TEXAS. Alleys shown hereon have not been abandoned of record.

Certification: A survey made on the ground under my supervision according to the minimum standards of the State of Texas, and the Texas Board of Professional Surveyors. The survey is prepared for the exclusive use and benefit of the parties named herein. Use of this survey by a third party may not be transferred or assigned.

Surveyed on the ground September 18, 2014.

James G. Kinney
JAMES G. KINNEY
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 2319

SEAL OF THE STATE OF TEXAS
JAMES G. KINNEY
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 2319

SGE ENGINEERING, LLC Firm
101012400 700 SOUTH ABE STREET SAN ANGELO, TEXAS 76909 326.655.1288 14-S-1309

AN ORDINANCE PROVIDING FOR ABANDONMENT AND CLOSING OF THE FOLLOWING IMPROVED ALLEY SEGMENTS, TO WIT: (A) ALL OF THE 10-FOOT-WIDE ALLEY BETWEEN LOTS 20 – 23 AND LOT 31 OF THE J.P. HOLMES' RESUBDIVISION OF BLOCKS A AND B, BAZE ADDITION (VOLUME 1, PAGE 72, OPRTGCTX), CONSISTING OF APPROXIMATELY 1,912 SQUARE FEET; (B) ALL OF THE 10-FOOT-WIDE ALLEY BETWEEN LOTS 24-27 AND LOT 29 OF THE J.P. HOLMES' RESUBDIVISION OF BLOCKS A AND B, BAZE ADDITION (VOLUME 1, PAGE 72, OPRTGCTX), CONSISTING OF APPROXIMATELY 1,912 SQUARE FEET; AND (C) ALL OF THE 20-FOOT-WIDE ALLEY BETWEEN LOTS 1-6 AND LOT 7 AND ADJOINING LOTS 7 – 8 OF THE MALONE SUBDIVISION OF THE SOUTH ½ OF BLOCK C, BAZE ADDITION (VOLUME 63, PAGE 621, OPRTGCTX), CONSISTING OF APPROXIMATELY 7,898 SQUARE FEET (TOTAL AREA, 11,722 SQUARE FEET) IN SAN ANGELO, TOM GREEN COUNTY, TEXAS; AUTHORIZING CONVEYANCE THEREOF BY QUITCLAIM DEED TO ABUTTING PROPERTY OWNERS; AND PROVIDING TERMS AND CONDITIONS OF ABANDONMENT AND CONVEYANCE.

WHEREAS, the City Council of the City of San Angelo, acting pursuant to law, deems it advisable to abandon and convey the herein described tracts of land to the abutting property owner and is of the opinion that said land is not needed for public use, and that same should be abandoned and quit claimed to the abutting property owner as hereinafter provided; and

WHEREAS, the City Council of the City of San Angelo is of the opinion that the best interest and welfare of the public will be served by abandoning and conveying said tract of land to the abutting property owner(s), subject to the conditions and restrictions contained herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SAN ANGELO:

SECTION 1: That the public alley rights-of-way (hereafter referred to as "subject tracts of land") located in the City of San Angelo, Tom Green County, Texas, described and depicted in **Exhibit "A,"** attached hereto and made a part hereof for all purposes, be and the same are hereby abandoned, vacated and closed insofar as the right, title and easement of the public are concerned; subject however, to the conditions and restrictions hereinafter more fully set out.

SECTION 2: That the abandonments and conveyances provided for herein are made and accepted subject to all present zoning and deed restrictions, if the latter exist, and all existing easements, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise.

SECTION 3: That the abandonment and conveyance provided for herein shall extend only to the public right, title, easement and interest and shall be construed to extend only to the interest which the governing body for the City of San Angelo may legally and lawfully abandon and vacate.

SECTION 4: That as a condition of the abandonments and as part of the consideration for the quitclaim deeds authorized under this Ordinance, the Grantee shall:

- a) Pay all recording fees related to the abandonment and authorized conveyances;
- b) Pay the applicable fee per square foot for the sum of square feet of abandoned right-of-way pursuant to Ordinance; and
- c) Before the passing of one year from the effective date of this Ordinance, the Petitioner shall secure and record an approved replat with the Official Public Records of Real Property, Tom Green County Clerk, that assembles all subject tracts of land with any immediately abutting lands as owned by the Petitioner, as depicted on **Exhibit “A.”**

SECTION 5: That the terms and conditions contained in this Ordinance shall be binding upon Grantee and Grantees’ heirs, successors and assigns.

SECTION 6: That the Mayor of the City of San Angelo is hereby authorized to execute and, upon receipt of the consideration provided for at Section 4, herein, deliver quit claim deeds conveying the subject tracts of land as described in **Exhibit “A,”** to the abutting property owner.

Comment [d1]: There is no apparent remedy for a failure to comply after the quitclaim deed is recorded; however, recoding the ordinance may suffice for all purposes.

SECTION 7: That the City Clerk is hereby authorized and directed to certify a copy of this adopted Ordinance for recordation in the Official Real Property Records of Tom Green County, Texas, wherein the tracts of land are located.

INTRODUCED on the **15th day of November, 2016**, and finally PASSED, APPROVED AND ADOPTED on this the **6th day of December, 2016**.

THE CITY OF SAN ANGELO

Dwain Morrison, Mayor

ATTEST:

APPROVED AS TO FORM:

Bryan Kendrick, City Clerk

Theresa James, City Attorney

EXHIBIT-A (1 of 7)

PETITIONER'S
PROPERTY
(in ORANGE outline)

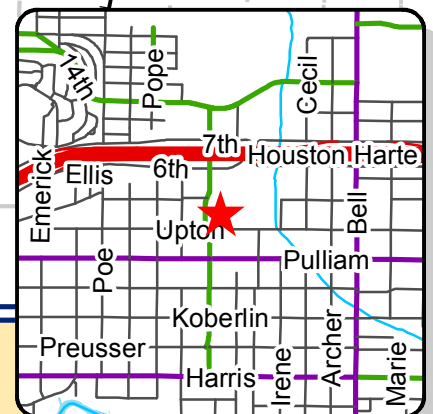
Veck

Baze

Upton

ALLEYS TO BE
VACATED
(in ORANGE
cross-hatch)

Baze



ROW Abandonment Case File

Alleys - Oak Cliff Metals Property

Council District: SMD #3 (Thomas)

Neighborhood: Paulann

Scale: 1 inch :: 150 feet

Legal Desc: Alleys within JP Holmes Resubd. and Malone Subd., Baze Addition

Legend

Alleys to be vacated: —
Current Zoning: ML
Requested Zoning Change: N/A
Vision: Industrial

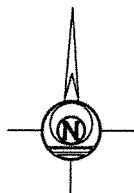
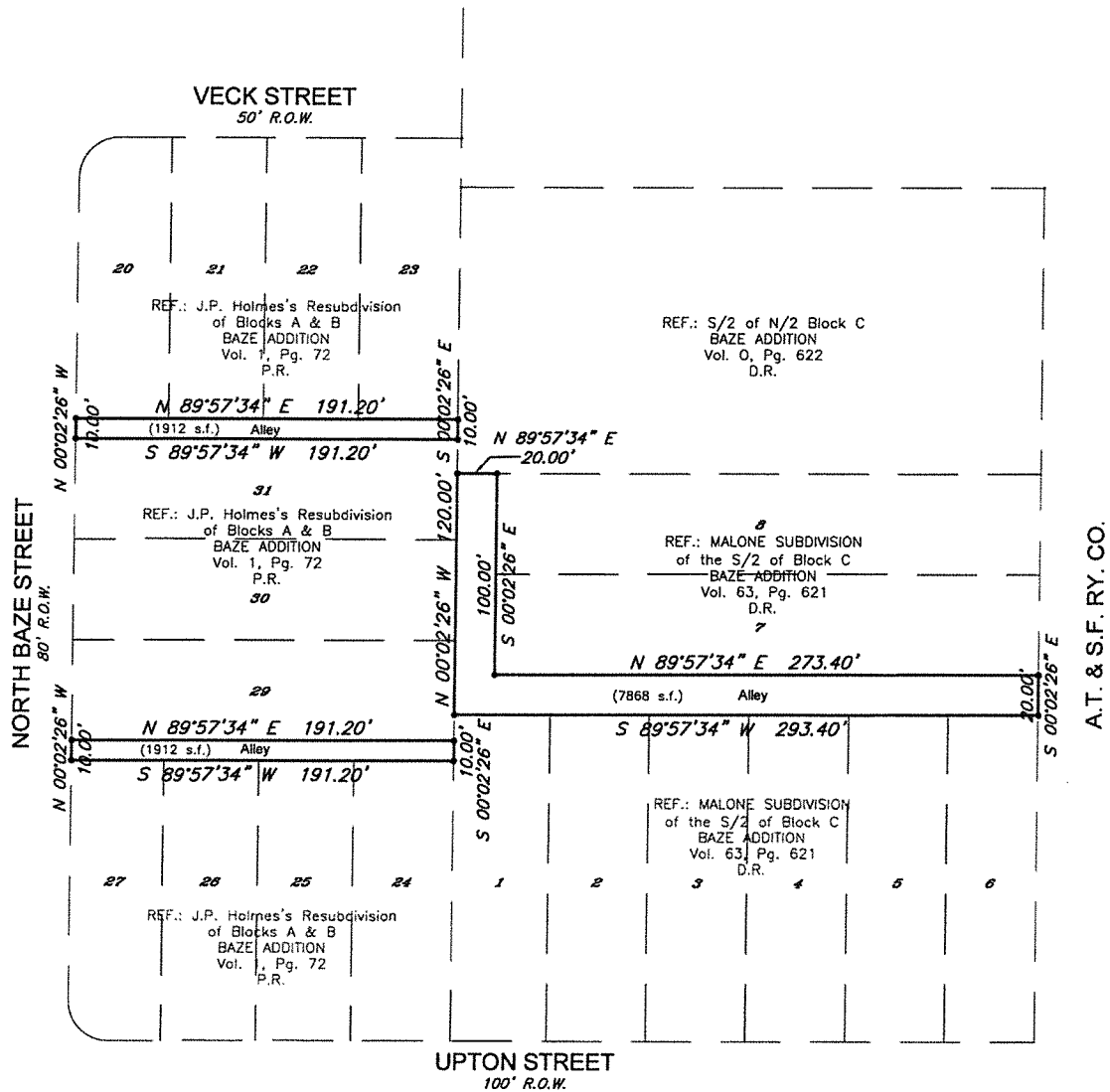
N



EXHIBIT-A (2 of 7)

COPYRIGHT 2016

THIS SURVEY IS PROTECTED BY ALL APPLICABLE STATE AND FEDERAL COPYRIGHT LAWS. THIS SURVEY IS VOID WITHOUT AN ORIGINAL SIGNATURE AND SEAL.



SCALE: 1"= 60'

0 30 60 120
GRAPHIC SCALE - FEET

BEARINGS ARE BASED HEREON
ARE BASED ON TEXAS COORDINATE
SYSTEM NAD83 - TEXAS CENTRAL
ZONE BY GPS OBSERVATION.

dt

SKG
ENGINEERING, LLC
SURVEYING • ENVIRONMENTAL • LAB/CMT

708 SOUTH ABE STREET
SAN ANGELO, TEXAS 76903

PHONE: 325 655 1288
FAX: 325 657 8199

FIRM NO. 10102400
www.skg.com

SKETCH SHOWING 10.00 WIDE ALLEY (TWO (2)) AND A 20' WIDE ALLEY PROPOSED FOR CLOSURE CONTAINING TWO (2) 1912 SQUARE FEET OF LAND AND 7868 SQUARE FEET OF LAND, LYING BETWEEN LOTS 20-23 AND LOT 31, BETWEEN LOTS 24-27 AND LOT 29, J.P. HOLMES'S RESUBDIVISION OF BLOCK A & B, BAZE ADDITION AND BETWEEN LOTS 1-6 AND LOT 7 AND ALSO ADJOINING LOT 7 AND 8, MALONE SUBDIVISION OF THE SOUTH HALF OF BLOCK C, BAZE ADDITION, CITY OF SAN ANGELO, TOM GREEN COUNTY, TEXAS. SEE ATTACHED FIELD NOTES.

This document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document.

16-S-0986

EXHIBIT-A (3 of 7)

FIELD NOTES

1912 Square Feet (10' Alley – North)

August 10, 2016
16-S-0986

Being an area of 1912 Square Feet of land and being all of a 10.00 feet wide alley between Lots 20 – 23 and Lot 31, J. P. Holmes's Resubdivision of Blocks A & B, Baze Addition, City of San Angelo, Tom Green County, Texas as per plat recorded in Volume 1, Page 72, Plat Records of Tom Green County, Texas and said 1912 square feet tract being more particularly described by metes and bounds as follows:

Beginning at the northwest corner of this tract in the south line of said Lot 20 and also being the intersection of the east line of North Baze Street, the north line of said alley and the south line of said Lot 20;

Thence with the north line of this tract and said alley and the south line of said Lots 20 – 23, N. 89° 57' 34" E. 191.20 feet to the northeast corner of this tract and said alley and the southeast corner of said Lot 23;

Thence with the east line of this tract and said alley, S. 00° 02' 26" E. 10.00 feet to the southeast corner of this tract and said alley and the northeast corner of said Lot 31;

Thence with the south line of this tract and said alley and the north line of said Lot 31, S. 89° 57' 34" W. 191.20 feet to the southwest corner of this tract and said alley and also being the intersection of the south line of said alley and the north line of said Lot 31 with said east line of North Baze Street;

Thence with the west line of this tract and said alley and the east line of said North Baze Street, N. 00° 02' 26" W. 10.00 feet to the place of beginning and containing an area of 1912 square feet of land.

1912 Square Feet (10' Alley – South)

Being an area of 1912 Square Feet of land and being all of a 10.00 feet wide alley between Lots 24 – 27 and Lot 29, J. P. Holmes's Resubdivision of Blocks A & B, Baze Addition, City of San Angelo, Tom Green County, Texas as per plat recorded in Volume 1, Page 72, Plat Records of Tom Green County, Texas and said 1912 square feet tract being more particularly described by metes and bounds as follows:

Beginning at the northwest corner of this tract in the south line of said Lot 29 and also being the intersection of the east line of North Baze Street, the north line of said alley and the south line of said Lot 29;

Thence with the north line of this tract and said alley and the south line of said Lot 29, N. 89° 57' 34" E. 191.20 feet to the northeast corner of this tract and said alley and the southeast corner of said Lot 29;

Thence with the east line of this tract and said alley, S. 00° 02' 26" E. 10.00 feet to the southeast corner of this tract and said alley and the northeast corner of said Lot 24;

Thence with the south line of this tract and said alley and the north line of said Lot 24 - 27, S. 89° 57' 34" W. 191.20 feet to the southwest corner of this tract and said alley and also being the intersection of the south line of said alley and the north line of said Lot 31 with said east line of North Baze Street;

EXHIBIT-A (4 of 7)

Thence with the west line of this tract and said alley and the east line of said North Baze Street, N. 00° 02' 26" W. 10.00 feet to the place of beginning and containing an area of 1912 square feet of land.

7868 Square Feet (20' Alley – East)

Being an area of 7868 Square Feet of land and being all of a 20.00 feet wide alley between Lots 1-6 and Lot 7 and adjoining Lots 7 and 8, Malone Subdivision of the S/2 of Block C, Baze Addition, City of San Angelo, Tom Green County, Texas as per plat recorded in Volume 63, Page 621, Deed Records of Tom Green County, Texas and said 7868 square feet tract being more particularly described by metes and bounds as follows:

Beginning at the southeast corner of this tract and said alley and the northeast corner of said Lot 6 and being in the west line of A. T. & S. F. Ry. Co.;

Thence with the south line of this tract and said alley and the north line of said Lots 6 – 1, S. 89° 57' 34" W. 293.40 feet to the southwest corner of this tract and said alley and the northwest corner of said Lot 1;

Thence with the west line of this tract and said alley, N. 00° 02' 26" W. 120.00 feet to the northwest corner of this tract and said alley;

Thence with the north line of this tract and said alley, N. 89° 57' 34" E. 20.00 feet to the north northeast corner of this tract and said alley and the northwest corner of said Lot 8;

Thence with an east line of this tract and said alley and the west line of said Lots 8 and 7, S. 00° 02' 26" E. 100.00 feet to an ell corner of this tract and said alley and the southwest corner of said Lot 7;

Thence with the easterly north line of this tract and said alley and the south line of said Lot 7, N. 89° 57' 34" E. 273.40 feet to the east northeast corner of this tract and said alley and the southeast corner of said Lot 7 in the west line of said A. T. & S. F. Ry. Co.;

Thence with the most easterly line of this tract and said alley and the west line of said A. T. & S. F. Ry. Co., S. 00° 02' 26" E. 20.00 feet to the place of beginning and containing an area of 7868 square feet of land.

Bearings recited hereon are based on Texas Coordinate System NAD83 – Texas Central Zone by GPS observation.

See attached sketch.

EXHIBIT-A (5 of 7)

FIELD NOTES

1912 Square Feet (10' Alley – North)

August 10, 2016
16-S-0986

Being an area of 1912 Square Feet of land and being all of a 10.00 feet wide alley between Lots 20 – 23 and Lot 31, J. P. Holmes's Resubdivision of Blocks A & B, Baze Addition, City of San Angelo, Tom Green County, Texas as per plat recorded in Volume 1, Page 72, Plat Records of Tom Green County, Texas and said 1912 square feet tract being more particularly described by metes and bounds as follows:

Beginning at the northwest corner of this tract in the south line of said Lot 20 and also being the intersection of the east line of North Baze Street, the north line of said alley and the south line of said Lot 20;

Thence with the north line of this tract and said alley and the south line of said Lots 20 – 23, N. 89° 57' 34" E. 191.20 feet to the northeast corner of this tract and said alley and the southeast corner of said Lot 23;

Thence with the east line of this tract and said alley, S. 00° 02' 26" E. 10.00 feet to the southeast corner of this tract and said alley and the northeast corner of said Lot 31;

Thence with the south line of this tract and said alley and the north line of said Lot 31, S. 89° 57' 34" W. 191.20 feet to the southwest corner of this tract and said alley and also being the intersection of the south line of said alley and the north line of said Lot 31 with said east line of North Baze Street;

Thence with the west line of this tract and said alley and the east line of said North Baze Street, N. 00° 02' 26" W. 10.00 feet to the place of beginning and containing an area of 1912 square feet of land.

1912 Square Feet (10' Alley – South)

Being an area of 1912 Square Feet of land and being all of a 10.00 feet wide alley between Lots 24 – 27 and Lot 29, J. P. Holmes's Resubdivision of Blocks A & B, Baze Addition, City of San Angelo, Tom Green County, Texas as per plat recorded in Volume 1, Page 72, Plat Records of Tom Green County, Texas and said 1912 square feet tract being more particularly described by metes and bounds as follows:

Beginning at the northwest corner of this tract in the south line of said Lot 29 and also being the intersection of the east line of North Baze Street, the north line of said alley and the south line of said Lot 29;

Thence with the north line of this tract and said alley and the south line of said Lot 29, N. 89° 57' 34" E. 191.20 feet to the northeast corner of this tract and said alley and the southeast corner of said Lot 29;

Thence with the east line of this tract and said alley, S. 00° 02' 26" E. 10.00 feet to the southeast corner of this tract and said alley and the northeast corner of said Lot 24;

Thence with the south line of this tract and said alley and the north line of said Lot 24 - 27, S. 89° 57' 34" W. 191.20 feet to the southwest corner of this tract and said alley and also being the intersection of the south line of said alley and the north line of said Lot 31 with said east line of North Baze Street;

EXHIBIT-A (6 of 7)

Thence with the west line of this tract and said alley and the east line of said North Baze Street, N. 00° 02' 26" W. 10.00 feet to the place of beginning and containing an area of 1912 square feet of land.

7868 Square Feet (20' Alley – East)

Being an area of 7868 Square Feet of land and being all of a 20.00 feet wide alley between Lots 1-6 and Lot 7 and adjoining Lots 7 and 8, Malone Subdivision of the S/2 of Block C, Baze Addition, City of San Angelo, Tom Green County, Texas as per plat recorded in Volume 63, Page 621, Deed Records of Tom Green County, Texas and said 7868 square feet tract being more particularly described by metes and bounds as follows:

Beginning at the southeast corner of this tract and said alley and the northeast corner of said Lot 6 and being in the west line of A. T. & S. F. Ry. Co.;

Thence with the south line of this tract and said alley and the north line of said Lots 6 – 1, S. 89° 57' 34" W. 293.40 feet to the southwest corner of this tract and said alley and the northwest corner of said Lot 1;

Thence with the west line of this tract and said alley, N. 00° 02' 26" W. 120.00 feet to the northwest corner of this tract and said alley;

Thence with the north line of this tract and said alley, N. 89° 57' 34" E. 20.00 feet to the north northeast corner of this tract and said alley and the northwest corner of said Lot 8;

Thence with an east line of this tract and said alley and the west line of said Lots 8 and 7, S. 00° 02' 26" E. 100.00 feet to an ell corner of this tract and said alley and the southwest corner of said Lot 7;

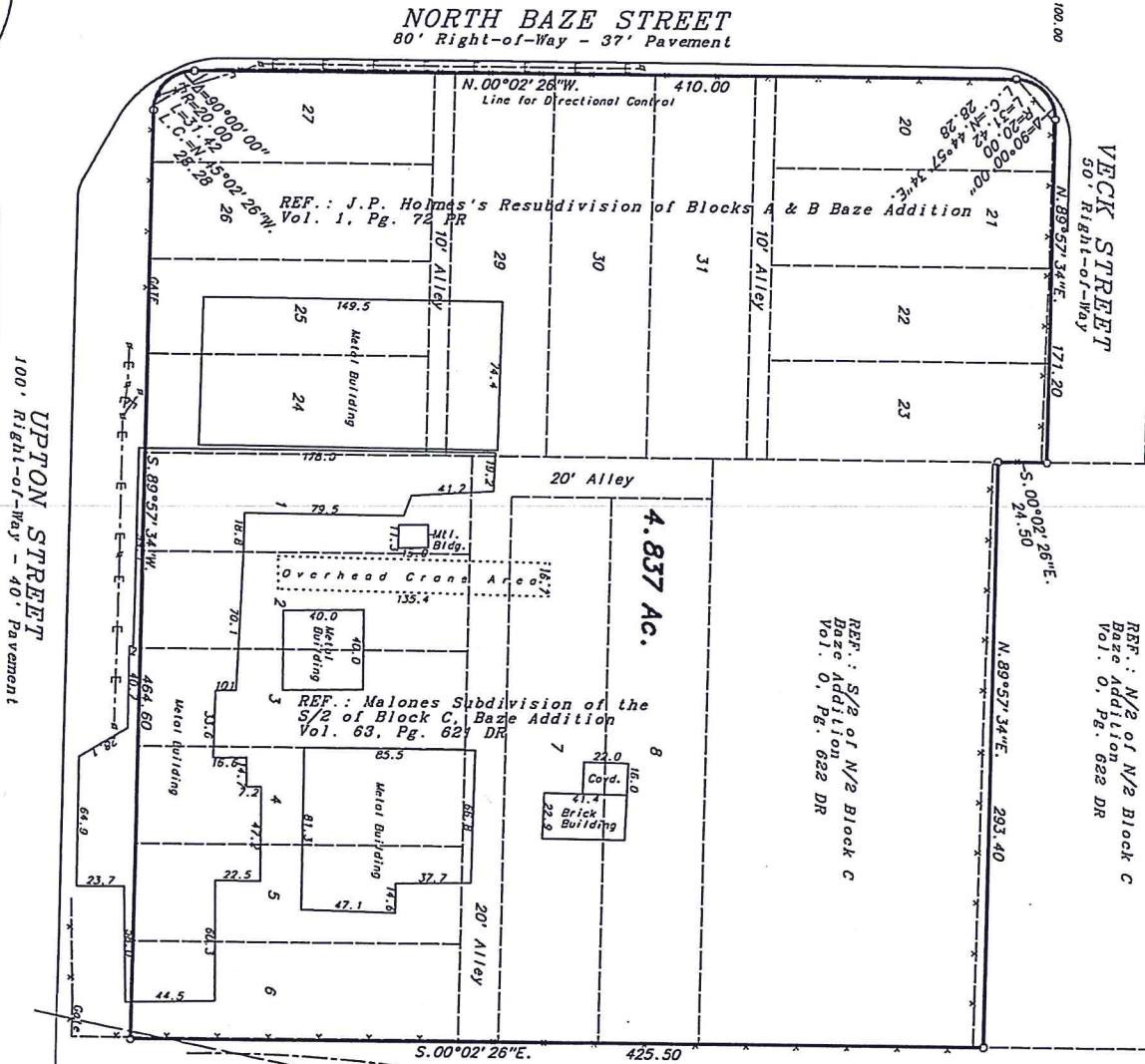
Thence with the easterly north line of this tract and said alley and the south line of said Lot 7, N. 89° 57' 34" E. 273.40 feet to the east northeast corner of this tract and said alley and the southeast corner of said Lot 7 in the west line of said A. T. & S. F. Ry. Co.;

Thence with the most easterly line of this tract and said alley and the west line of said A. T. & S. F. Ry. Co., S. 00° 02' 26" E. 20.00 feet to the place of beginning and containing an area of 7868 square feet of land.

Bearings recited hereon are based on Texas Coordinate System NAD83 – Texas Central Zone by GPS observation.

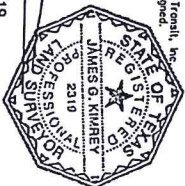
See attached sketch.

EXHIBIT-A (7 of 7)



Surveyed on the ground September 18, 2014.

JAMES G. KIRREY
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 2319



PLAT SHOWING A SURVEY OF THE SOUTH 1/2 OF THE NORTH 1/2 OF BLOCK C, BAZE ADDITION, LOTS 1 THRU 8, MALONES SUBDIVISION OF THE SOUTH 1/2 OF BLOCK C, BAZE ADDITION, AND ALL OR PARTS OF LOTS 20 THRU 27 AND 29 THRU 31, J.P. HOLMES'S RESUBDIVISION OF BLOCKS A & B, BAZE ADDITION, CITY OF SAN ANGELO, TOM, GREEN COUNTY, TEXAS. Alleys shown hereon have not been abandoned or of record.

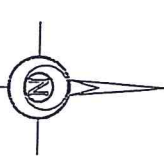
Notwithstanding to whomsoever, this survey was made on the ground under my supervision according to the minimum standards of the Texas Board of Professional Land Surveying, and the General Rules of Procedure and Practices set forth by the Texas Board of Professional Land Surveying.

This survey is prepared for the exclusive use and benefit of Faxon Trench, Inc.

Use of this survey by a third party may not be transferred or assigned.

LEGEND: O - Found Iron Rod w/Cop (unless otherwise noted)

SCALE: 1" = 60'



COPYRIGHT 2014
THIS SURVEY IS PROTECTED BY ALL RIGHTS RESERVED. NO PART OF THIS SURVEY MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, WITHOUT PERMISSION IN WRITING FROM THE SURVEYOR.

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Rebeca Guerra, Planning Manager, Planning and Development Services, 325-657-4210

Meeting Date: November 15, 2016

Item type: Regular Item

Caption:

First Reading and public hearing for Case PD16-05, an Ordinance approving a request for a rezoning from the General Commercial (CG) Zoning District to the Planned Development (PD) Zoning District for a Construction Yard with an Office, Shop, and Outdoor Storage, generally located along the northeast side of South Chadbourne Street, approximately 588 feet northwest of Texas Farm-to-Market Road 765, on approximately 8.140 acres. (Presentation by Planning & Development Services Director Jon James)

Summary/History:

The 8.140-acre subject property was part of an overall 53-acre rezoning from the Rural and Estate (R&E) Zoning District to the General Commercial (CG) Zoning District (RE: Z14-30, approved 11/4/2014). Also approved on November 4, 2014, was a petition for a Special Use for the entire 53 acres (subject property inclusive), SU14-04 (Chris Shrum). The Special Use allows limited outdoor storage uses generally allowed in the Office use category on a property located within the General Commercial (CG) Zoning District. On December 1, 2015, City Council approved an amendment to the Special Use to allow additional uses such as repair, refueling, maintenance of equipment and indoor storage of equipment and materials.

The Petitioner now seeks to rezone the entire 8.140-acre property to a Planned Development to both legitimize a fence which was constructed inconsistent with Zoning Ordinance requirements and allow for an intensification in use of the property.

Financial Impact:

N/A

Other Information/Recommendation:

This request was scheduled for review and consideration on the October 17, 2016, Planning Commission. In a 6-0 vote, the Commission recommended APPROVAL of the request.

Attachments:

- | | | |
|----|-----------------|--|
| 1. | Staff Report | PD16-05_Staff Report_City Council.docx |
| 2. | Draft Ordinance | PD16-05_Ordinance_FINAL.docx |
| 3. | Exhibit "A" | PD16-05_Ordinance_EX-A.pdf |
| 4. | Exhibit "B" | PD16-05_Ordinance_EX-B.pdf |

Presentation:

Jon James

Approvals/Reviews:

Rebeca Guerra	Created/Initiated
Jon James	Approved
Theresa James	Approved
Anthony Wilson	Approved
Jon James	Approved
Tina Dierschke	Approved
Theresa James	Approved
Becky Dunn	Approved
Bryan Kendrick	Final Approval

STAFF REPORT



Meeting: November 15, 2016
December 6, 2016

To: City Council

From: Jon James, AICP
Director of Planning and Development Services

Through: Rebeca A. Guerra, AICP, LEED-AP, CPD
Planning Manager

Case: PD16-05

Request: A request for approval of a Rezoning from the General Commercial (CG) Zoning District to the Planned Development (PD) Zoning District for a Construction Yard with an Office, Shop, and Outdoor Storage

Location: 4750 South Chadbourne Street (Texas Farm-to-Market Road 1223); generally located along the northeast side of South Chadbourne Street, approximately 588 feet northwest of Texas Farm-to-Market Road 765

Legal

Description: Lot 2, Block 1, Section 1, Krislynn Subdivision

Size: 8.140 acres

General Information

Future Land Use:	Commercial
Current Zoning:	General Commercial (CG)

Existing Land Use: Construction office, accessory shop building and limited outdoor storage under an approved Special Use (RE: SU14-05, approved 12/16/14 and amended 12/1/15)

Surrounding Zoning / Land Use:

North:	General Commercial (CG)	Vacant land
West:	Light Manufacturing (ML)	Vacant land; Construction Equipment Company
South:	General Commercial (CG); Rural/Estate (R&E)	Vacant land
East:	General Commercial (CG)	Vacant land

District: SMD #1 – Bill Richardson

Neighborhood: Glenmore

Thoroughfares/Streets:

Per the Master Thoroughfare Plan (MTP), South Chadbourne Street (Texas Farm-to-Market Road 1223) is designated as an Urban “Major Arterial” in the City’s MTP, and is under TxDOT jurisdiction. Urban Arterial Roads have their origin and termination at some point outside of the city limits and are designed to connect Collector Streets to freeways and other arterials that carry large volumes of traffic at high speeds. Arterials typically require a minimum right-of-way width of eighty feet and a minimum paving width of 64 feet.

Background:

The 8.140-acre subject property was part of an overall 53-acre rezoning from the Rural and Estate (R&E) Zoning District to the General Commercial (CG) Zoning District (RE: Z14-30, approved 11/4/2014). The original petition was for Heavy Commercial (CH) zoning, but both the Planning Commission and the City Council concurred with Staff that a General Commercial category would be more appropriate, given the close proximity to single-family estate residential to the east and the zoning requested in proportion to the intended use, which was an “office with outdoor storage for communications equipment” (RE: Conditional Use CU14-11, which was located outside of the subject area). Also approved on November

4, 2014, was a petition for a Special Use for the entire 53 acres (subject property inclusive), SU14-04 (Chris Shrum). The Special Use allows limited outdoor storage uses generally allowed in the Office use category on a property located within the General Commercial (CG) Zoning District, subject to the following Conditions:

- a. Limited outdoor storage shall be defined in Section 504.B of the Zoning Ordinance and be utilized exclusively for uses that are consistent with the “Office” use category.
- b. Outdoor storage shall be located behind any proposed office structures. (Furthermore), any areas that are visible from a right-of-way shall be screen with a 6-foot opaque fence.
- c. All exterior lighting shall be shielded and positioned in such a manner so as to not spill over onto any adjacent property.
- d. The storage of hazardous materials on the subject property shall be prohibited.

One month later, on December 16, 2014, City Council approved SU14-05 (Shrum/Cardenas), a Special Use request specific to only an 8.140-acre portion of the 53-acre site (the subject property), to facilitate a “contractor’s office with outdoor storage associated with the “Office” use category.” As approved, the Special Use allows limited outdoor storage uses generally allowed in the Office use category on a property located within the CG Zoning District, subject to the same Conditions outlined in the previously authorized Special Use, SU14-04.

According to the site plan upon which SU14-05 is based, all activity is confined to a 4.13-acre portion of the overall 8.14-acre subject property; no activity or storage outside of the 4.13 acres was indicated. In reference to Section 504.B of the Zoning Ordinance, the Special Use limited the site to Type-2 Limited Outdoor Storage, not to exceed either 1,000 square feet or ten percent (in this case approximately 17,950 square feet) of the activity area, whichever was greater. Under the approved Special Use, only outdoor storage consistent with office uses would be allowed.

The 8.14-acre subject property, Lot 2, Block 1, was subsequently established by recorded plat in March of 2015 (Krislynn Subdivision – Section 1 [Cabinet G, Slide 283]). Afterwards, an amendment to SU14-05 was authorized by the City Council on December 1, 2015, to facilitate the following:

- a. Equipment repair of brake shoes, lamp replacement, spark plug replacement, and some electrical wiring work on trailers;

- b. Equipment maintenance to include oil changes, air and fuel filter replacement, parts lubrication, and washing/cleaning;
- c. Indoor storage of tools to support the aforementioned equipment repair and maintenance work, as well as storage of specialty tools for the “utility trade,” such as gas tampers, sewer laser beam, chains and slings and water main tapping equipment; and
- d. An above-ground fuel storage tank for equipment fueling purposes only.

The amendment to the Special Use allows additional uses such as repair, refueling, maintenance of equipment and indoor storage of equipment and materials, subject to the following Conditions:

- a. Construction of any permanent, limited outdoor storage, as defined in Section 504.B of the Zoning Ordinance, shall be limited to a maximum of 1,000 square feet and shall be utilized exclusively for uses that are consistent with the “Office” use category.
- b. Outdoor storage shall be located behind any proposed office structures. (Furthermore), any areas that are visible from a right-of-way shall be screen with a 6-foot opaque fence.
- c. All exterior lighting shall be shielded and positioned in such a manner so as to not spill over onto any adjacent property.
- d. The storage of hazardous materials on the subject property shall be prohibited.
- e. All equipment repair and maintenance shall be fully conducted indoors.

The newly imposed limitation on outdoor storage is presumed to have been included to preempt any unwarranted escalation in outdoor storage or intensification toward either a heavy commercial or an industrial use.

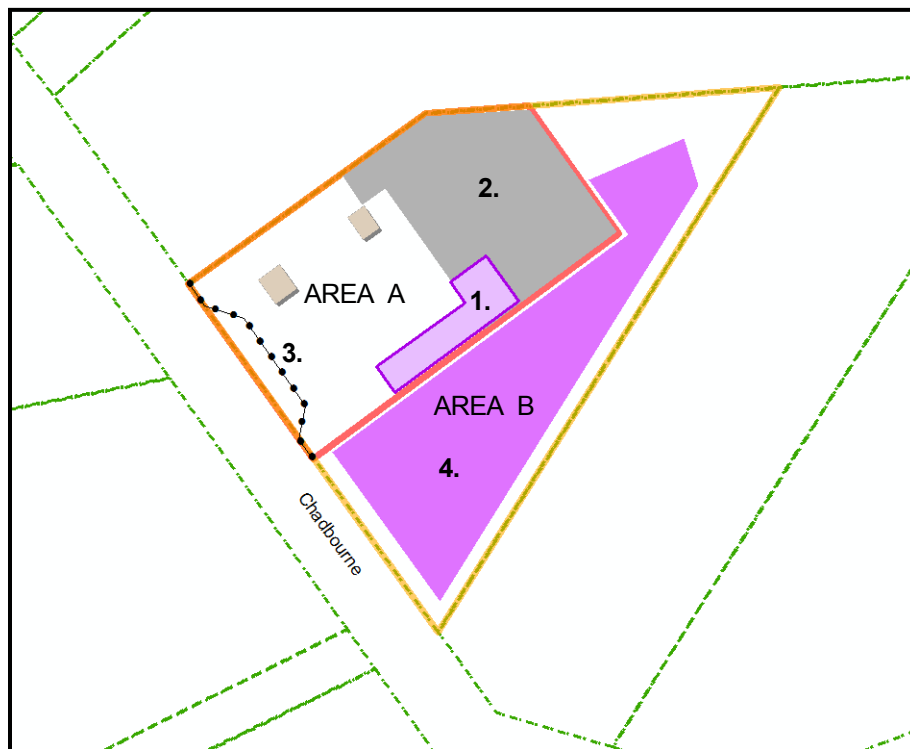
The subject property is irregular in configuration with a northeast-to-southwest orientation and approximately 650 feet of frontage along Chadbourne. The terrain is relatively flat and contains no known unusual topographic issues or site peculiarities. The subject property is subject to the following setbacks: Front – 25 feet; Side and Rear – 0 feet. There is no residential adjacency along the perimeter of the property, therefore buffering is typically not required. The properties surrounding the subject area are heavily wooded.

A two-story office building and separate shop building with canopies have been recently constructed on the subject property. The Petitioner erected a 6-foot-high, screened chain-link fence (fencing with interwoven vinyl slats) along the property’s

Chadbourne Street frontage, which does not conform to Section 509.B.3.a of the Zoning Ordinance (fencing that extends into the front yard setback is limited to a maximum height of four feet). Although the Petitioner sought a variance to allow the fence in its present location (ZBA16-08), it was denied by the San Angelo Zoning Board of Adjustment on July 11, 2016. The Petitioner now seeks to rezone the entire 8.140-acre property to a Planned Development to both legitimize the fence and allow for an intensification in use of the property.

The following activities on both the 4.13-acre activity area, as laid out under the governing Special Use (Area A), and the remaining balance of the subject property (Area B) were observed during a recent site inspection:

1. A concrete batching plant operation located within Area A. This is not permitted either under the approved Special Use or within the General Commercial zone.
2. Outside equipment and vehicle storage situated located within a significant portion of Area A. This is not permitted either under the approved Special Use or within the General Commercial zone.
3. A 6-foot-high screening fence along the front property line of Area A.
4. Several mounds of gravel and various aggregate, as well as heavy truck staging areas, located within Area B. This is not permitted either under the approved Special Use or within the General Commercial zone.



Analysis:

The Planned Development Zoning District is a tailor-made zoning district designed for a specific purpose in a specific location, allowing for greater flexibility, improved design standards, and additional mitigation as deemed necessary and in relation to the surrounding environment. Section 212(G) of the Zoning Ordinance requires that the Planning Commission and City Council consider, at minimum, seven (7) factors in determining the appropriateness of any Rezoning request.

1. **Compatible with Plans and Policies.** *Whether the proposed amendment is compatible with the Comprehensive Plan and any other land use policies adopted by the Planning Commission or City Council.*

With the exception of the concrete batching plant, the activities currently observed on the subject property appear to be in keeping with either the Future Land Use designation of “Commercial” and the intent and direction of the governing Special Use. Discounting the Special Use, the Planned Development should be structured in such a manner as to bring the property as close to conformance with both the underlying General Commercial district and the current Future Land Use as possible, while affording sufficient mitigation to ensure both compatibility with other area businesses and protection to nearby residents. The applicant has indicated that the concrete batching plant will be removed from the site by January 1, 2017.

2. **Consistent with Zoning Ordinance.** *Whether and the extent to which the proposed amendment would conflict with any portion of this Zoning Ordinance.*

The purposes of a Planned Development District include, but are not limited to, the following: (1) To allow diversification of uses, structures, and open spaces and to promote flexibility of design in a manner compatible with existing and allowed uses of land on adjacent properties, (2) To preserve the natural amenities and environmental assets of the land by encouraging the preservation and improvement of open space, (3) To provide an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services, (4) To promote the efficient use of land to facilitate a more economic arrangement of buildings, uses of land and utilities, and (5) To promote the development of vacant property within the presently developed urban (or suburban) area. As a suitable replacement to the Special Use, the proposed Planned Development should bring all uses into conformance with both the underlying zoning district and the current Future Land Use as much as possible, while affording sufficient mitigation to ensure both compatibility with other area non-commercial businesses and protection to nearby residents.

3. **Compatible with Surrounding Area.** *Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land.*

The proposed Planned Development should offer a balance between the construction yard, other well-maintained, non-residential properties along South Chadbourne, and residences to the east and south. The Petitioner is therefore seeking the Planned Development to conduct operations on the property in a manner that is in keeping with the spirit of the Zoning Ordinance while acknowledging that any and all intensive and incompatible uses currently on the property must be removed in a timely fashion.

4. **Changed Conditions.** *Whether and the extent to which there are changed conditions that require an amendment.*

The Petitioner is voluntarily seeking the zone change in an effort to conduct operations on the property within the spirit of the Zoning Ordinance while acknowledging that any and all intensive and incompatible uses currently on the property will be removed by no later than January 1, 2017.

5. **Effect on Natural Environment.** *Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment, including but not limited to water and air quality, noise, storm water management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.*

There could be some appreciable effect on the natural environment, regardless of the level and type of development that could occur with or without a rezoning. The subject property is largely open, and the Petitioner has expressed an intent to store construction related materials outdoors. Due to the current level of activity on the property, there is an appreciable level of heavy truck traffic along both South Chadbourne and nearby Farm-to-Market Road 765 between the site and Loop 306. The Planned Development should provide adequate mitigation to ensure that particulate matter is kept at a minimal to lessen any adverse airborne effects to nearby property owners. The Planned Development will also serve as a means by which the Petitioner can reasonably and timely address and remove any incompatible, non-permitted and high-traffic generating uses.

6. **Community Need.** *Whether and the extent to which the proposed amendment addresses a demonstrated community need.*

There is no any empirical data to suggest the local need for another construction yard or that the introduction of a construction yard onto the subject property will substantially increase job opportunities or generate additional revenue for the City. Conversely, as the construction yard already exists, it appears more reasonable to

establish parameters by which the property can be brought within the spirit of the Zoning Ordinance than it would to shut the operation down.

7. **Development Patterns.** *Whether and the extent to which the proposed amendment would result in a logical and orderly pattern of urban development in the community.*

The Planned Development is intended to limit activity to a level that better reflects area development patterns and is in keeping with the spirit of the underlying zoning district. The uses of the proposed Planned Development would be limited to Office, Shop, and Outdoor Storage, which appears to be in keeping with existing nonresidential development along South Chadbourne.

Notification:

On September 26, 2016, six notifications (five property owners and one to the City of San Angelo) were mailed out. To date, Staff has received one correspondence in support of, and none in opposition to, the request.

Planning Commission Action:

This request was scheduled for review and consideration on the October 17, 2016, Planning Commission. In a 6-0 vote, the Commission recommended APPROVAL of the request. Below is an excerpt from the meeting's unofficial minutes:

The request was for approval of a Rezoning from the Low Rise Multi-Family Residence (RM-1) and Light Manufacturing (ML) Zoning Districts to the Planned Development (PD) Zoning District for a school with accessory uses including: play areas, cafeterias, recreational and sport facilities, auditoriums and before or after-school day care.

David Stallworth, Principal Planner, outlined the case. The Future Land Use of the site is Commercial and current zoning is General Commercial with Special Use approval for a contractor's office with outdoor and indoor storage, as well as the repair, refueling, and maintenance of equipment. He outlined Planning Staff's rationale to recommend approval of the application subject to thirteen conditions of approval. The rationale included that the request was consistent with the Future Land Use designation, that the PD would provide for a unified, cohesive development, and that the indicated uses are not incompatible with existing surrounding uses. No one from the public had any questions, nor did the Commission itself have any questions for Staff or the Petitioner.

Commissioner Crisp made a Motion to recommend APPROVAL of the request, subject to the thirteen Conditions recommended by Staff. Commissioner Farmer seconded the Motion. The Motion passed unanimously, 6-0.

Staff's Recommendation:

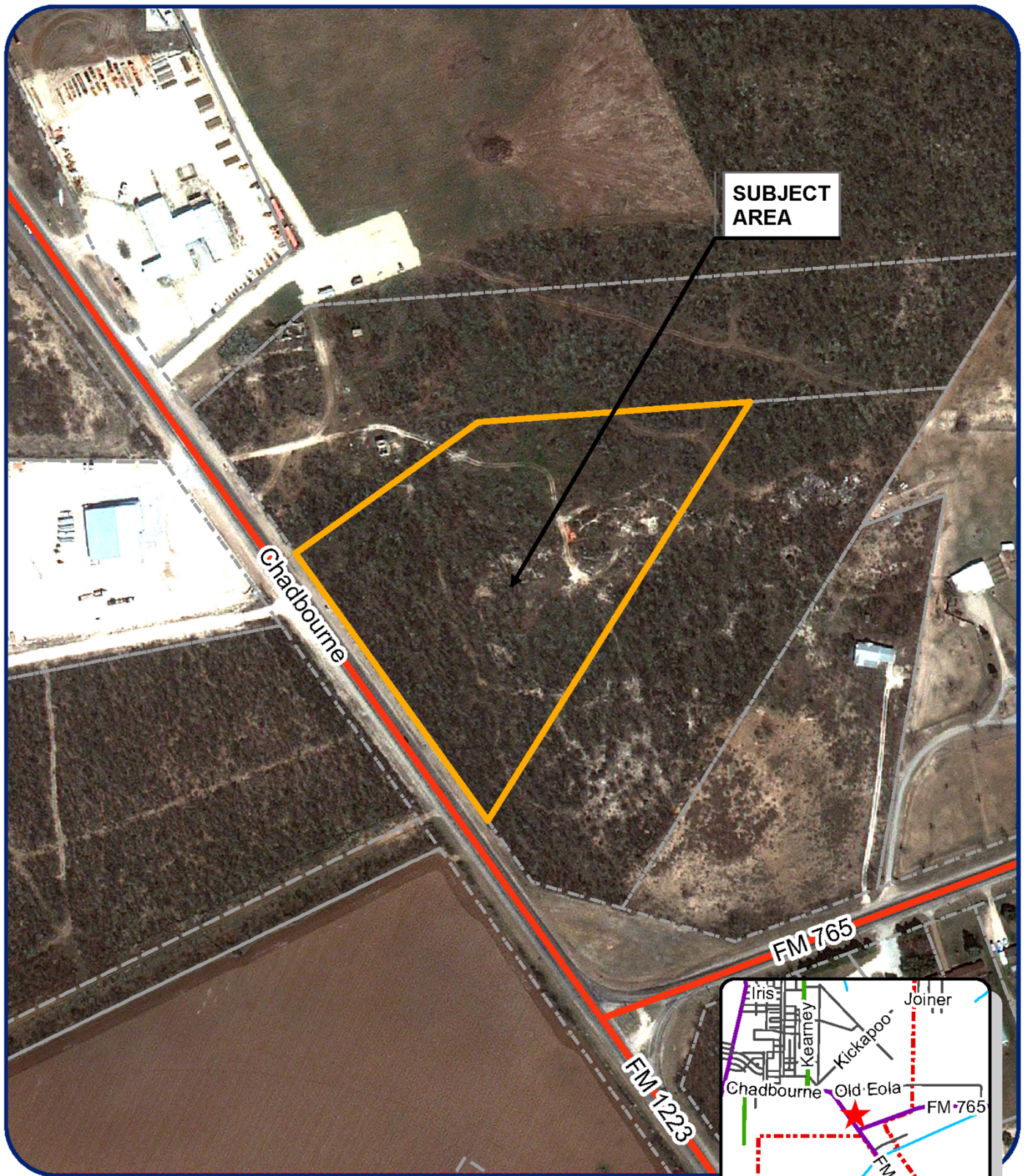
Staff's recommendation is for City Council to **APPROVE** the proposed Rezoning from the General Commercial (GC) Zoning District to the Planned Development (PD) Zoning District for a Construction Yard with an Office, Shop, and Outdoor Storage, **subject to the following thirteen Conditions:**

1. The existing six-foot-high screen fence may be allowed along the front property line of the subject property. The property owner shall have no more than one year from the effective date of the Planned Development to extend this same fencing to the southeast corner of the 8.14-acre site.
2. Outdoor storage for construction-related materials shall not exceed 2.00 acres (87,120 square feet) in land coverage and shall not extend beyond the confines established within Areas One and Two, as shown in Exhibit A-2.
3. All construction-related materials that are stored outdoors shall not exceed a height profile of 20 feet above grade and shall be screened from any view along a public street right-of-way.
4. All business-related gravel, soils, and aggregate to be stored on the premises shall not exceed a height profile of ten feet above grade and shall be screened from any view along a public street right-of-way.
5. All business-related gravel, soils, and aggregate to be stored on the premises shall be satisfactorily covered, or sufficient mitigation measures shall be employed to adequately safeguard against air contamination of dust and particulate matter.
6. Outdoor storage for company vehicles and equipment shall not extend beyond the confines established within Area One, as shown in Exhibit A-1.
7. All outdoor storage areas shall be maintained in a clean and orderly manner. No junk vehicles, scrap metals, metal filings, recyclable materials, vehicle or machinery parts, tires, spent containers or barrels or canisters, household trash, construction or household debris, or other solid/liquid waste shall be stored outdoors on the premises.
8. No hazardous materials shall be stored on the premises. Containers used for the storing of spent lubricants shall be covered and maintained on the premises in a place and manner that will adequately mitigate soil contamination, discourage stockpiling and facilitate a timely disposal schedule.
9. All equipment repair and maintenance shall be fully conducted indoors.
10. No metal fabrication of any kind shall be conducted on the premises.

11. All exterior lighting shall be shielded and positioned in such a manner so as to not spill over onto any adjacent property. Light poles shall not exceed 35 feet in height.
12. The Property Owner shall remove any uses on the property that are not specifically permitted under this Planned Development by January 1, 2017.
13. The following uses shall be allowed on the subject property:
 - a. Construction Yard
 - b. Outdoor construction materials storage
 - c. Outdoor construction equipment and vehicle
 - d. Warehouse buildings for company use only (no manufacturing or fabrication permitted)
 - e. Indoor maintenance shop
 - f. Contractor's office

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Major Thoroughfare Map
Petitioner's Justification
Concept/Site Plan
Site Photographs

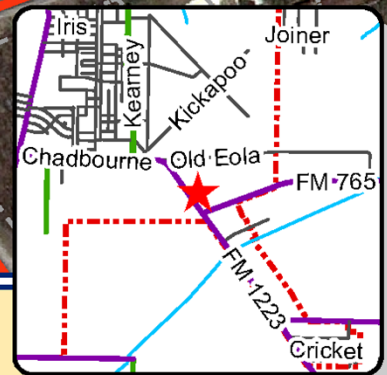


SUBJECT
AREA

Chadbourne

FM 765

FM 1223



Planned Development Case File

PD16-05, Darnell Construction

Council District: SMD#1 (Richardson)

Neighborhood: Glenmore

Scale: 1 inch :: 300 feet

Legal Descr: Lot 2, S-1, Blk-1, Krislynn Sub'd

Legend

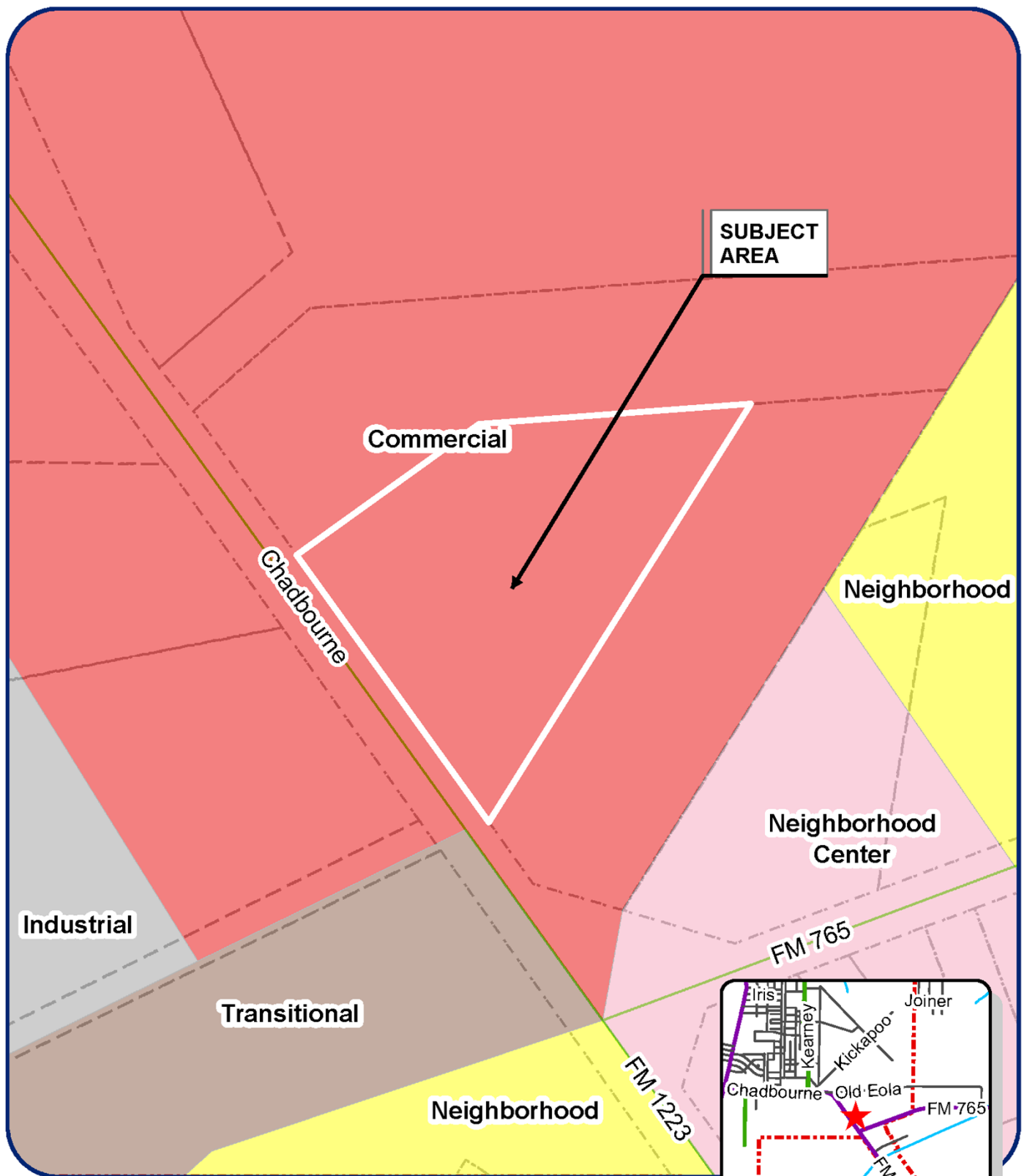
Subject Properties: 

Current Zoning: **CG**

Requested Zoning Change: **PD**

Vision: **Commercial**





Planned Development Case File

PD16-05, Darnell Construction

Council District: SMD#1 (Richardson)

Neighborhood: Glenmore

Scale: 1 inch :: 300 feet

Legal Descr: Lot 2, S-1, Blk-1, Krislynn Sub'd

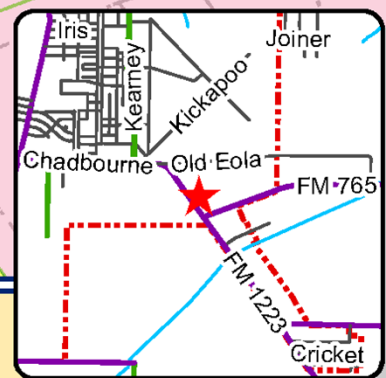
Legend

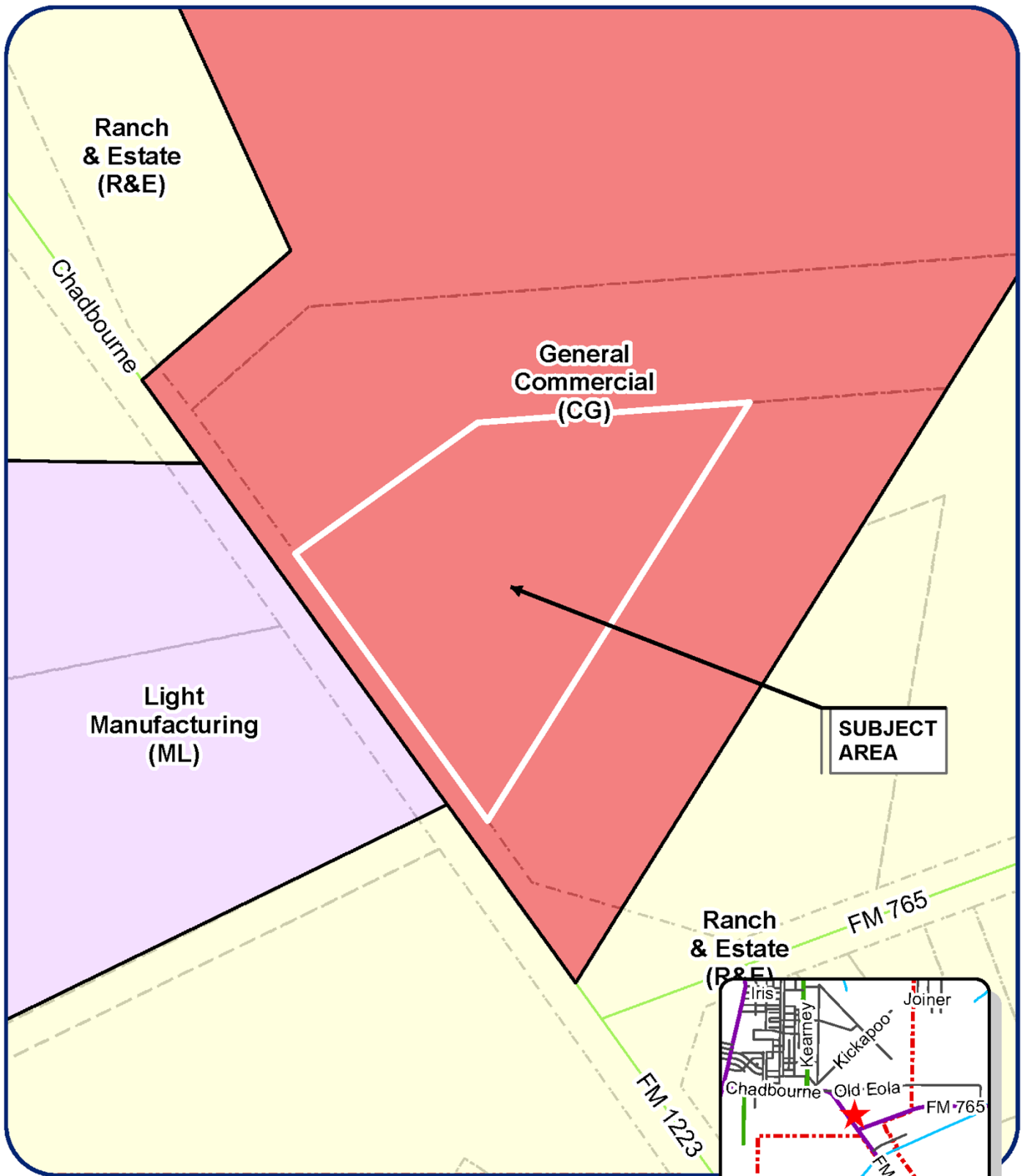
Subject Properties: 

Current Zoning: **CG**

Requested Zoning Change: **PD**

Vision: **Commercial**





Planned Development Case File

PD16-05, Darnell Construction

Council District: SMD#1 (Richardson)

Neighborhood: Glenmore

Scale: 1 inch :: 300 feet

Legal Descr: Lot 2, S-1, Blk-1, Krislynn Sub'd

Legend

Subject Properties: _____

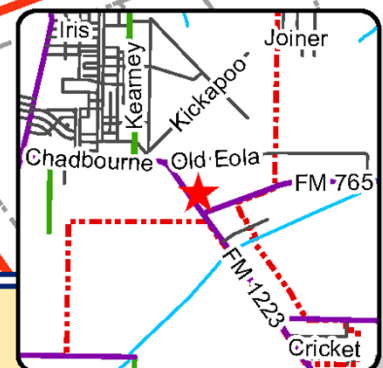
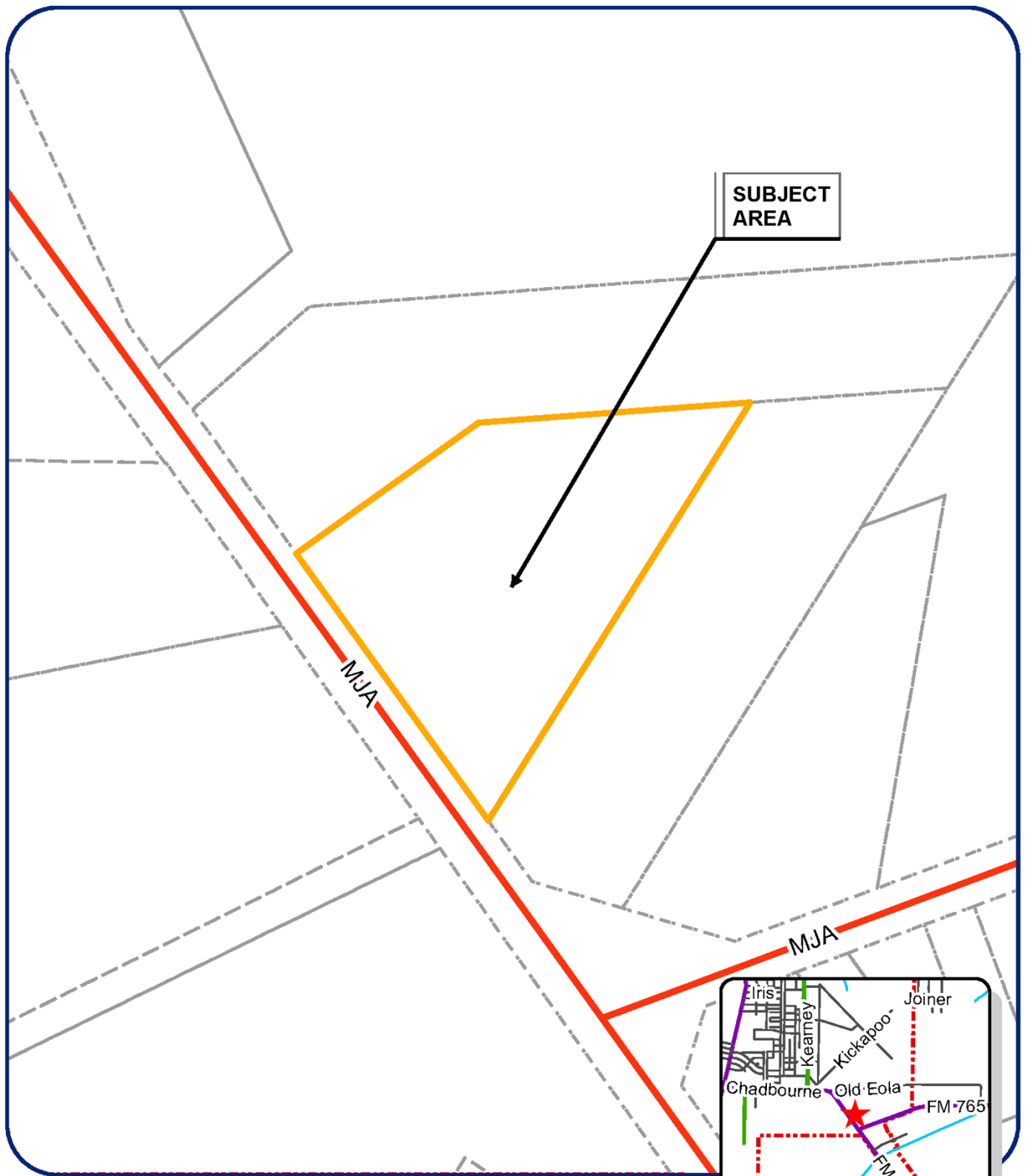
Current Zoning: **CG**

Requested Zoning Change: **PD**

Vision: **Commercial**

N





Planned Development Case File

PD16-05, Darnell Construction

Council District: SMD#1 (Richardson)

Neighborhood: Glenmore

Scale: 1 inch :: 300 feet

Legal Descr: Lot 2, S-1, Blk-1, Krislynn Sub'd

Legend

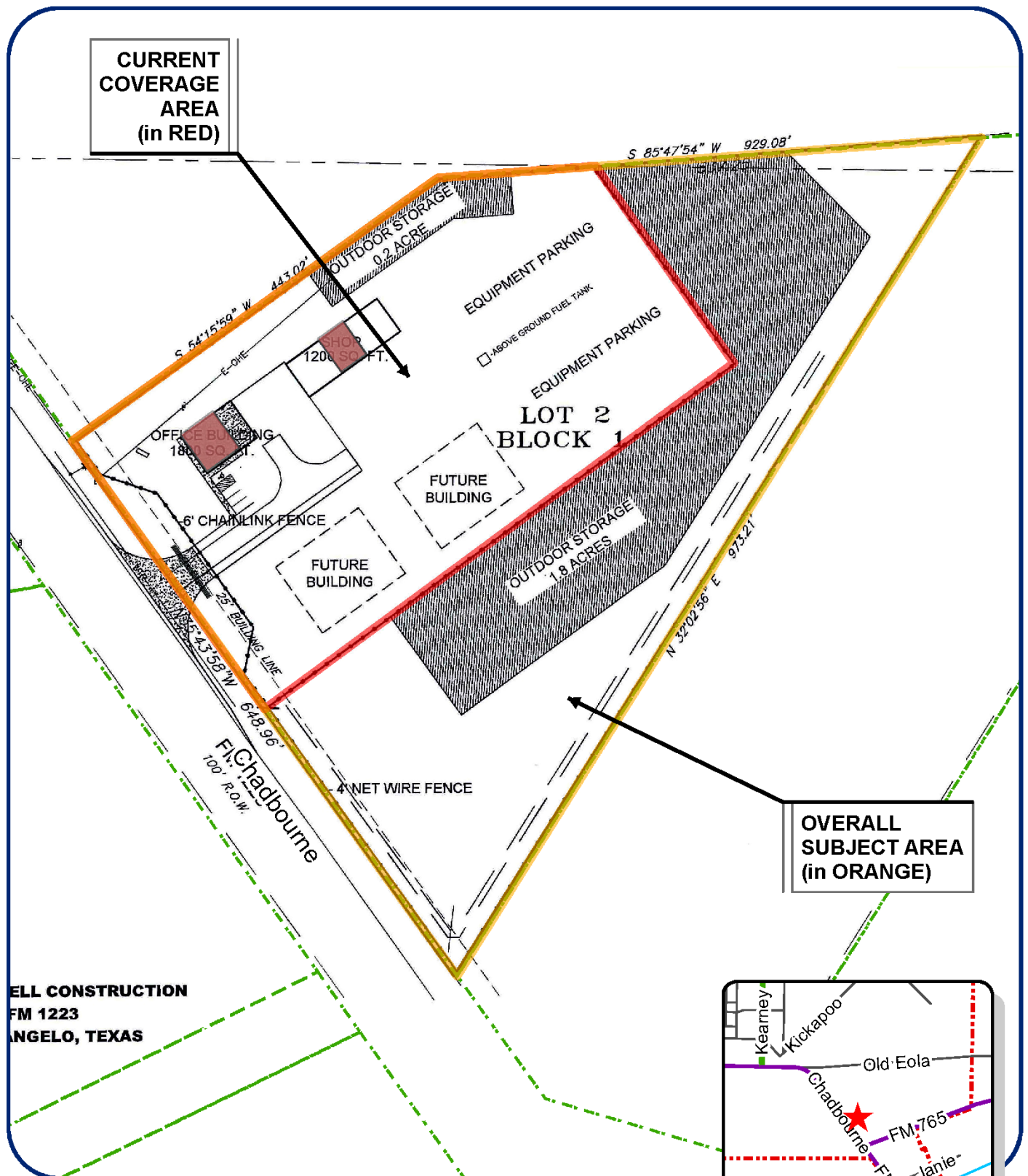
Subject Properties: 

Current Zoning: **CG**

Requested Zoning Change: **PD**

Vision: **Commercial**





ELL CONSTRUCTION
FM 1223
ANGELO, TEXAS

OVERALL
SUBJECT AREA
(in ORANGE)



Planned Development Case File

PD16-05, Darnell Construction

Council District: SMD#1 (Richardson)

Neighborhood: Glenmore

Scale: 1 inch = 150 feet

Legal Descr: Lot 2, S-1, Blk-1, Krislynn Sub'd

Legend

Overall Property: ——

Existing Coverage: ——

Current Zoning: **CG**

Requested Zoning Change: **PD**

Vision: **Commercial**



EXHIBIT A-1

AREA FOR
OUTDOOR MATERIALS
STORAGE
(in PURPLE)

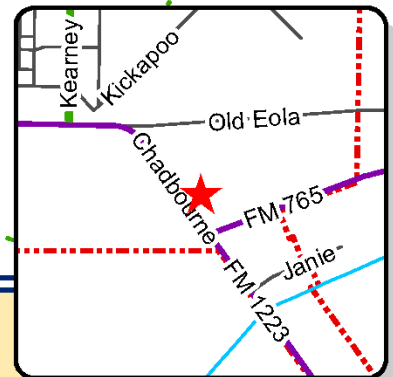
AREA ONE

AREA TWO

Fence extension (in GRAY)

Chadbourne

OVERALL
SUBJECT AREA
(in ORANGE)



Planned Development Case File

Darnell Construction

Council District: SMD#1 (Richardson)

Neighborhood: Glenmore

Scale: 1 inch :: 150 feet

Legal Descr: Lot 2, S-1, Blk-1, Krislynn Sub'd

Legend

Overall Property:

Existing Coverage:

Current Zoning: **CG**

Requested Zoning Change: **PD**

Vision: **Commercial**



EXHIBIT A-2

AREA FOR
VEHICLE/EQUIPMENT
STORAGE
(in LT PURPLE)

AREA ONE

AREA TWO

OVERALL
SUBJECT AREA
(in ORANGE)

Fence Extension (in GRAY)

Chadbourne



Planned Development Case File

Darnell Construction

Council District: SMD#1 (Richardson)

Neighborhood: Glenmore

Scale: 1 in :: 150 ft

Legal Descr: Lot 2, S-1, Blk-1, Krislynn Sub'd

Legend

Overall Property:

Existing Coverage:

Current Zoning: **CG**

Requested Zoning Change: **PD**

Vision: **Commercial**

N



City of San Angelo, Texas
Planning Division

Application for Approval of a ZONE CHANGE

Name of Applicant(s): DARNELL Const. LLC
Darnell Properties (David + Jody Darnell - owners)
- Owner - Authorized Representative (Affidavit required)

Mailing Address: 4750 S. Chadbourne St. Telephone: 325-653-1920

City/State/Zip: SAN Angelo, Texas 76904 Fax/other: 325-658-5324

Subject Property Address and/or Location*:

4750 S. Chadbourne St. SAN Angelo, Tx. 76904

Legal Description*:

Lot Two(2) Block one(1) Section one(1) Krislynn Sub Division to the City of SAN Angelo, Tom Green County - Cabinet "G" at Slide #283 of The Plat records of Tom Green County

Zoning: GC Vision Plan Map Designation: Commercial

Existing Use of Property: Construction yard - office + shop

Proposed Use of Property: Construction yard - office + shop

Requested Zone Change: Planned Development

* use attachment, if necessary

I/We the undersigned acknowledge that the information provided above is true and correct.

[Signature] 9/7/2016
Signature Date

NOTE: Please also read information and sign on back of page.

OFFICE USE ONLY						
Case no.:	<u>PD 16 -05</u>	L	R	M	Date of application:	<u>9/12/16</u>
Received by:	<u>Jeff Fisher</u>				-walk-in	- by mail
Nonrefundable application fee:	<u>\$ 600.00</u>				Date paid:	<u>9/12/16</u>
Sign deposit:	<u>\$ 37.50</u>	<u>receipt 269297</u>			Date paid:	<u>9/12/16</u>
Affidavit attached? - yes	☒	N/A			Applicant's signature on information sheet? -	
Previous Zone Change Inquiry? - yes	☒				If yes, ZCI case no.:	
River Corridor Commission? - yes	☒				If yes, RCC meeting date:	
Planning Commission hearing date:	<u>10/17/2016</u>				Date notifications due:	
City Council hearing date:	<u>11/15/16</u>	Packets due date:			Publication date:	

11/29/16

City of San Angelo, Texas
Department of Planning
Important Information Regarding Zone Change Requests

Please read the following and sign below.

1. An application for a zone change on a property may only be made by the owner of that property, an authorized representative of the property owner, the Planning Director, the Planning Commission or City Council. An authorized representative shall present a notarized affidavit from the property owner.
2. No application will be processed if a zoning violation exists on the property, unless such processing is authorized by City Council. Use of the subject property for any new activity (not allowed by present zoning) cannot occur before City Council's approval of the requested zone change. Any such unauthorized use of the subject property is subject to prosecution in Municipal Court.
3. If approved, **a zone change is applied to the property, not the property owner.**
4. The Planning Commission makes recommendations to City Council. If the Planning Commission recommends approval of a zone change request, the case must still go before City Council for final action.
5. If a zone change request is granted by City Council, permits for building construction and/or utility connection may be obtained from the City's Permits and Inspections Department.
6. Certain minimum building setbacks from some or all property lines must be maintained, and room for a minimum number of off-street parking spaces must be reserved on a subject property, based on that property's zoning classification and the nature of its proposed use. A privacy fence may also be required between more restrictive and less restrictive zoning districts. These requirements are outlined in San Angelo's Zoning Ordinance. It is to the applicant's benefit to make sure that any proposed development will fit onto the subject property, in compliance with these and other applicable requirements of the City's Code of Ordinances.
7. One or more notice sign(s) will be placed on the subject property by the Planning Department. However, it is the applicant's responsibility to ensure that the notice sign(s) has/have been posted at least ten (10) days prior to the Planning Commission meeting. If notice sign(s) is/are not posted accordingly, City Council may delay a request. The Planning Department will also notify, in writing, owners of property within 200-feet of the subject property of the zone change request.
8. If the Planning Commission recommends denial of a request, the applicant will have ten (10) days to appeal this decision, in writing, to City Council. If an appeal is made within three (3) days from the Planning Commission meeting, no re-notification fee will be required. Otherwise, there will be a nonrefundable \$35 fee to re-notify owners of nearby property of City Council's public hearing date. If the Planning Commission's recommendation of denial is not appealed, it will be the final action on a request.
9. The applicant or an authorized representative should attend public hearing(s) pertaining to his/her request, prepared to present his/her case and to answer any relevant questions from Planning Commission or City Council members.

I/We have read and understand the preceding information.



Signature

9/12/2016

Date

OFFICE USE ONLY

Case no.:

pg 16 - OS

Date of application:

9/12/2016

Received by:

Jeff Fisher

Justification, Letter

9-7-2016

Darnell Construction L.L.C.
4750 South Chadbourne Street
San Angelo, Texas

San Angelo, Texas Planning Department;

The request for a zone change, comes about primarily due to the fact that initially not enough thought was put into the possibility of being restricted to outside storage due to being under General commercial zoning. Also to the criteria for fencing requirements under this type of zoning. The type of business established here requires ample storage as listed in the letter of information, at which time it does not have. Also our desire to have six-foot fencing and a portion to be set just off the property lines is our desire. Primarily for security reasons and to have full use of the property. It is our understanding that to be in compliance in the future we should seek a change to a planned development. Under this criteria it would meet our needs now and for some continued growth within our property line but at the same time maintain the integrity of the neighborhood as a whole. We at Darnell Construction L.L.C. have spent several years trying to comply with the city Planning Department and the City Council in securing a location for our business, not to mention the expense to build this facility. We have had numerous meetings with staff unfortunately a lot of the folks that we began this journey with are no longer at the city. We look forward to working with the city, in resolving these issues.

Sincerely;
David Darnell
Co-Owner (9-7-2016)

Darnell Properties an Affiliate of Darnell Construction L.L.C. Property ownership information

Darnell Construction L.L.C. is a spinoff of an older company that was established in San Angelo, Texas in 1978. Part of the same owners that held stock in the older company now own Darnell Construction L.L.C. The primary function of this company, is an underground utility Installer. This includes but is not limited to gas installation, electrical underground conduit systems, including burying electrical cables. All types And sizes of water lines including distribution systems inside city limits but also rural water systems. We have in the past been engaged in building smaller water and sewer plants. The company has a long standing record for the installation of sewer lines. Many of these have been installed here in San Angelo, Texas. Our industry has certain criteria it has to abide by, certain materials have to be used in the installation of these utilities. Municipalities require certain standards be met, including equipment Being used, materials, and safety requirements. Some of these requirements are laser grading systems, Testing equipment, for sewer lines and also water lines, these are separate types of equipment. Along With the sewer testing equipment, you have to have air compressors, test balls, and plug balls. Man-holes require a separate testing system. Other requirements are for safety, state and federal guidelines Have to be maintained. This requires a minimum number of pieces of equipment. Shoring boxes, some call trench boxes. Man-hole shields, hydraulic vertical shores, slings, safety harness and in certain conditions gas monitoring equipment just to name a few. The city of San Angelo, Texas engineering department and public works also have their own guidelines. Some of these require the stock piling Of certain types of gravel and crushed limestone products. The gravel is used for bedding in their utilities, and the limestone once it has had a water mixture added becomes the final backfill under Paved streets, drives or alley ways. As you can tell this requires a considerable amount of room to store The safety equipment, along with an area to process and store crushed limestone. Just to get a feel For the space needed just checkout the city's facilities at distribution off of Saint Ann Street. The difference is we have more safety equipment then the city. Our office works pretty much like any Office would work, taking messages a point of contact for clients a place where the billing occurs And job estimating. The shops primary function is to maintain the trucks and equipment used in our Daily operation. This means fuel and oil changes, electrical repairs minor repairs to chains, buckets Washing, cleaning windows etc. We do not engage in repairs to the general public. Our goal in building This facility was to have and maintain one of the nicest construction yards in this area, our name Is at the front gate, the appearance of our facility reflects what type of company is located within its boundaries.

Sincerely:

David Darnell

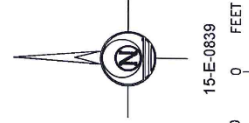
Co-Owner (9-7-2016)



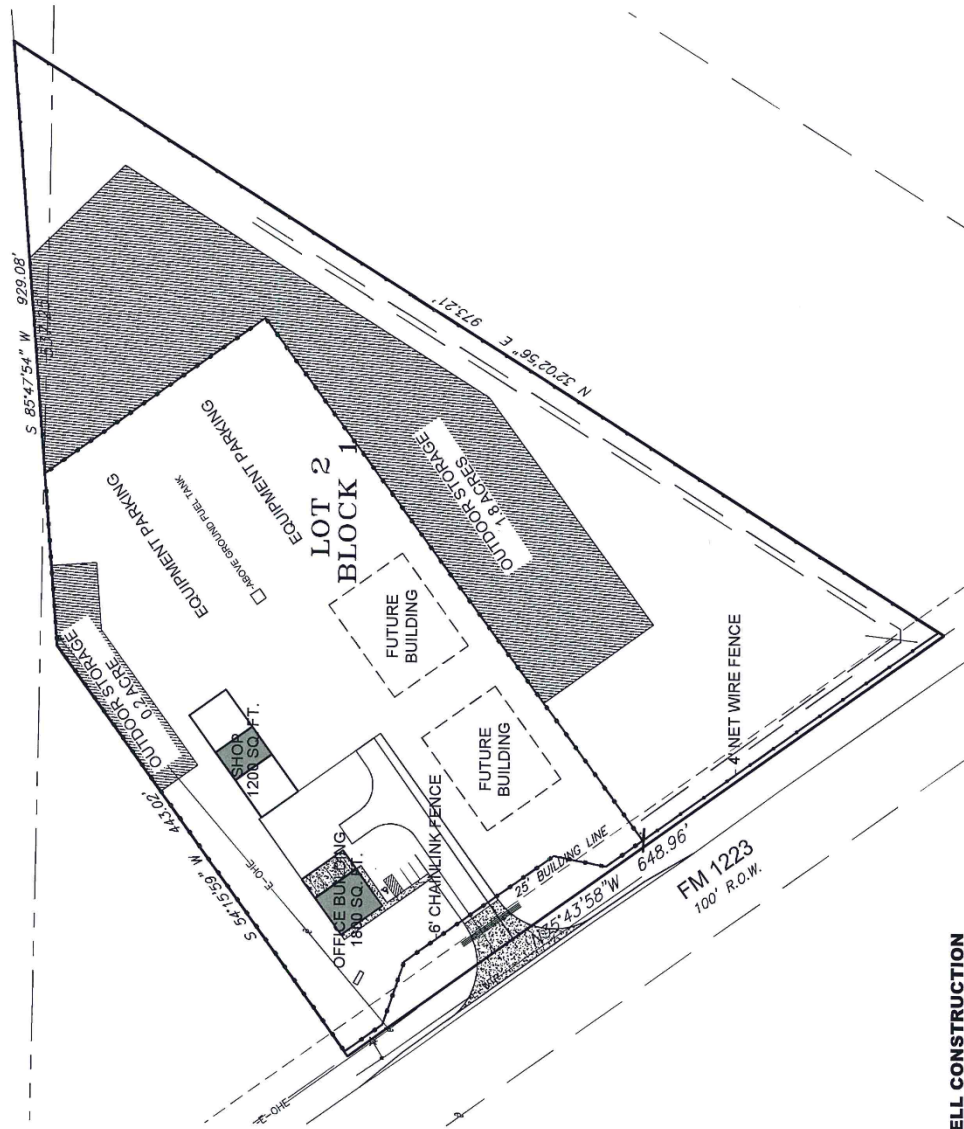
VICINITY MAP
N.T.S.

LEGAL DESCRIPTION

LOT 2, BLOCK 2, SECTION 1, KRISLYNN SUBDIVISION, SAN ANGELO,
TOM GREEN COUNTY, TEXAS



GRAPHIC SCALE 0 50 100 200 400 FEET
15-E-0839



DARNELL CONSTRUCTION
4750 FM 1223
SAN ANGELO, TEXAS







AN ORDINANCE AMENDING CHAPTER 12, EXHIBIT "A" OF THE CODE OF ORDINANCES, CITY OF SAN ANGELO, TEXAS, WHICH ADOPTS ZONING REGULATIONS, USE DISTRICTS AND A ZONING MAP, IN ACCORDANCE WITH A COMPREHENSIVE PLAN, BY CHANGING THE ZONING AND CLASSIFICATION OF THE FOLLOWING PROPERTY: **4750 South Chadbourne Street (Texas Farm-to-Market Road 1223), generally located along the northeast side of South Chadbourne Street, approximately 588 feet northwest of Texas Farm-to-Market Road 765, and identified as Lot 2, Block 1, Section 1, Krislynn Subdivision, comprising a total of 8.140 acres,** FROM THE GENERAL COMMERCIAL (CG) ZONING DISTRICT TO THE PLANNED DEVELOPMENT (PD) ZONING DISTRICT FOR A CONSTRUCTION YARD WITH AN OFFICE, SHOP AND OUTDOOR STORAGE; PROVIDING FOR SEVERABILITY; AND PROVIDING A PENALTY

WHEREAS, the Planning Commission and the City Council for the City of San Angelo, in compliance with the City Charter and state law regarding zoning regulations and zoning map, having given requisite notice of public hearing by publication and otherwise, and having afforded a full and fair hearing to all property owners and persons interested, including persons situated in the vicinity of the affected area, being of the opinion that zoning changes should be made as set out herein;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SAN ANGELO:

SECTION 1: Chapter 12 of the Code of Ordinances of the City of San Angelo, the basic Zoning Ordinance for the City adopted on January 4, 2000, and the Zoning Map be and the same are hereby amended as follows:

4750 South Chadbourne Street (Texas Farm-to-Market Road 1223), generally located along the northeast side of South Chadbourne Street, approximately 588 feet northwest of Texas Farm-to-Market Road 765, and identified as Lot 2, Block 1, Section 1, Krislynn Subdivision, comprising a total of 8.140 acres, zoned General Commercial (CG) Zoning District, shall henceforth be permanently zoned as Planned Development (PD) Zoning District for a Construction Yard with an Office, Shop and Outdoor Storage.

SECTION 2: The Director of the Planning and Development Services Department is hereby authorized and directed to correct the Zoning District Maps in the Office of the Director of the Planning and Development Services Department, to reflect the herein described changes in zoning.

SECTION 3: The City Council hereby adopts the Site Plan, attached hereto as Exhibit “A,” and made a part hereof, demonstrating the general intent to develop a Construction Yard with a Shop and Outdoor Storage, indicating the limits of the proposed development, and outlining the general location and extent of allowed uses to support the proposed development.

SECTION 4: Upon the effective date of this Ordinance, all previously approved Special Uses associated with the subject property shall henceforth be declared null and void and shall be rendered ineffective.

SECTION 5: In all other respects, the following uses of the described property shall be allowed:

- a. Construction Yard
- b. Outdoor construction materials storage
- c. Outdoor construction equipment and vehicles
- d. Warehouse buildings for company use only (no manufacturing or fabrication permitted)
- e. Indoor maintenance shop
- f. Contractor’s Office

SECTION 6: In all other respects, the use of the hereinabove described property shall be subject to all applicable regulations contained in Chapter 12 of the Code of Ordinances for the City of San

Angelo, as amended, particularly the non-residential district standards specific to the General Commercial (CG) Zoning District, and the following modifications:

1. The existing six-foot-high screen fence may be allowed along the front property line of the subject property. The property owner shall have no more than one year from the effective date of the Planned Development to extend this same fencing to the southeast corner of the 8.14-acre site.
2. Outdoor storage for construction-related materials shall not exceed 2.00 acres (87,120 square feet) in land coverage and shall not extend beyond the confines established within Areas One and Two, as shown in Exhibit B.
3. All construction-related materials that are stored outdoors shall not exceed a height profile of 20 feet above grade and shall be screened from any view along a public street right-of-way.
4. All business-related gravel, soils, and aggregate to be stored on the premises shall not exceed a height profile of ten feet above grade and shall be screened from any view along a public street right-of-way.
5. All business-related gravel, soils, and aggregate to be stored on the premises shall be satisfactorily covered, or sufficient mitigation measures shall be employed to adequately safeguard against air contamination of dust and particulate matter.
6. Outdoor storage for company vehicles and equipment shall not extend beyond the confines established within Area One, as shown in Exhibit A.
7. All outdoor storage areas shall be maintained in a clean and orderly manner. No junk vehicles, scrap metals, metal filings, recyclable materials, vehicle or machinery parts, tires,

spent containers or barrels or canisters, household trash, construction or household debris, or other solid/liquid waste shall be stored outdoors on the premises.

8. No hazardous materials shall be stored on the premises. Containers used for the storing of spent lubricants shall be covered and maintained on the premises in a place and manner that will adequately mitigate soil contamination, discourage stockpiling and facilitate a timely disposal schedule.
9. All equipment repair and maintenance shall be fully conducted indoors.
10. No metal fabrication of any kind shall be conducted on the premises.
11. All exterior lighting shall be shielded and positioned in such a manner so as to not spill over onto any adjacent property. Light poles shall not exceed 35 feet in height.
12. The Property Owner shall remove any uses on the property that are not specifically permitted under this Planned Development by January 1, 2017.

SECTION 7: The terms and provisions of this Ordinance shall be deemed to be severable in that, if any portion of this Ordinance shall be declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

SECTION 8: Any person who violates any provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine as provided for in Section 1.106 of the Code of Ordinances for the City of San Angelo. Each day of such violation shall constitute a separate offense.

SECTION 9: This Ordinance shall be effective on, from and after the date of adoption.

INTRODUCED on the **15th day of November, 2016**, and finally PASSED, APPROVED AND ADOPTED on this, the **6th day of December, 2016**.

THE CITY OF SAN ANGELO

Dwain Morrison, Mayor

ATTEST:

APPROVED AS TO FORM:

Bryan Kendrick, City Clerk

Theresa James, City Attorney

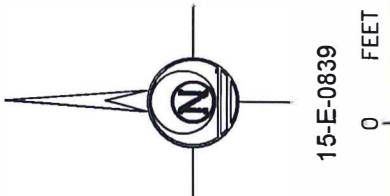
EXHIBIT "A"



VICINITY MAP
N.T.S.

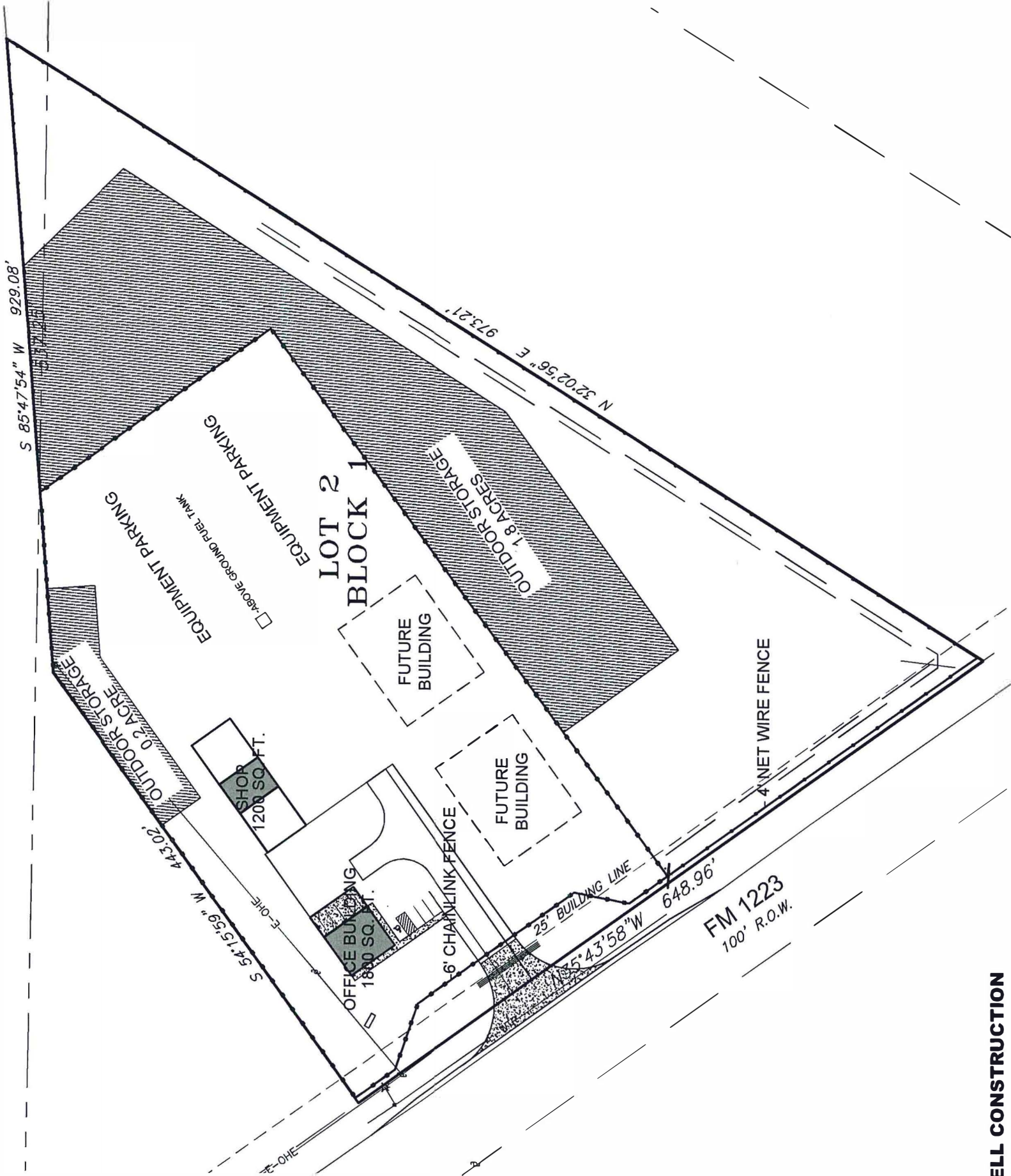
LEGAL DESCRIPTION

LOT 2, BLOCK 2, SECTION 1, KRISLYNN SUBDIVISION, SAN ANGELO,
TOM GREEN COUNTY, TEXAS



15-E-0839

GRAPHIC SCALE 400 200 100 50 0 FEET



DARNELL CONSTRUCTION
4750 FM 1223
SAN ANGELO, TEXAS

EXHIBIT A-1

AREA FOR
OUTDOOR MATERIALS
STORAGE
(in PURPLE)

OVERALL
SUBJECT AREA
(in ORANGE)

+/-145 FT
Fence extension (in GRAY)

Chadbourne

Planned Development Case File

Darnell Construction

Council District: SMD#1 (Richardson)

Neighborhood: Glenmore

Scale: 1 inch :: 150 feet

Legal Descr: Lot 2, S-1, Blk-1, Krislynn Sub'd

Legend

Overall Property: 
Existing Coverage: 
Current Zoning: **CG**
Requested Zoning Change: **PD**
Vision: **Commercial**

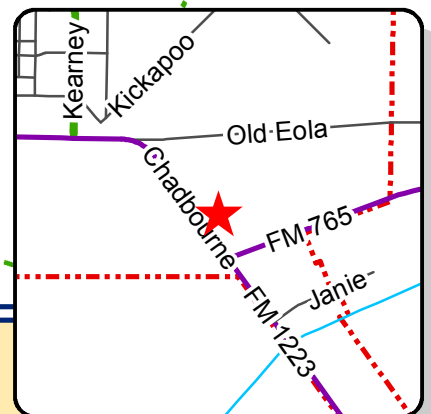


EXHIBIT A-2

AREA FOR
VEHICLE/EQUIPMENT
STORAGE
(in LT PURPLE)

OVERALL
SUBJECT AREA
(in ORANGE)

+/-230 FT

Fence Extension (in GRAY)

Chadbourne

Planned Development Case File

Darnell Construction

Council District: SMD#1 (Richardson)

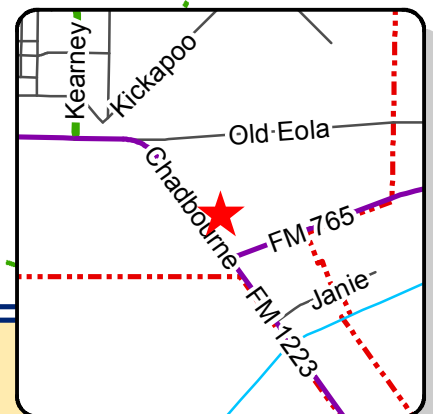
Neighborhood: Glenmore

Scale: 1 in :: 150 ft

Legal Descr: Lot 2, S-1, Blk-1, Krislynn Sub'd

Legend

Overall Property: —
Existing Coverage: —
Current Zoning: CG
Requested Zoning Change: PD
Vision: Commercial

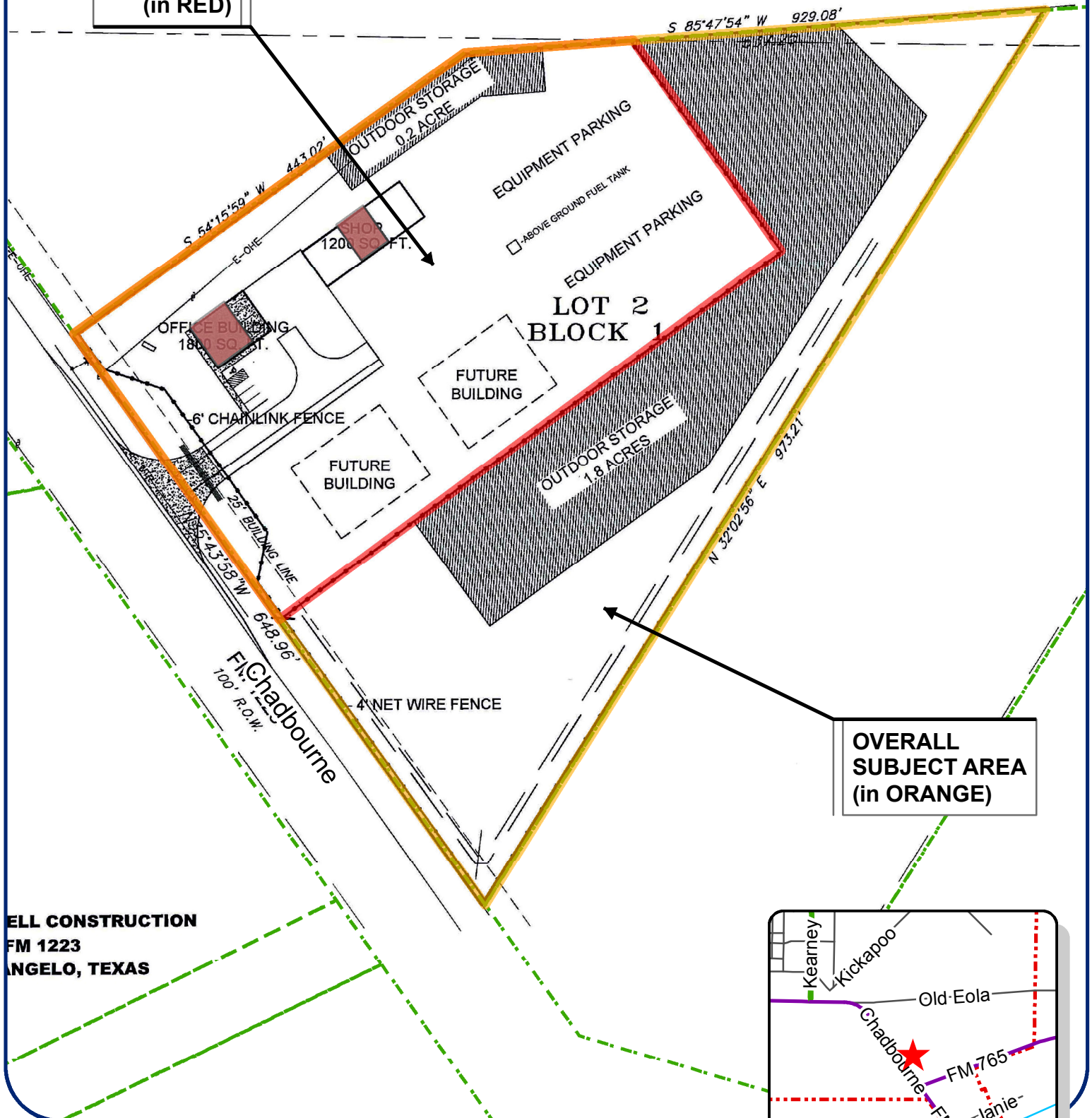


N



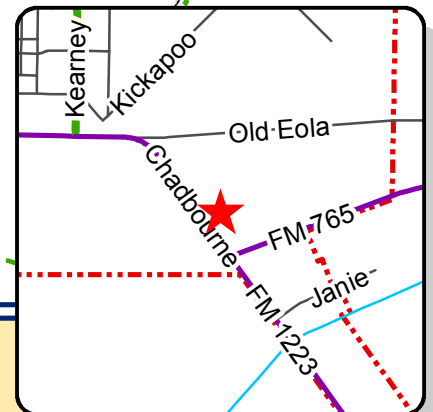
EXHIBIT A-3

**CURRENT
COVERAGE
AREA
(in RED)**



**OVERALL
SUBJECT AREA
(in ORANGE)**

**ELL CONSTRUCTION
FM 1223
ANGELO, TEXAS**



Planned Development Case File

PD16-05, Darnell Construction

Council District: SMD#1 (Richardson)

Neighborhood: Glenmore

Scale: 1 inch :: 150 feet

Legal Descr: Lot 2, S-1, Blk-1, Krislynn Sub'd

Legend

Overall Property:

Existing Coverage:

Current Zoning: **CG**

Requested Zoning Change: **PD**

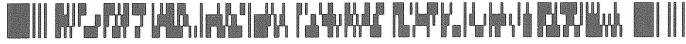
Vision: **Commercial**

N



EXHIBIT "B"

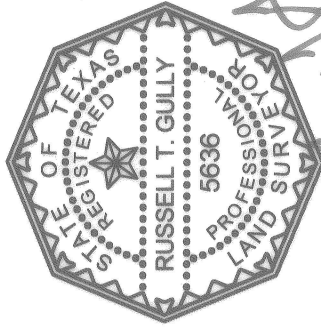
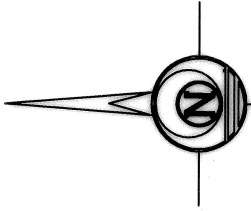
201502560 PLAT Total Pages: 1



SCALE: 1"= 200'

GRAPHIC SCALE : FEET
0 100 200 400

NOTE : Bearings shown hereon are based
the Texas Coordinate System -
Central Zone.
Distances shown are surface horizontal.



SURVEYOR'S CERTIFICATE
Know all men by these presents:
that I, Russell T. Gully RPLS, do
hereby certify that I prepared this
plat from an actual and accurate
survey of the land and that corner
monuments shown hereon were
properly placed, under my
supervision, in accordance with the
rules for land subdivision by the
City Council of the City of San
Angelo; and I further certify that the
tract of land herein platted lies
within the city limits of the City of
San Angelo, Texas.

14-S-1585

REMAINDER OF 52.541 AC.
INSTR. NO. 713462
O.P.R.T.G.C.T.

5.401 AC.
INSTR. NO. 654498
O.P.R.T.G.C.T.

N 85°47'53" E 1,429.70'

LOT 3

10.010 ACRES

TRACT 1
MESQUITE ACRES
ADDITION
VOL. 33, PG. 423
P.R.T.G.C.T.

BLOCK 1

LOT 2
8.140 ACRES

LOT 1
8.120 ACRES

5.983 AC.
VOL. 1079, PG. 655
O.P.R.T.G.C.T.

F.M. 765
(100' R.O.W.)

SOUTH CHADBOURNE STREET (F.M. 1223)
(100' R.O.W.)

LEVIC P. MOORE SURVEY NO. 169 1/2
ABSTRACT NO. 1637

ACKNOWLEDGEMENT/DEDICATION

We, Daniel Cardenas and Gary Shrum, do hereby adopt this
plat as the subdivision of our property.

Daniel Cardenas

Gary Shrum

STATE OF TEXAS

COUNTY OF TOM GREEN

This instrument was acknowledged before
me on 2-23-15

by Daniel Cardenas and Gary Shrum

Notary Public, State of Texas

EDDIE ENRIQUEZ, JR.

Notary Public, State of Texas

My Commission Expires

April 25, 2017



ENGINEERING, LLC

SURVEYING • ENVIRONMENTAL • LAB/CMT

706 SOUTH ABE STREET

SAN ANGELO, TEXAS 76903

PHONE: 325.655.1288

FAX: 325.657.8189

Firm No. 10102400

www.skge.com

LEGEND:

- Found Iron Rod with Cap
(unless otherwise noted)
- Set 1/2" Iron Rod with Cap

PLANNING COMMISSION

Approved for recording this 30 day
of March 2015, City Planning
Commission of San Angelo, Texas.

By: Russell T. Gully

Chairman

Secretary

DEPARTMENT OF WATER UTILITIES

Approved for recording this 3 day
of March, 2015

By: Russell T. Gully

Director of Water Utilities

DEPARTMENT OF PUBLIC WORKS

Approved for recording this 4 day
of March, 2015

By: Russell T. Gully

Director of Public Works

COUNTY CLERK

Filed for record this 4 day of
March 2015 @ 2:21 AM
County Clerk of Tom Green Co., TX

By: Russell T. Gully

Deputy

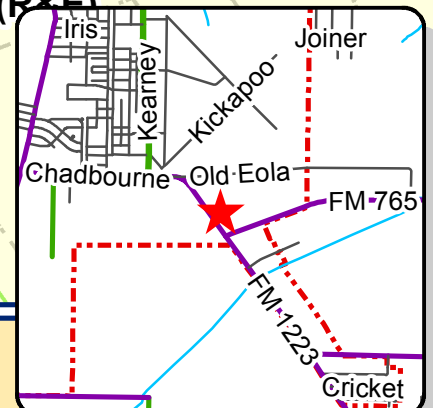
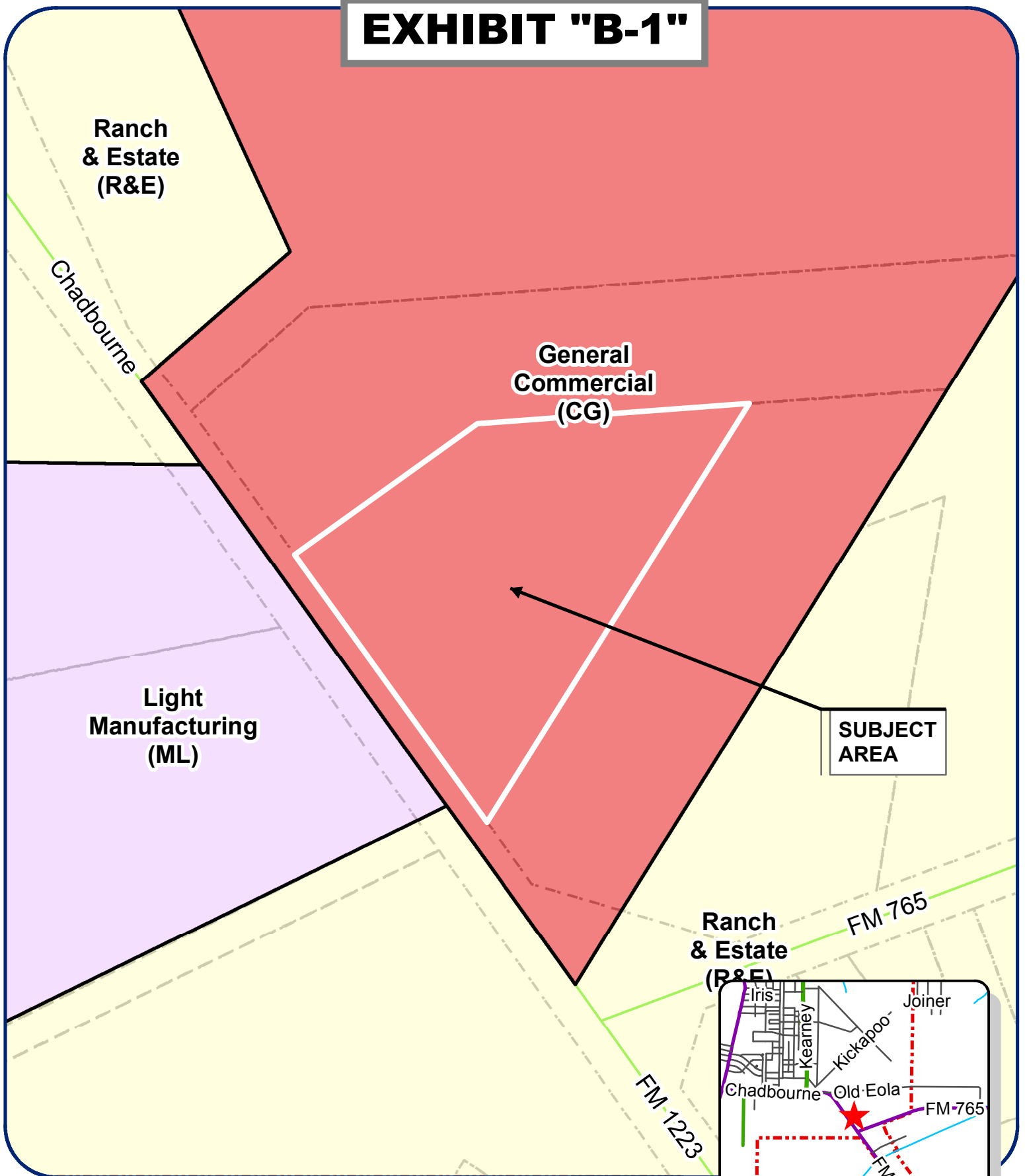
This Plat is Filed in Cabinet 15 Slide 263

Plat Records of Tom Green County, Texas.

Field Notes are filed as Instrument No. 201502560

Official Public Records of Real Property, Tom Green
County, Texas.

EXHIBIT "B-1"



Planned Development Case File

Darnell Construction

Council District: SMD#1 (Richardson)

Neighborhood: Glenmore

Scale: 1 inch :: 300 feet

Legal Descr: Lot 2, S-1, Blk-1, Krislynn Sub'd

Legend

Subject Properties: 

Current Zoning: **CG**

Requested Zoning Change: **PD**

Vision: **Commercial**



REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Rebeca Guerra, Planning Manager, Planning and Development Services, 325-657-4210

Meeting Date: November 15, 2016

Item type: Regular Item

Caption:

First Reading and public hearing of an Ordinance for a text amendment to Chapter 12, Exhibit "A" Zoning Ordinance, for Intermodal Containers. (Presentation by Planning & Development Services Director Jon James)

Summary/History:

Financial Impact:

N/A

Other Information/Recommendation:

On October 17, 2016, the Planning Commission voted to recommend APPROVAL of the proposed Text Amendment for Intermodal Containers by a vote of 6-0. The Commission recommended additions to the Text Amendment including opportunities for Conditional Use and Variance approval for sites that have existing permits for the permanent placement of a Container. It also recommended that all sites come into compliance with this new Section within 365 days of the effective date of the associated Ordinance.

Attachments:

1. Staff Report PL_Memo_Temp & Perm Int Cont_City Council (2016-11-15).docx
2. Draft Ordinance PL_Ordinance_Temp & Perm Int Cont_City Council (2016-11-15).docx

Presentation:

Jon James

Approvals/Reviews:

Rebeca Guerra	Created/Initiated
Jon James	Approved
Theresa James	Approved
Anthony Wilson	Approved
Jon James	Approved
Tina Dierschke	Approved
Theresa James	Approved
Becky Dunn	Approved
Bryan Kendrick	Final Approval

MEMO

**Meeting**

Date: November 15, 2016
December 6, 2016

To: City Council

From: Jon C. James, AICP
Director

Request: Text Amendment to Chapter 12, Exhibit "A" Zoning Ordinance, Article 4, Section 416 (Intermodal Containers), Article 4, Section 425 (Temporary Uses) and Article 8, Section 804 (Defined Terms)

Background:

The attached is an amendment to Chapter 12, Exhibit "A" Zoning Ordinance, Article 4, Section 416, to allow for the permanent use of Intermodal Containers (i.e. shipping crates), an amendment to Chapter 12, Exhibit "A" Zoning Ordinance, Article 4, Section 423, which would consolidate all standards for Intermodal Containers in a new section, and an amendment to Article 8, Section 804 to create definitions for "Intermodal Container" and "Site."

The Zoning Ordinance currently allows Intermodal Containers to be placed on any nonresidentially-zoned property without a limit on the total number permitted or the need for buffering from the view of a right-of-way. Moreover, stacking of such Containers is not regulated, nor is the submission of a site plan required to determine the appropriateness of its intended location on a site. This amendment seeks to create standards for how these containers may be placed on a site, both on a temporary and permanent basis.

Based on its research, and input from the Planning Commission at its October 17, 2016, meeting, Staff has drafted a text amendment that seeks to:

- Designate Zoning Districts and other areas in the City where Intermodal Containers may be permitted and where they are prohibited altogether;
- Create standards for the use, placement, and buffering of these Containers in all Zoning Districts where they may be permitted;
- Provide additional standards for the CN, CG, and CG/CH Zoning Districts;
- Possibly allow Containers to be placed on properties within the R&E Zoning District, subject to additional standards;
- Provides for administrative approvals of time extensions for temporary Containers;
- Designates specific locations on a site where they may or may not be placed; and
- Requires sites with existing Intermodal Containers to come into compliance within one year. Provides for variances and Conditional Use reviews, with fee waivers, for sites with permits.

Attachment: Proposed Zoning Ordinance Amendments

(New Section 416; renumbering existing Sections 416 through 427 sequentially to become Sections 417 through 428; amending and renumbering existing Section 425; and amending Section 804)

ARTICLE 4 - SPECIFIC USE STANDARDS

Section 416. Intermodal Containers

A. Permanent Intermodal Containers

1. Prohibited Zoning Districts and Overlay Zones

Permanent Intermodal Containers are prohibited in the RS-1, RS-2, RS-3, RM-1, RM-2, MHP, MHS, CO, and CBD Zoning Districts. They are also prohibited in the River Corridor, Historic Overlay Zones, on any property with an Historical Landmark designation, and on any otherwise vacant site.

2. Standards for all permitted Zoning Districts

- a. Prior to placement or installation of a Container on a site, a building permit, including a site plan, shall be submitted to the Building Official for approval.
- b. The stacking of Containers shall be prohibited.
- c. Containers shall be screened from view so that no Container shall be visible from a public or private street. If the principal building fails to provide adequate screening, at least one of the following measures shall be employed:
 - i. Opaque, drought-tolerant landscape buffer consisting of hedges, a minimum of four feet tall at the time of planting, or trees, a minimum six feet tall at the time of planting; or
 - ii. A minimum four-foot tall earthen berm with opaque, drought-tolerant shrubs; or
 - iii. A minimum eight-foot tall opaque wood, masonry, pre-cast concrete, or similar privacy fence or wall.

- d. Each Container shall meet all required standards for principal buildings for the zoning district.
 - e. No Container shall exceed 450 square feet.
 - f. Trailers, semi-trailers, boxcars, or similar shall be prohibited. Open top, open side, and tank Containers shall also be prohibited.
3. Additional standards applicable for CN, CG, and CG/CH Zoning Districts
- a. No signage including business signs, logos, or other markings shall be permitted on or attached to a Container, except for small, incidental labelling.
 - b. Each Container shall be painted an earth tone, neutral color, or match the principal building(s) on the site.
 - c. No more than one container shall be allowed per site for sites with up to 25,000 square feet of principal buildings on the site and up to three Containers shall be allowed per site for sites with greater than 25,000 square feet of principal buildings on the site.
4. Additional Standards for the Ranch and Estate (R&E) Zoning District
- a. No more than one Container shall be allowed on a site of at least five acres in size. Containers are prohibited on sites less than five acres in size.
 - b. No signage including business signs, logos, or other markings shall be permitted on or attached to a Container, except for small, incidental labelling.
 - c. The container shall be painted an earth tone, neutral color, or match the principal residential building on the site.
 - d. The Container shall be located to the rear of the principal residential building on the site.
5. Existing Intermodal Containers

- a. All sites with existing Intermodal Containers shall be brought into compliance with this Section within one year of the effective date of this Ordinance.
- b. On a site where a permit has already been issued for the permanent placement of an Intermodal Container, prior to the adoption of this ordinance, the Planning Commission may authorize continuation of the structure beyond one year through a Conditional Use approval. Such approval may allow the structure to continue as is and without requiring a new building permit, or the Commission may place conditions on the approval to require the structure to come into compliance with some or all of the requirements for a new Container. No application fee shall be required for such a Conditional Use application.

B. Temporary Intermodal Containers

1. Construction-Related Storage

- a. The temporary placement of intermodal Containers, as well as trailers and semi-trailers, shall be allowed on the same tract of land, or on a tract lying directly adjacent to or across the street from the tract, where related permitted construction is occurring. Such placement shall not require a building permit or other approval by the City, provided that the following standards are met:
 - i. Use of such trailer or Container shall be limited to storage of material and equipment used in conjunction with adjacent permitted construction.
 - ii. Any such trailer or Container shall be removed within 60 days following completion of the project.

2. Short Term Storage

- a. One Container shall be permitted on any site with residential zoning or a residential use for a period of 30 consecutive days, up to two times per calendar year.
- b. A maximum of five Containers shall be permitted in all other zoning districts for a period of 30 days, up to four times per calendar year.

- c. Requests for time extensions shall be submitted in writing to the Planning Director prior to the expiration date of the permit. The Planning Director may grant extensions not exceeding in sum total 15 days.
 - d. Requests for additional Containers for unique circumstances may be made pursuant to Article 2, Section 207 "Variances" of the Zoning Ordinance.
- 3. Containers shall not be located on a vacant site or within any public right-of-way. Containers shall not be located so as to block or interfere with the use of any fire lanes, drive aisles, maneuvering areas, or required parking spaces.
 - 4. A Container shall not exceed 160 square feet in area on any site with residential zoning or a residential use, except as permitted for construction-related storage and shall not exceed 450 square feet in all other zoning districts or for construction storage.

Section 425. Temporary Uses

A. Construction-Related Offices

- 1. ~~Parking~~ The temporary placement of a trailer housing construction-related offices shall be allowed on the same tract of land, or on a tract lying directly adjacent to or across the street from the tract, where related construction is occurring.
- 2. Parking of a trailer housing construction-related offices shall not require a building permit or other approval from the City, provided that the following standards are met.
 - a. Extension of temporary electric or plumbing service is made in accordance with all applicable codes, including required permits therefore.
 - b. Use of any such trailer shall be limited to administrative offices for ongoing construction activity on the same tract of land, or on a tract lying directly adjacent to or across the street from the tract where construction activity is ongoing.

The trailer shall not be used for dwelling purposes, even on a temporary basis.

- c. Any such trailer shall be removed within 60 days following completion of the project to which the offices are considered accessory.

B. Construction-Related Storage

~~1. Parking of trailers, semi-trailers and shipping containers shall be allowed on the same tract of land, or on a tract lying directly adjacent to or across the street from the tract, where related construction is occurring. Such parking shall not require a building permit or other approval by the City, provided that the following standards are met.~~

~~a. Use of such trailer or container shall be limited to storage of material and equipment used in conjunction with adjacent construction.~~

~~b. Any such trailer or container shall be removed within 60 days following completion of the project.~~

2. Yards for storage and marshaling of construction material and equipment shall be allowed on the same tract of land, or on a tract lying directly adjacent to or across the street from the tract, where related construction activity is occurring. All such material or equipment shall be for use in conjunction with the associated construction project. All such material and equipment shall be removed within 60 days following completion of the project.

C. Real Estate Sales Offices in Residential Districts

1. A real estate sales office may be operated from a model home or other building located within a recorded subdivision, provided that the use is limited to sale of lots or new homes within that same subdivision. The temporary use approval shall expire at such time as 95 percent of the lots within the subdivision have been sold.

2. No mobile home, HUD-Code manufactured home or other portable building not constructed in conformance with the City's building code requirements shall be allowed as a

temporary office for the sale of real estate, except in MHS Districts.

- D. Special Events and Seasonal Uses. All special events and seasonal uses shall comply with the permitting procedures in Sec. 205.

ARTICLE 8 - DEFINITIONS

Section 804. Defined Terms

INTERMODAL CONTAINER / CONTAINER: The terms “Intermodal Container” or “Container” shall mean a standardized container used as an accessory structure on a site for the limited purpose of the storage of goods, materials and products, also known as a sea container or shipping crate.

SITE: The term “Site” shall mean a developed tract or parcel(s) of land, which may or may not coincide with a lot shown on any recorded plat, that is suitable for building purposes and legally transferrable as a single unit of land.

AN ORDINANCE OF THE CITY OF SAN ANGELO, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF SAN ANGELO, CHAPTER 12, EXHIBIT "A" "ZONING ORDINANCE," ARTICLE 4 "SPECIFIC USE STANDARDS," REDESIGNATING SECTIONS 416 THROUGH 427 AS SECTIONS 417 THROUGH 428; ADDING A NEW SECTION 416 ENTITLED "INTERMODAL CONTAINERS" THAT PROVIDES USE STANDARDS FOR INTERMODAL CONTAINERS; AMENDING SECTION 425 "TEMPORARY USES," BY RESTATING SUBPART "A." "CONSTRUCTION-RELATED OFFICES" AND SUBPART "B." "CONSTRUCTION-RELATED STORAGE" PROVIDING FOR PLACEMENT OF TRAILERS; AMENDING ARTICLE 8 "DEFINITIONS," SECTION 804 "DEFINED TERMS," BY ADDING DEFINITIONS FOR "INTERMODAL CONTAINER" AND "SITE;" PROVIDING A SEVERABILITY CLAUSE; AND, PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF SAN ANGELO, TEXAS:

Section 1. That Chapter 12, Exhibit "A" "Zoning Ordinance," Article 4 "Specific Use Standards," is hereby amended by re-designating Sections 416 through 427 as Sections 417 through 428, and adding a new Section 416 to read as follows:

"Section 416. Intermodal Containers

A. Permanent Intermodal Containers

1. Prohibited Zoning Districts and Overlay Zones

Permanent Intermodal Containers are prohibited in the RS-1, RS-2, RS-3, RM-1, RM-2, MHP, MHS, CO, and CBD Zoning Districts. They are also prohibited in the River Corridor, Historic Overlay Zones, on any property with an Historical Landmark designation, and on any otherwise vacant site.

2. Standards for all permitted Zoning Districts

- a. Prior to placement or installation of a Container on a site, a building permit, including a site plan, shall be submitted to the Building Official for approval.
- b. The stacking of Containers shall be prohibited.
- c. Containers shall be screened from view so that no Container shall be visible from a public or private street. If the principal building fails to provide adequate screening, at least one of the following measures shall be employed:

- i. Opaque, drought-tolerant landscape buffer consisting of hedges, a minimum of four feet tall at the time of planting, or trees, a minimum six feet tall at the time of planting; or
 - ii. A minimum four-foot tall earthen berm with opaque, drought-tolerant shrubs; or
 - iii. A minimum eight-foot tall opaque wood, masonry, pre-cast concrete, or similar privacy fence or wall.
 - d. Each Container shall meet all required standards for principal buildings for the zoning district.
 - e. No Container shall exceed 450 square feet.
 - f. Trailers, semi-trailers, boxcars, or similar shall be prohibited. Open top, open side, and tank Containers shall also be prohibited.
- 3. Additional standards applicable for CN, CG, and CG/CH Zoning Districts
 - a. No signage including business signs, logos, or other markings shall be permitted on or attached to a Container, except for small, incidental labelling.
 - b. Each Container shall be painted an earth tone, neutral color, or match the principal building(s) on the site.
 - c. No more than one container shall be allowed per site for sites with up to 25,000 square feet of principal buildings on the site and up to three Containers shall be allowed per site for sites with greater than 25,000 square feet of principal buildings on the site.
- 4. Additional Standards for the Ranch and Estate (R&E) Zoning District
 - a. No more than one Container shall be allowed on a site of at least five acres in size. Containers are prohibited on sites less than five acres in size.
 - b. No signage including business signs, logos, or other markings shall be permitted on or attached to a Container, except for small, incidental labelling.
 - c. The container shall be painted an earth tone, neutral color, or match the principal residential building on the site.

- d. The Container shall be located to the rear of the principal residential building on the site.

5. Existing Intermodal Containers

- a. All sites with existing Intermodal Containers shall be brought into compliance with this Section within one year of the effective date of this Ordinance.
- b. On a site where a permit has already been issued for the permanent placement of an Intermodal Container, prior to the adoption of this ordinance, the Planning Commission may authorize continuation of the structure beyond one year through a Conditional Use approval. Such approval may allow the structure to continue as is and without requiring a new building permit, or the Commission may place conditions on the approval to require the structure to come into compliance with some or all of the requirements for a new Container. No application fee shall be required for such a Conditional Use application.

B. Temporary Intermodal Containers

1. Construction-Related Storage

- a. The temporary placement of intermodal Containers, as well as trailers and semi-trailers, shall be allowed on the same tract of land, or on a tract lying directly adjacent to or across the street from the tract, where related permitted construction is occurring. Such placement shall not require a building permit or other approval by the City, provided that the following standards are met:
 - i. Use of such trailer or Container shall be limited to storage of material and equipment used in conjunction with adjacent permitted construction.
 - ii. Any such trailer or Container shall be removed within 60 days following completion of the project.

2. Short Term Storage

- a. One Container shall be permitted on any site with residential zoning or a residential use for a period of 30 consecutive days, up to two times per calendar year.
- b. A maximum of five Containers shall be permitted in all other zoning districts for a period of 30 days, up to four times per calendar year.

- c. Requests for time extensions shall be submitted in writing to the Planning Director prior to the expiration date of the permit. The Planning Director may grant extensions not exceeding in sum total 15 days.
 - d. Requests for additional Containers for unique circumstances may be made pursuant to Article 2, Section 207 “Variances” of the Zoning Ordinance.
- 3. Containers shall not be located on a vacant site or within any public right-of-way. Containers shall not be located so as to block or interfere with the use of any fire lanes, drive aisles, maneuvering areas, or required parking spaces.
 - 4. A Container shall not exceed 160 square feet in area on any site with residential zoning or a residential use, except as permitted for construction-related storage and shall not exceed 450 square feet in all other zoning districts or for construction storage.”

Section 2. That Chapter 12, Exhibit “A” “Zoning Ordinance,” Article 4 “Specific Use Standards,” Section 425 “Temporary Uses” is hereby amended by restating subpart “A.” “Construction-Related Offices” paragraph 1. in its entirety to read as follows:

“Section 425. Temporary Uses

A. Construction-Related Offices

- 1. The temporary placement of a trailer housing construction-related offices shall be allowed on the same tract of land, or on a tract lying directly adjacent to or across the street from the tract, where related construction is occurring.”

Section 3. That Chapter 12, Exhibit “A” “Zoning Ordinance,” Article 4 “Specific Use Standards,” Section 425 “Temporary Uses” is hereby amended by restating subpart “B.” “Construction-Related Storage” in its entirety by deleting paragraph numbered 1., and subparagraphs numbered a. and b. there under, so that subpart “B” as amended reads in its entirety:

“B. Construction-Related Storage

Yards for storage and marshaling of construction material and equipment shall be allowed on the same tract of land, or on a tract lying directly adjacent to or across the street from the tract, where related construction activity is occurring. All such material or equipment shall be for use in conjunction with the associated construction project. All such material and equipment shall be removed within 60 days following completion of the project.”

Section 4. This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of San Angelo, Texas, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

Section 5. If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, or for any reason unenforceable, the validity of the remaining provisions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation of this Ordinance.

Section 6. That this Ordinance shall be effective on, from and after the date of adoption.

INTRODUCED on the ____ day of _____, 2016, and finally

PASSED, APPROVED AND ADOPTED on this the ____ day of _____,
2016.

THE CITY OF SAN ANGELO

ATTEST:

by: _____
Dwain Morrison, Mayor

by: _____
Bryan Kendrick, City Clerk

APPROVED AS TO FORM

by: _____
Theresa James, City Attorney

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Rebeca Guerra, Planning Manager, Planning and Development Services, 325-657-4210

Meeting Date: November 15, 2016

Item type: Regular Item

Caption:

First Reading and public hearing of an Ordinance for a text amendment to Chapter 12, Exhibit "A" Zoning Ordinance, for Accessory Structures. (Presentation by Planning & Development Services Director Jon James)

Summary/History:

Based on a number of variance requests over the past couple of years, staff researched options for changing the requirements for accessory structures in the Ranch & Estate zoning district. The current restriction on the total size of accessory structures limits them to no more than the square footage of the principal house on the property. This creates a disadvantage for smaller houses and large lot properties that may want to have a larger shop or barn building. The proposed changes provide additional flexibility for larger accessory buildings. It also simplifies the setback requirements for such buildings. Finally, the proposed amendment would not allow an accessory building to be placed in a front yard, but only to the rear of the principal structure.

Financial Impact:

N/A

Other Information/Recommendation:

A Motion to recommend approval of the proposed Zoning Ordinance Text Amendment for Accessory Structures was made by Commissioner Crisp and seconded by Commissioner Stribling. The motion carried unanimously, 5-0.

Attachments:

- | | | |
|----|-----------------|---|
| 1. | Staff Report | PL_Memo_R&E ACC STR_City Council (2016-11-15).docx |
| 2. | Draft Ordinance | PL_Ordinance_R&E ACC STR_City Council (2016-11-15).docx |

Presentation:

Jon James

Approvals/Reviews:

Rebeca Guerra	Created/Initiated
Jon James	Approved
Theresa James	Approved
Anthony Wilson	Approved
Jon James	Approved
Tina Dierschke	Approved
Theresa James	Approved
Becky Dunn	Approved
Bryan Kendrick	Final Approval

MEMO

**Meeting**

Date: November 15, 2016
December 6, 2016

To: City Council

From: Jon C. James, AICP
Director

Request: Text Amendment to Chapter 12, Exhibit "A" Zoning Ordinance, Article 4, Section 402 (Accessory Structures)

Background:

The attached is an amendment to Chapter 12, Exhibit "A" Zoning Ordinance, Article 4, Section 402 to expand the manner in which accessory buildings may be located on properties located within the Ranch & Estate (R&E) Zoning District. Currently, the size of accessory structures in the R&E District is capped at 100% of the principal residential building. Moreover, Intermodal Containers (i.e. shipping crates) are not permitted. The placement of accessory structures varies depending on whether it is a carport, shed, or garage. This amendment seeks to simplify the standards associated with these structures, while preserving the rural nature of development on these properties.

Based on its research, Staff has drafted a text amendment that seeks to:

- Establish uniform setbacks for accessory structures;
- Increase the potential size of such accessory structures; and
- Limit the location of where accessory structures may be placed on a site.

Attachment: Proposed Ordinance Amendment
Table Showing Current Setbacks

ARTICLE 4 - SPECIFIC USE STANDARDS

Section 402. Accessory Uses and Structures

3. Prohibited Structures. ~~Intermodal Containers shipping crates,~~ railroad cars, motor vehicles, truck or bus bodies, and other similar containers shall not be used as accessory buildings in any residential district, unless otherwise specified in the Zoning Ordinance.

B. Accessory Buildings and Structures in the Ranch and Estate (R&E) Zoning District

1. Setbacks.
 - a. Side yards: 5 feet
 - b. Rear yard: 10 feet
2. Size. Accessory buildings and structures shall be permitted up to 100% of the principal residential building or 5% of the site area, whichever is greater.
3. Location: Accessory buildings and structures shall be located to the rear of the principal residential building.

Table Showing Current Setbacks

Zoning Ordinance Section	Accessory Structure Type	District	Front	Side	Rear
402.A	All permitted accessory structures, except where further outlined below for specific structures (shipping crates, railroad cars, truck or bus bodies and other similar containers currently not allowed)	Ranch and Estate (R&E)	40 feet (same as principal building)	If greater than 10 feet from principal building, or attached with only a breezeway: • 2 feet from wall or edge of roof to lot line, or, • 0 feet from wall or edge of roof to street or alley right-of-way If 10 feet or less from principal building: • 15 feet (same as principal building)	If greater than 10 feet from principal building, or attached with only a breezeway: • 2 feet from wall or edge of roof to lot line, or, • 0 feet from wall or edge of roof to street or alley right-of-way If 10 feet or less from principal building: • 20 feet (same as principal building)

AN ORDINANCE OF THE CITY OF SAN ANGELO, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF SAN ANGELO, CHAPTER 12, EXHIBIT "A" "ZONING ORDINANCE," ARTICLE 4 "SPECIFIC USE STANDARDS," SECTION 402 "ACCESSORY USES AND STRUCTURES," BY: INCREASING THE MAXIMUM ACCESSORY BUILDING FLOOR AREA PERMITTED IN RANCH AND ESTATE ZONING DISTRICT (R&E); PROVIDING FOR SETBACKS; PROVIDING FOR LOCATION OF ACCESSORY STRUCTURES; PROHIBITING INTERMODAL CONTAINERS; PROVIDING A SEVERABILITY CLAUSE; AND, PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF SAN ANGELO, TEXAS:

Section 1. That Chapter 12, Exhibit "A" "Zoning Ordinance", Article 4 "Specific Use Standards," Section 402 "Accessory Uses and Structures" is hereby amended by restating in their entirety subparts 2. "Size" and 3. "Prohibited Structures" of subpart "A." "Accessory Buildings or Structures," to read as follows:

A. Accessory Buildings or Structures

2. Size. A maximum accessory building floor area of 600 square feet or 50 percent of the floor area of the principal building, whichever is greater, shall be permitted on any residential lot.
3. Prohibited Structures. Intermodal Container, railroad cars, motor vehicles, truck or bus bodies, and other similar containers shall not be used as accessory buildings in any residential district, unless otherwise specified in the Zoning Ordinance.

Section 2. That Chapter 12, Exhibit "A" "Zoning Ordinance", Article 4 "Specific Use Standards", Section 402 "Accessory Uses and Structures" is hereby amended by re-designating subparts B through D as subparts C through E, and adding a new subpart B to read as follows:

B. Accessory Buildings and Structures in the Ranch and Estate (R&E) Zoning District

1. Setbacks.
 - a. Side yards: 5 feet
 - b. Rear yard: 10 feet
2. Size. Accessory buildings and structures shall be permitted up to 100% of the principal residential building or 5% of the site area, whichever is greater.

3. Location. Accessory buildings and structures shall be located to the rear of the principal residential building.

Section 3. This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of San Angelo, Texas, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

Section 4. If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, or for any reason unenforceable, the validity of the remaining provisions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation of this Ordinance.

Section 5. That this Ordinance shall be effective on, from and after the date of adoption.

INTRODUCED on the ____ day of _____, 2016, and finally

PASSED, APPROVED AND ADOPTED on this the ____ day of _____,
2016.

THE CITY OF SAN ANGELO

ATTEST

by: _____
Dwain Morrison, Mayor

by: _____
Bryan Kendrick, City Clerk

APPROVED AS TO FORM

by: _____
Theresa James, City Attorney

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Lisa Marley, Dir of HR/RM, Human Resources/Risk Management, (325) 657-4221

Meeting Date: November 15, 2016

Item type: Regular Item

Caption:

Consider approval for the 2017 health insurance premiums - (Presentation by Human Resources/Risk Management Director Lisa Marley)

Summary/History:

COSA health insurance premiums have remaining the same for the last three calendar years. Calendar year 2016, has seen a slight increase of 2.9% in medical claims and yet a 16.9% increase in prescription claims. These increases have made it necessary to make plan changes in order to prevent soaring increases in monthly premiums.

Staff is requesting the \$322,946 that was unallocated in the General Fund budget to be used for health insurance premium increases, and \$74,000 from Non-General Fund departments. The \$74,000 represents the extrapolated equivalent of health insurance premium increases for those enterprise departments. The \$74,000 is already in their budget.

These funds coupled with the savings from plan changes, will limit the premium increases for employees and retirees to 5%.

There are no changes to the dental or vision plans or premiums.

Open enrollment will begin 11/16/16 and run through 12/2/16.

Financial Impact:

Staff is requesting the \$322,946 that was unallocated in the General Fund budget to be used for health insurance premium increases, and \$74,000 from Non-General Fund departments. The \$74,000 represents the extrapolated equivalent of health insurance premium increases for those enterprise departments. The \$74,000 is already in their budget.

Other Information/Recommendation:

Attachments:

- | | |
|---|---|
| 1. Summary of Premiums & Plan Changes | Summary of Premiums and Plan Changes.xlsx |
| 2. Pharmacy Changes | Pharmacy Changes.png |
| 3. Aetna Premier Plus Formulary Summary | Aetna Premier Plus Formulary Summary.pdf |
| 4. Presentation | Agenda - Health Insurance 11-15-16.pptx |

Presentation:

Lisa Marley

Approvals/Reviews:

Lisa Marley

Lisa Marley

Tina Dierschke

Becky Dunn

Bryan Kendrick

Created/Initiated

Approved

Approved

Approved

Final Approval

San Angelo Revenue Model Plan Year Summary

~~Deductible increase \$250 by plan, COF max increased by \$150 premium, \$250~~
City revenue set at \$323K, EE contributions flat, change to Premier Plus Form
using combined trend of actual versus industry norm.

Additional Items	Add Change?	Annual Savings
Formulary Change	Yes	\$105,000

Assumptions	2016 Plan Year	
	Budget	Reforecast
Medical Trend	6.4%	5.4%
Rx Trend	10.7%	13.6%
PCL Medical	50.0%	65.0%
PCL Rx	50.0%	65.0%

PEPM Cost	Budget Lives	1,080
Revenue	2016 Plan Year	
	Budget	Reforecast
ER Contrib + ERRP	\$453.29	\$453.62
EE Contribution	\$106.64	\$115.16
Total Premium	\$559.93	\$568.78
% Increase in ER Funding		0.1%
% Increase in EE Funding		8.0%
Cost		
Gross Cost	\$551.25	\$583.45
Employee Contribution	\$106.64	\$115.16
Net Cost	\$444.62	\$468.29
Gross % Increase		5.8%
Net % Increase		5.3%

Annual Cost	2016 Plan Year	
Revenue	Budget	Reforecast
Employer Contribution	\$5,586,000	\$5,879,000
Employee Contribution	\$1,340,000	\$1,492,000
Total Income	\$6,926,000	\$7,371,000
City Revenue Increase		
Cost		
Gross Cost	\$6,926,000	\$7,562,000
Employee Contribution	\$1,340,000	\$1,492,000
Net Cost	\$5,586,000	\$6,070,000
Surplus		(\$191,000)

3. Employee Contributions (Not including Credit/Surcharge)

2016 Plan Year

	<u>E</u>	<u>S</u>
High	\$208.32	\$786.06
Medium	\$130.52	\$631.24
Low	\$16.50	\$389.96
	2017 Plan Year	
	<u>E</u>	<u>S</u>
High	\$208.32	\$786.06
Medium	\$130.52	\$631.24
Low	\$16.50	\$389.96
	\$ Increase	
	<u>E</u>	<u>S</u>
High	\$0.00	\$0.00
Medium	\$0.00	\$0.00
Low	\$0.00	\$0.00

high and low by plan,
salary, set at 65% and

2017 Plan Year	
Before Chg	After Chg
5.4%	5.4%
13.6%	13.6%
65.0%	65.0%
65.0%	65.0%

2017 Plan Year		
Before Chg	After Chg	Savings
\$453.62	\$478.59	
\$115.16	\$115.16	
\$568.78	\$593.74	
	5.6%	
	0.0%	
\$631.70	\$611.97	\$19.73
\$115.16	\$115.16	\$0.00
\$516.55	\$496.81	\$19.73
8.3%	4.9%	
10.3%	6.1%	

2017 Plan Year		
Before Chg	After Chg	Savings
\$5,879,000	\$6,202,000	
\$1,488,000	\$1,488,000	
\$7,367,000	\$7,690,000	
	\$323,000	
\$8,164,000	\$7,909,000	\$255,000
\$1,488,000	\$1,488,000	\$0
\$6,676,000	\$6,421,000	\$255,000
(\$797,000)	(\$219,000)	



C	F
\$575.98	\$996.16
\$449.16	\$813.32
\$258.90	\$539.02
C	F
\$575.98	\$996.16
\$449.16	\$813.32
\$258.90	\$539.02
C	F
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00

Deductible increase by \$250 high plan, \$200 medium plan & \$250 low plan; OOP max increased by \$250 high plan, \$150 medium plan & \$250 low plan; and change prescription coverage to Aetna Premier Plus Formulary.

Health Plan Design Changes

	High		Medium 2016 Plan Year		Low	
	<u>In-Net</u>	<u>Out of Net</u>	<u>In-Net</u>	<u>Out of Net</u>	<u>In-Net</u>	<u>Out of Net</u>
Deductible	\$750	\$4,000	\$1,300	\$4,000	\$2,000	\$4,000
Out of Pocket	\$1,750	\$10,000	\$3,350	\$10,000	\$6,350	\$10,000

	High		Medium 2017 Plan Year		Low	
	<u>In-Net</u>	<u>Out of Net</u>	<u>In-Net</u>	<u>Out of Net</u>	<u>In-Net</u>	<u>Out of Net</u>
Deductible	\$1,000	\$4,000	\$1,500	\$4,000	\$2,250	\$4,000
Out of Pocket	\$2,000	\$10,000	\$3,500	\$10,000	\$6,600	\$10,000

Employee/Pre-65 Retiree Contributions

	2016 Plan Year			
	<u>E</u>	<u>S</u>	<u>C</u>	<u>F</u>
High	\$208.32	\$786.06	\$575.98	\$996.16
Medium	\$130.52	\$631.24	\$449.16	\$813.32
Low	\$16.50	\$389.96	\$258.90	\$539.02
	2017 Plan Year			
	<u>E</u>	<u>S</u>	<u>C</u>	<u>F</u>
High	\$218.67	\$825.13	\$604.61	\$1,045.67
Medium	\$137.01	\$662.61	\$471.48	\$853.74
Low	\$20.00	\$409.34	\$271.77	\$565.81
	\$ Increase			
	<u>E</u>	<u>S</u>	<u>C</u>	<u>F</u>
High	\$10.35	\$39.07	\$28.63	\$49.51
Medium	\$6.49	\$31.37	\$22.32	\$40.42
Low	\$3.50	\$19.38	\$12.87	\$26.79

San Angelo Revenue Model Plan Designs

Coinsurance (**Employer portion**)
Deductible
OOP Max (**Include** Deductible)

Medical Plan Design

Primary Office Visit
Specialist Office Visit
IP Hospital Copay
ER Copay

Rx Plan Design

Deductible

Generics
Preferred Brand Drugs
Non-Preferred Brand Drugs
Specialty High-Cost Drugs

Active Enrollment %
Metallic Plan Design Value

High		Medium	
<u>In-Net</u>	<u>Out of Net</u>	<u>In-Net</u>	<u>Out of Net</u>
80%	50%	80%	50%
\$750	\$4,000	\$1,300	\$4,000
\$1,750	\$10,000	\$3,350	\$10,000
<i>In-Net Details Below</i>		<i>In-Net Details Below</i>	
<u>Copay</u>	<u>Coinsurance</u>	<u>Copay</u>	<u>Coinsurance</u>
	<u>e</u>		<u>e</u>
	--		--
\$20		\$25	
\$40		\$50	
\$100		\$200	
\$300		\$300	
	\$200		\$200
<u>Retail</u>	<u>Mail Order</u>	<u>Retail</u>	<u>Mail Order</u>
\$15	\$30	\$15	\$30
\$60	\$120	\$60	\$120
\$100	\$200	\$100	\$200
\$100	\$200	\$100	\$200
	2.8%		6.7%
	85.9%		79.0%

Proposed Structure

Low		High		Medium		Low
In-Net	Out of Net	In-Net	Out of Net	In-Net	Out of Net	In-Net
80%	50%	80%	50%	80%	50%	80%
\$2,000	\$4,000	\$1,000	\$4,000	\$1,500	\$4,000	\$2,250
\$6,350	\$10,000	\$2,000	\$10,000	\$3,500	\$10,000	\$6,600
In-Net Details Below		In-Net Details Below		In-Net Details Below		In-Net Details Below
Copay	Coinsurance	Copay	Coinsurance	Copay	Coinsurance	Copay
	e		e		e	
\$35	--	\$20	0%	\$25	0%	\$35
\$70		\$40	0%	\$50	0%	\$70
\$300		\$100	0%	\$200	0%	\$300
\$300		\$300	0%	\$300	0%	\$300
\$200		\$200		\$200		\$200
Retail	Mail Order	Retail	Mail Order	Retail	Mail Order	Retail
\$15	\$30	\$15	\$30	\$15	\$30	\$15
\$60	\$120	\$60	\$120	\$60	\$120	\$60
\$100	\$200	\$100	\$200	\$100	\$200	\$100
\$100	\$200	\$100	\$200	\$100	\$200	\$100
90.5%		2.8%		6.7%		90.5%
73.5%		84.9%		78.5%		72.9%

ow
<u>Out of Net</u>
50%
\$4,000
\$10,000
<i>tails Below</i>
<u>Coinsuranc</u>
$\frac{e}{--}$
0%
0%
0%
0%
00
<u>Mail Order</u>
\$30
\$120
\$200
\$200
5%
9%

Platinum Y		None	HSA
Gold	N	Min	HRA
Silver		Max	None
Bronze			

Plan 5		Plan 6	
In-Net	Out of Net	In-Net	Out of Net
90%	60%	90%	60%
\$1,000	\$2,000	\$1,000	\$2,000
\$4,000	\$10,000	\$4,000	\$10,000
In-Net Details Below		In-Net Details Below	
Copay	Coinsurance	Copay	Coinsurance
\$25	0%	\$25	0%
\$35	0%	\$35	0%
\$250	0%	\$250	0%
\$150	0%	\$150	0%
\$150		\$150	
Retail	Mail Order	Retail	Mail Order
\$5	\$10	\$5	\$10
\$30	\$60	\$30	\$60
\$50	\$100	\$50	\$100
\$50	\$100	\$50	\$100
0.0%		0.0%	
0.0%		0.0%	

0		0		0		0	
In-Net	Out of Net	In-Net	Out of Net	In-Net	Out of Net	In-Net	Out of Net
0%	0%	0%	0%	0%	0%	0%	0%
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
In-Net Details Below		In-Net Details Below		In-Net Details Below		In-Net Details Below	
<u>Copay</u>	<u>Coinsurance</u>	<u>Copay</u>	<u>Coinsurance</u>	<u>Copay</u>	<u>Coinsurance</u>	<u>Copay</u>	<u>Coinsurance</u>
\$0	0%	\$0	0%	\$0	0%	\$0	0%
\$0	0%	\$0	0%	\$0	0%	\$0	0%
\$0	0%	\$0	0%	\$0	0%	\$0	0%
\$0	0%	\$0	0%	\$0	0%	\$0	0%
\$0		\$0		\$0		\$0	
<u>Retail</u>	<u>Mail Order</u>	<u>Retail</u>	<u>Mail Order</u>	<u>Retail</u>	<u>Mail Order</u>	<u>Retail</u>	<u>Mail Order</u>
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
0.0%		0.0%		0.0%		0.0%	
0.0%		0.0%		0.0%		0.0%	

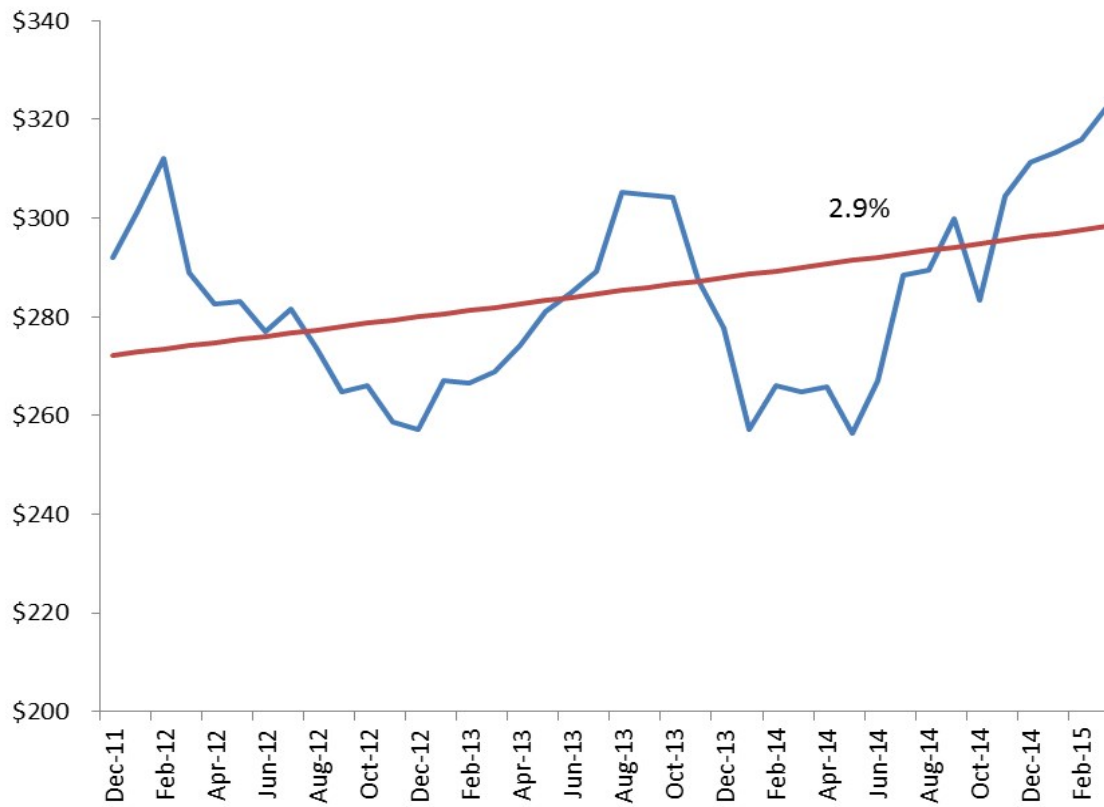
1

0	
<u>In-Net</u>	<u>Out of Net</u>
0%	0%
\$0	\$0
\$0	\$0
<u>Copay</u>	<u>Coinsurance</u>
\$20	0%
\$0	0%
\$0	0%
\$0	0%
\$0	\$0
<u>Retail</u>	<u>Mail Order</u>
\$0	\$0
\$0	\$0
\$0	\$0
\$0	\$0
	0.0%
	0.0%

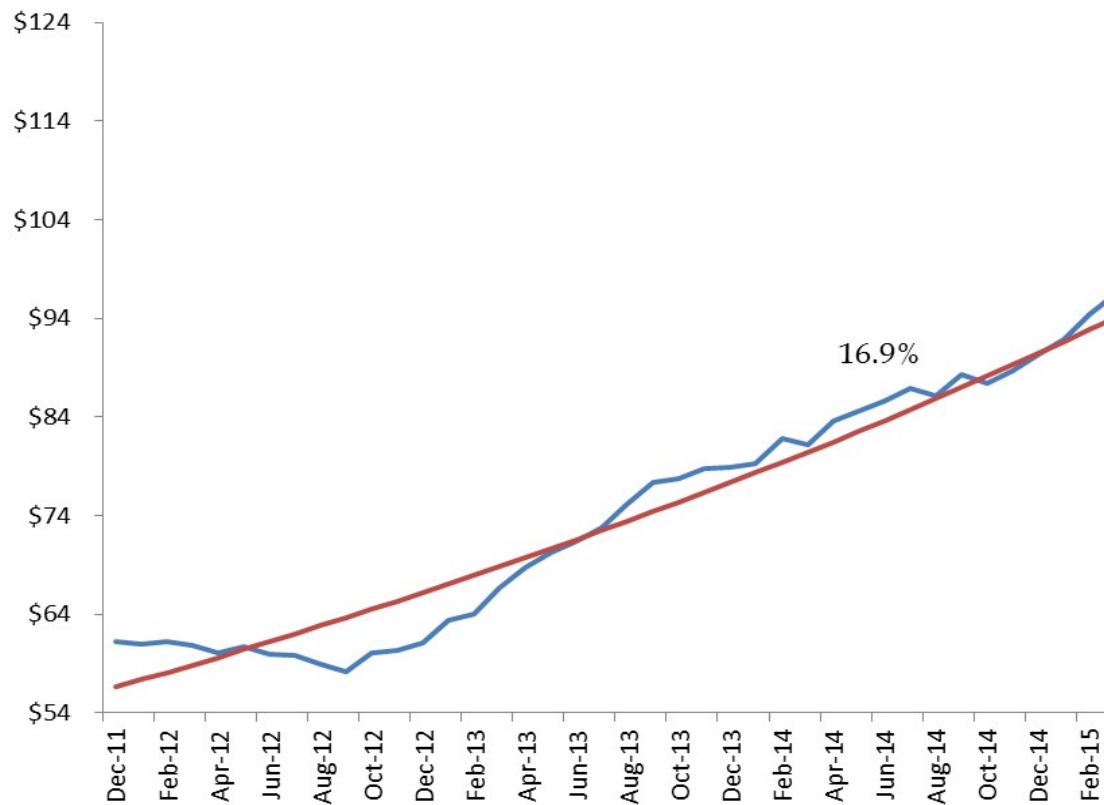
0		0		0		0	
In-Net	Out of Net	In-Net	Out of Net	In-Net	Out of Net	In-Net	Out of Net
0%	0%	0%	0%	0%	0%	0%	0%
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<u>Copay</u>	<u>Coinsurance</u>	<u>Copay</u>	<u>Coinsurance</u>	<u>Copay</u>	<u>Coinsurance</u>	<u>Copay</u>	<u>Coinsurance</u>
\$0	0%	\$0	0%	\$0	0%	\$0	0%
\$0	0%	\$0	0%	\$0	0%	\$0	0%
\$0	0%	\$0	0%	\$0	0%	\$0	0%
\$0	0%	\$0	0%	\$0	0%	\$0	0%
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<u>Retail</u>	<u>Mail Order</u>	<u>Retail</u>	<u>Mail Order</u>	<u>Retail</u>	<u>Mail Order</u>	<u>Retail</u>	<u>Mail Order</u>
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
0.0%		0.0%		0.0%		0.0%	
0.0%		0.0%		0.0%		0.0%	

0	
In-Net	Out of Net
0%	0%
\$0	\$0
\$0	\$0
<u>Copay</u>	<u>Coinsurance</u>
\$0	0%
\$0	0%
\$0	0%
\$0	0%
\$0	\$0
<u>Retail</u>	<u>Mail Order</u>
\$0	\$0
\$0	\$0
\$0	\$0
\$0	\$0
0.0%	
0.0%	

Look- Back Rolling 12 Medical Claim



Look-Back Rolling 12 Rx Claims

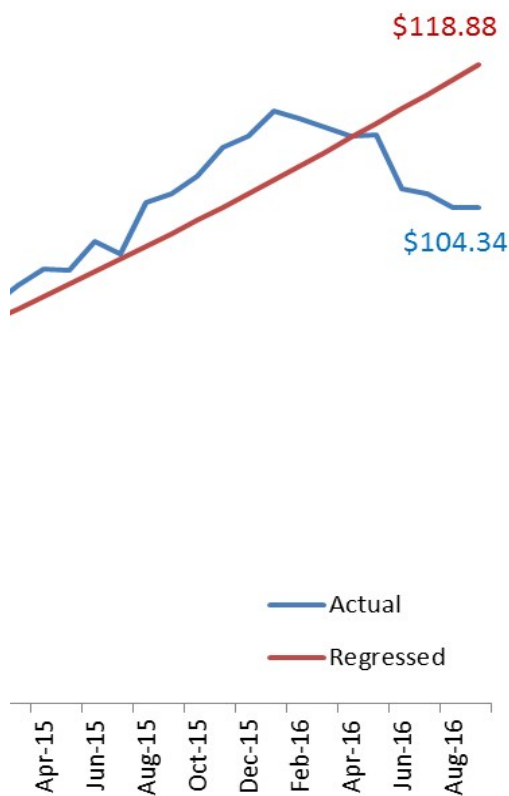
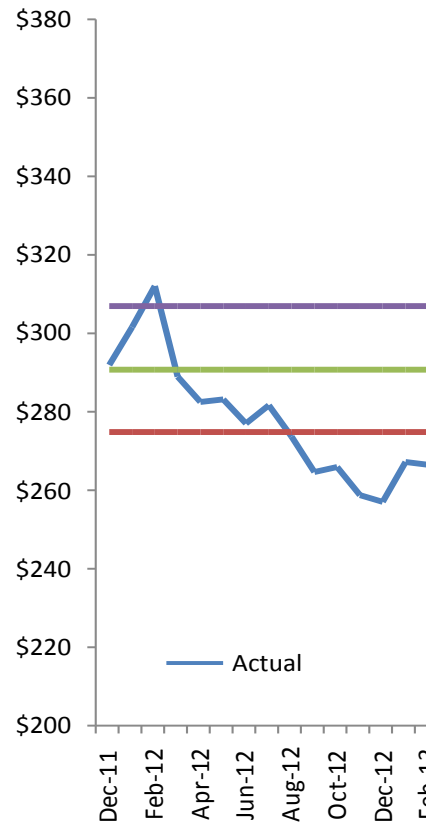




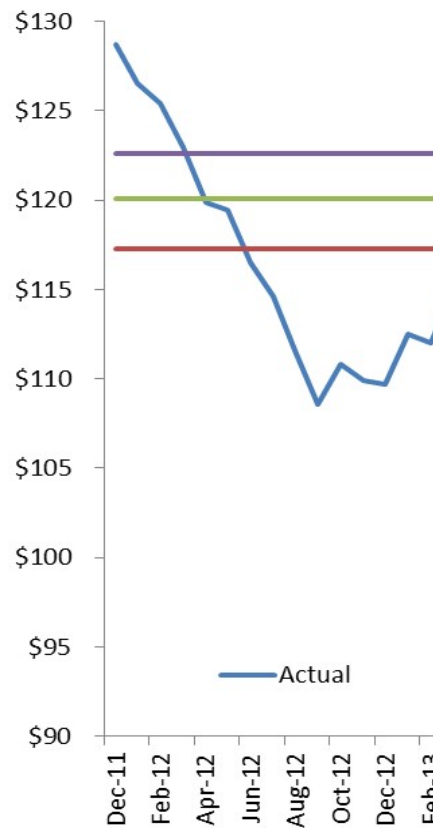
ns



Past C

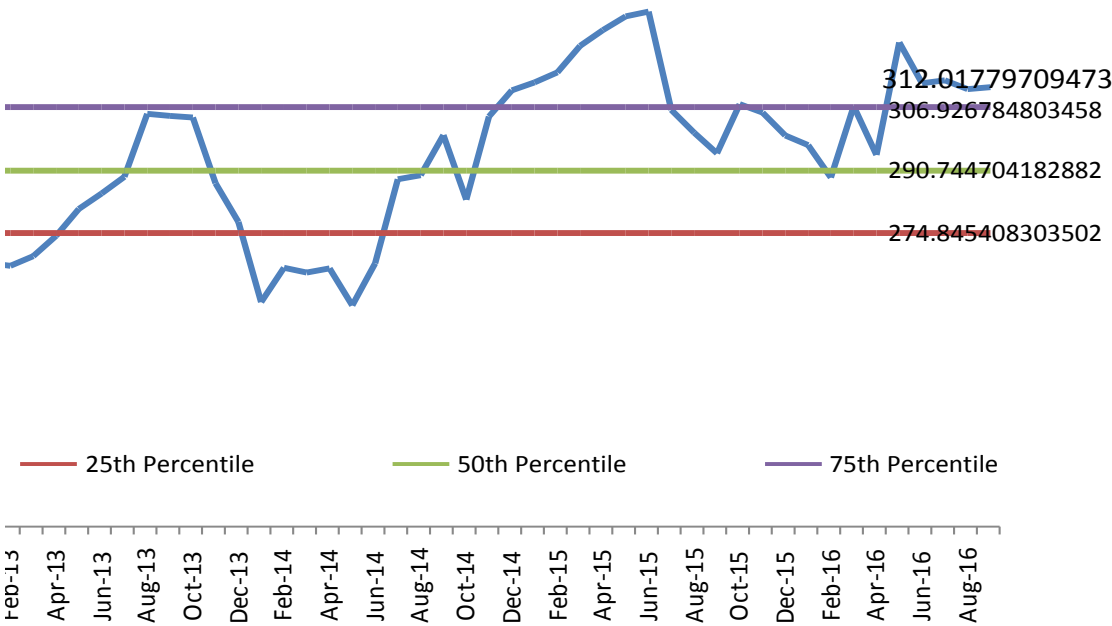


Pa

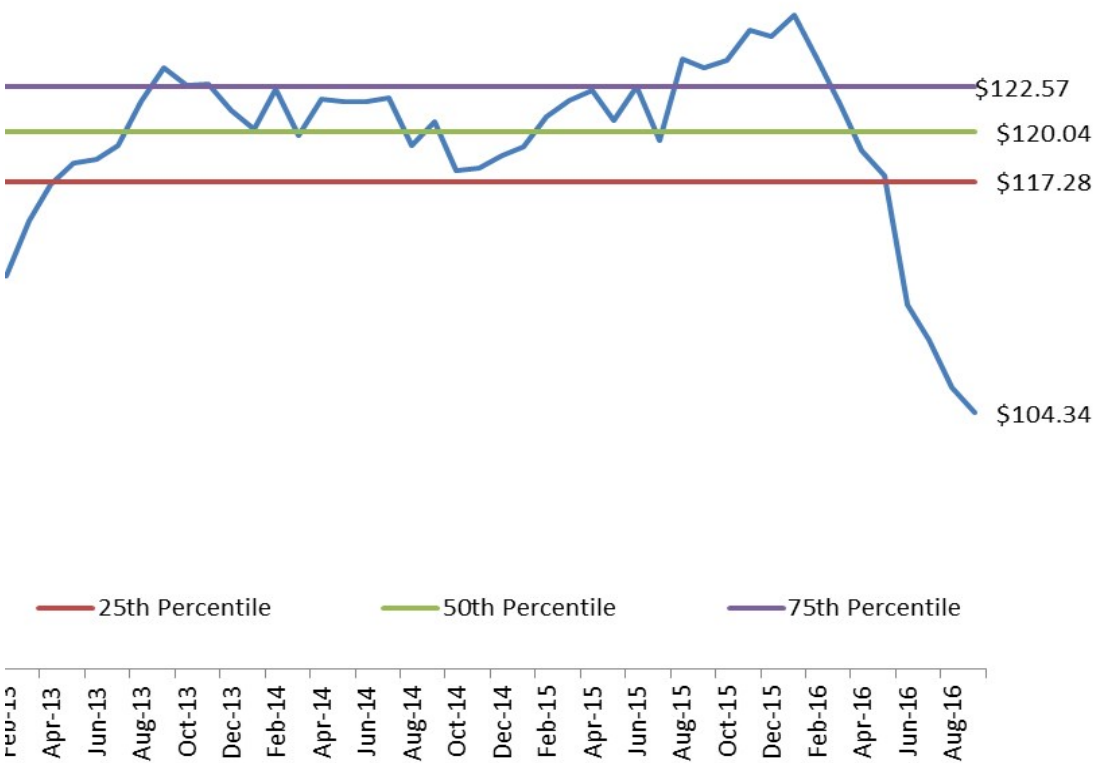




Coverage Level (PCL) - Medical



st Coverage Level (PCL) - Rx





Recommendation	Program	Description	Implementation	Impacted San Angelo Members	Projected Savings
Recommended with minimal member impact	Pharmacy Advisor	Pharmacy Advisor applies to targeted members receiving treatment for diabetes or cardiovascular conditions. The goal is to improve adherence, close gaps in care and reduce health care costs. Core is face to face at CVS pharmacies. Lettering at other pharmacies	60 day implementation	NA	NA
	Drug Exclusion List	The exclusion drug list helps to manage the cost of highly couponed brand drugs and high cost generics	90 day implementation	19 utilizers	\$ 17,000
	Premier Plus Formulary	All generics are preferred and there are more brands per class. Adds step therapy and precertification.	90 day implementation	Drug changes - no utilizers Step/Precertification - 123 utilizers	\$ 105,000
Higher level of member impact	Value Plus Formulary	Most generics and 1-2 brands are preferred per class. Includes some precertification and step therapy. Value Formulary must include the exclusion drug list.	90 day implementation	Drug changes - 160 utilizers Step/Precertification - 134 utilizers	\$ 175,000
Highest level of member impact	Value Formulary	Most generics and 1-2 brands are preferred per class. Includes a more extensive list of precertification and step therapies. Value Formulary must include the exclusion drug list.	90 day implementation	Drug changes - 167 utilizers Step/Precertification - 160 utilizers	\$ 240,000

Aetna Premier Plus Formulary Summary

This shows the number of drugs and number of unique members impacted by tier and coverage changes or drug coverage reviews with this formulary. Drug Coverage Reviews are optional for this plan.

Tier Impact	Drugs Impacted	Unique Members Impacted
Higher member copays		
Tier 1 drugs moving to Tier 3	0	0
Tier 2 drugs moving to Tier 3	0	0
Lower member copays		
Tier 3 drugs moving to Tier 1	0	0
Tier 3 drugs moving to Tier 2	0	0

Drug Coverage Reviews	Drugs Impacted	Unique Members Impacted
Additional reviews		
Prior Authorization*	19	32
Step Therapy*	31	91
Formulary Exclusions*	8	19



* Optional plan election. Refer to appendix.

Aetna Premier Plus Formulary: Drug Coverage Review

***Specialty precertification is included. Drug Coverage Reviews for non-specialty medications are optional for Premier Plus.** This report shows the number of members impacted by drug coverage reviews if you elect these options. Formulary Exclusions are optional for this Formulary.

Optional Prior Authorization		Optional Step Therapy		Optional Formulary Exclusions	
	Members Impacted		Members Impacted		Members Impacted
EPIPEN 2-PAK	5	PROAIR HFA	20	DEXILANT	8
ANDROGEL PUMP	4	VENTOLIN HFA	20	LANSOPRAZOLE	4
JUBLIA	4	PROVENTIL HFA	9	DOXYCYCLINE HYDRATE DR	2
XIFAXAN	2	XOPENEX HFA	6	DOXYCYCLINE MONOHYDRATE	1
FOCALIN XR	2	LIVALO	6	METFORMIN HCL ER	1
FETZIMA	2	CREON	3	ABSORICA	1
EFFIENT	2	FREESTYLE LITE TEST STRIP	3	DYMISTA	1
CICLOPIROX NAIL LACQUER	1	TRESIBA FLEXTOUCH	3	DUEXIS	1
MODAFINIL	1	ACCU-CHEK AVIVA PLUS	2		
GUANFACINE ER	1	TANZUM	2		
BRINTELIX	1	ONETOUGH ULTRA BLUE	2		
TESTOSTERONE	1	TRUESTEST BLOOD GLUCOSE T	2		
TRETINOIN	1	PRODIGY NO CODING BLOOD G	1		
KERYDIN	1	ONETOUGH VERIO TEST STRIP	1		
ZENATANE	1	HORIZANT	1		
PRISTIQ	1	PRECISION XTTRA BLOOD GLUC	1		
BUPRENORPHINE HCL	1	HUMULIN N	1		
EPIPEN-IR 2-PAK	1	DIOVAN HCT	1		
REXULTI	1	HUMULIN N KWIKPEN	1		
		BAYER CONTOUR NEXT BLOOD	1		
		BELSOMRA	1		
		PHARMACIST CHOICE NO CODI	1		
		ACCU-CHEK SMARTVIEW STRIP	1		
		FREESTYLE TEST STRIPS	1		
		NESINA	1		
		VIVLODEX	1		
		OSENI	1		
		TUDORZA PRESSAIR	1		
		HUMULIN R	1		
		AZOR	1		
		KAZANO	1		



City Council

November 15, 2016



Health Insurance

- COSA has seen three straight years with no increases to health insurance premiums.
- However CY 2016:
 - 2.9% increase in health claims
 - 16.9% increase in prescription claimsand



Health Insurance

- 5 large stoploss claimants (over \$100K ea) totaling \$905,000 in claims.

Overall, 20 large claimants currently account for 37% of total claims year-to-date.

In order to prevent soaring increases to monthly premiums, plan design changes are necessary.



Health Insurance Plan Changes

- Deductible increases:
 - Low Plan = +\$250
 - Medium Plan = +\$200
 - High Plan = +\$250
- Out-of-Pocket increases:
 - Low Plan = +\$250
 - Medium Plan = +\$150
 - High Plan = +\$250



Health Insurance Plan Changes

	<u>Low</u>	<u>Medium</u>	<u>High</u>
<u>2016 Plan</u>			
Deductible	\$2,000	\$1,300	\$750
O-of-P	\$6,350	\$3,350	\$1,750
<u>2017 Plan</u>			
Deductible	\$2,250	\$1,500	\$1,000
O-of-P	\$6,600	\$3,500	\$2,000



Health Insurance Plan Changes

- Recommend implementation of Premier Plus Formulary to prescription coverage:
 - All generics are preferred & there are more brands per class.
 - Adds step therapy and precertification to certain medications.
 - This will affect 123 utilizers.
 - Savings to plan = \$105,000.



Health Insurance Funding

Requesting use of:

- \$322,946 from General Fund and
- \$74,000 from Non-General Fund departments
(represents the extrapolated equivalent)

in order to reduce the level of premium increases necessary. This funding is available in the current budget.



Health Insurance Funding

- The requested funding, coupled with savings from prescription plan changes will increase premiums for employees and retirees by 5%.
- If requested funding was not available, the premiums would increase for employees and retirees by 33.5%.



Insurance Review Committee

- The Insurance Review Committee (consisting of employees and retirees) reviewed this information and agree with this request to Council.
- The Committee wants to express gratitude to the Police Department for their willingness to forego salary increases by voting to have these funds go toward premium increases.



Current & Proposed City Premiums

City Monthly Contributions

From \$453.62 (PEPM)

To \$486.99 (PEPM)

Increase +\$33.37 (PEPM)



Current Premiums

Employee/Pre-65 Retiree Monthly Contributions

	<u>2016 Plan Year</u>			
	<u>E</u>	<u>S</u>	<u>C</u>	<u>F</u>
High	\$208.32	\$786.06	\$575.98	\$996.16
Medium	\$130.52	\$631.24	\$449.16	\$813.32
Low	\$16.50	\$389.96	\$258.90	\$539.02



Proposed Premiums

Employee/Pre-65 Retiree Monthly Contributions

	<u>2017 Plan Year</u>			
	<u>E</u>	<u>S</u>	<u>C</u>	<u>E</u>
High	\$218.67	\$825.13	\$604.61	\$1,045.67
Medium	\$137.01	\$662.61	\$471.48	\$853.74
Low	\$20.00	\$409.34	\$271.77	\$565.81



Cost of Increase to Members

Employee/Pre-65 Retiree Monthly Contributions

	<u>\$ Increase</u>			
	<u>E</u>	<u>S</u>	<u>C</u>	<u>E</u>
High	\$10.35	\$39.07	\$28.63	\$49.51
Medium	\$6.49	\$31.37	\$22.32	\$40.42
Low	\$3.50	\$19.38	\$12.87	\$26.79



Post-65 Retiree Premiums

- Medicare Supplement insurance for post-65 retirees:

From \$16.50/month

To \$20.00/month



Members By Tier

Employees

	<u>Number of Affected Members</u>			
	<u>E</u>	<u>S</u>	<u>C</u>	<u>F</u>
High	16	2	2	0
Medium	25	4	4	3
Low	539	26	102	64



Members By Tier

Pre-65 Retirees

	<u>Number of Affected Members</u>			
	<u>E</u>	<u>S</u>	<u>C</u>	<u>F</u>
High	3	2	0	0
Medium	14	7	1	1
Low	188	19	8	6



Other Insurance

- No changes to plan or premiums for Dental Insurance.
- No changes to plan or premiums for Vision Insurance.
- If approved, open enrollment will begin November 16 and end on December 2, 2016.



Recommendation

Request City Council to consider allocating the \$322,946 from the General Fund and \$74,000 from the Non-General Fund to offset increased premium costs for health insurance and accept proposed premiums and plan design changes as presented for the 2017 plan year.



REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Morgan Chegwidden, Budget Manager, Budget, 325-653-6291

Meeting Date: November 15, 2016

Item type: Regular Item

Caption:

First public hearing and introduction of an ordinance amending the 2016-2017 budget for grants and capital projects - (Presentation by Budget Manager Morgan Chegwidden)

Summary/History:

This proposed amendment contains the following items (additional information attached):

- Carryover of prior year's allocations for capital projects;
- Fire station 4 capital project; and
- Police bulletproof vest grant.

Financial Impact:

\$32,938,691 (see attached detail on Exhibit A of the ordinance).

Other Information/Recommendation:

Staff recommends approval.

Attachments:

- | | |
|------------------------------------|------------------------------------|
| 1. Ordinance | Ordinance.pdf |
| 2. Exhibit A | Exhibit A.pdf |
| 3. Additional Information | Additional Information.pdf |
| 4. Memo - Carryovers | A - Carryovers.pdf |
| 5. Memo - Fire Station 4 | B - Fire station 4.docx |
| 6. Memo - Police Bullet Proof Vest | C - PD- Bullet Proof Vest.docx |
| 7. Powerpoint - Budget Amendment | 11-15-16 FIN Budget Amendment.pptx |

Presentation:

Morgan Chegwidden

Approvals/Reviews:

Morgan Chegwidden
Theresa James
Anthony Wilson
Julia Antilley
Tina Dierschke
Theresa James
Becky Dunn
Bryan Kendrick

Created/Initiated
Approved
Approved
Approved
Approved
Approved
Approved
Final Approval

**AN ORDINANCE OF THE CITY OF SAN ANGELO AMENDING
THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER
1, 2016, AND ENDING SEPTEMBER 30, 2017, FOR GRANTS AND
CAPITAL PROJECTS.**

WHEREAS the City of San Angelo has determined that new projects not included in the current budget should begin, and

WHEREAS the City of San Angelo has determined that certain budgeted amounts should be amended due to project changes and unforeseen circumstances, and

WHEREAS the resources necessary for these changes are available;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANGELO, TEXAS THAT:

The City's budget for fiscal year 2016-2017 be amended by the amounts contained in Exhibit A.

INTRODUCED on the 15th day of November, 2016, and APPROVED and ADOPTED on this the 6th day of December, 2016.

CITY OF SAN ANGELO, TEXAS

Dwain Morrison, Mayor

ATTEST:

Bryan Kendrick, City Clerk

Approved as to Content and Form:

Tina Dierschke, Finance Director

City of San Angelo
Proposed Budget Amendment
Exhibit A

Fund	Description	Total Revenue Amendment	Total Expense Amendment	Net Benefit/ (Cost)
101	General Fund	565,000	2,953,295	(2,388,295)
103	Intergovernmental	8,820	8,820	-
201	State Office Building	-	30,000	(30,000)
203	Texas Bank Sports Complex	-	66,709	(66,709)
270	Wastewater Operating	-	4,395,717	(4,395,717)
320	Property & Casualty Insurance	-	309,431	(309,431)
410	Civic Events	-	55,158	(55,158)
501	Equipment Replacement	-	134,984	(134,984)
502	General Capital Projects	7,116,101	18,214,994	(11,098,893)
512	Water Capital Projects	-	3,603,450	(3,603,450)
520	Wastewater Capital	-	3,061,298	(3,061,298)
529	Airport PFC	-	104,835	(104,835)
Total		7,689,921	32,938,691	(25,248,770)

City of San Angelo
Proposed Budget Amendment
Additional
Information

Project/Need	Source of Funding	Revenue	Expense	Net Benefit / (Cost)
Carryover of prior year's allocations for incomplete projects	Multiple funds - fund balance	7,116,101	32,364,871	(25,248,770)
Fire station 4 capital project	Medicare supplement reimbursement	565,000	565,000	-
Police bulletproof vest grant	Federal bullet proof vest grant	8,820	8,820	-
Total		7,689,921	32,938,691	(25,248,770)

Memo

To: Tina Carriger, Finance Director
 From: Morgan Chegwiddden, Budget Manager
 Date: November 4, 2016
 Re: Budget Amendment Request

Purpose of Budget Amendment Request:

Carryover remaining fiscal year 2015-16 funds for incomplete projects.

Source of Funding:

Multiple Funds – Fund Balance.

Funding previously approved? If so, by City Manager or City Council and when?

City Council approved the 2015-16 budget ordinance on September 20, 2016.

Project/Budget to be amended	Original Budget	Proposed Change	Proposed Revised Budget
101 General Fund	4,398,124	2,388,295	6,786,419
201 State Office Building Fund	0	30,000	30,000
203 Texas Bank Sports Complex Fund	0	66,709	66,709
270 Wastewater Fund	1,098,049	4,395,717	5,493,766
320 Property/Casualty Fund	181,355	309,431	490,786
410 Civic Events Fund	336,000	55,158	391,158
501 Equipment Replacement Fund	235,041	134,984	370,025
502 General Capital Projects Fund	250,000	25,331,095	25,581,095
512 Water Capital Projects Fund	3,684,117	3,603,450	7,287,567
520 Wastewater Capital Fund	2,839,154	3,061,298	5,900,452
529 Airport PFC Fund	274,936	104,835	379,771
Total	13,296,776	39,480,972	52,777,748

Additional Comments:

Breakdown of individual carryovers is attached.

City of San Angelo
Carryovers
FY 2016-17

FUND	Division	PURPOSE	CARRYOVER
101	Facilities Maint	Texas Department of Criminal Justice work camp	5,684
101	Facilities Maint	LED Lighting project	4,526
101	Facilities Maint	City Hall Improvements	25,000
101	Facilities Maint	Building demolition/abatement	617,010
101	Street and Bridge	Seal coat remediation	1,165,407
101	Parks	Parks projects	28,833
101	Fire	Data software system installation	54,770
101	Fire	Fire training center	262,516
101	Fire	Fire Station 4	24,549
101	Fire	Zetron station alerting system	200,000
201	State Office Building	HVAC emergency repairs	30,000
203	Parks	Irrigation upgrades	66,709
270	Wastewater	Sulphur draw project	3,815,717
270	Wastewater	Utility trench repair equipment	580,000
320	Risk Management	Spur Garage repairs	11,521
320	Risk Management	Gun Club project environmental testing	150,000
320	Risk Management	Workers' compensation appeals	147,910
410	Civic Events	Convention center sewer repair	55,158
501	Municipal Court	Vehicle upfit components	5,408
501	Street and Bridge	Dump truck	95,652
501	Fire	Ambulance equipment	33,924
502	Facilities Maint	Facilities upgrades	40,555
502	Facilities Maint	City Hall landscaping	4,640
502	Engineering	Transportation Enhancement Project (MLK)	112,862
502	Street and Bridge	Street improvement funding	193,410
502	Stormwater	Ave P drainage remediation	2,080,000
502	Parks	Dog park	12,000
502	Recreation	Sports & athletics facilities	674,544
502	Recreation	29th St. renovations project	1,750,000
502	Fort Concho	Fort Concho visitors center	900,000
502	Parks - Expense	Auditorium Project	11,520,220
502	Parks - Revenue	Auditorium project	7,116,101
502	Fire	Fire station 4	148,380
502	Fire	Hardware for new system	28,392
502	Fire	New fire trucks	749,991
512	Water	Bell Street reconstruction	3,603,450
520	Wastewater	Bell Street reconstruction	779,575
520	Wastewater	Street program rehabilitation	2,244,493
520	Wastewater	Lift station improvements	37,230
529	Airport	Application fees for professional services	12,678
529	Airport	Local match for Grants 33 and 34	92,157
GRAND TOTAL			39,480,972

Memo

To: Morgan Chegwidden, Budget Manager

From: Brian Dunn, Fire Chief

Date: November 3, 2016

Re: Budget Amendment Request

Purpose of Budget Amendment Request:

Fire station 4 capital project

Source of Funding:

Estimated Medicare supplement reimbursement

Funding previously approved? If so, by City Manager or City Council and when?

Application for Medicare supplement approved by council August 21, 2014.

Project/Budget to be amended	Original Budget	Proposed Change	Proposed Revised Budget
101-9000-380.40-00 Reimbursements	0	565,000	565,000
101-9000-800.07-20 Buildings capital expense	0	531,100	531,100
101-9000-422.03-30 Contract services expense	351,310	33,900	385,210

Additional Comments:

Memo

To: Morgan Chegwiddden, Budget Manager
From: Frank Carter _____, Police Chief _____
Date: October 20, 2016
Re: Budget Amendment Request

Purpose of Budget Amendment Request:
Increase budget for award of Bullet Proof Vest Grant

Source of Funding:
Federal bullet proof vest grant

Funding previously approved? If so, by City Manager or City Council and when?
Application and acceptance approved with budget ordinance September 20, 2016.

Project/Budget to be amended	Original Budget	Proposed Change	Proposed Revised Budget
103-8711-331.12-00 Grant Revenue	0	8,820	8,820
103-8711-421.06-12 Grant Expense	0	8,820	8,820

Additional Comments:



City Council

November 15, 2016



Budget Amendment

	Revenue	Expense
Carryover of prior year's allocations for incomplete projects	7,116,101	32,364,871
Fire station 4 capital project	565,000	565,000
Police bulletproof vest grant	8,820	8,820





City Council

November 15, 2016





APPLICATION FOR BOARDS and COMMISSIONS

Name: YUKIO A. Kuniyuki III LTC, Army
 Address: 1024 Ft Richardson Ct San Angelo TX 76903
 City: San Angelo (unless otherwise noted) Zip: 76903
 Phone (Home): (254) 392-2877 (Office): (325) 654-3611
 Resident of San Angelo since: Jun 2016 SMD: US Army/Goodfellow
 Are you a registered voter of San Angelo? Yes: X No:
 Occupation / Business Affiliation: Army Officer
 Occupation / Business Address:
 Position:

Email: yukio.kuniyuki@us.af.mil

By executing this document, the applicant does hereby certify and affirm the truth and accuracy of the information contained herein. The applicant further authorizes the City Council, or its designee, to verify any information. The applicant agrees to release and hold harmless the City from all claims incident to the verification of information contained herein.

X [Signature] 11 OCT 16
 Applicant's Signature Date

NOTE: This application is information of public record.* Public Service opportunities are offered by the City of San Angelo without regard to race, color, national origin, religion, sex or disability.

RETURN TO: City of San Angelo, c/o City Clerk, 72 W. College, San Angelo, Texas 76903

Applying for:

- ☐ Airport Advisory Board
- ☐ Animal Shelter Adv Cmm*
- ☐ Civic Events Adv Board
- ☐ Civil Service Commission
- ☐ Construction Board of Adj/Appls*
- ☐ Design & Historic Review Cmm*
- ☐ Development Corporation
- ☐ Downtown Development Cmm*
- ☐ Fort Concho Museum Board
- ☐ Park Commission
- ☐ Parks & Recreation Adv Board
- ☐ Planning Commission
- ☐ Public Art Commission*
- ☐ Public Housing Authority
- ☐ Tax Incrmt Reinsvmt Zone Board*
- ☐ Water Advisory Board*
- ☐ Zoning Board of Adjustment

*specific membership criteria requirements apply-See back page for more information

Recommended by:

Tell us about yourself. Feel free to attach additional sheets, if necessary.

Based on you board selection, do you meet the membership criteria*? Yes No If so, which criteria: City Resident
 (see back page for board criteria)

Education and/or Professional Licenses: Masters Degree in Intelligence and Security Studies;
Bachelor's in Mandarin Chinese; US Army Military Intelligence Schools.

Current Municipal and Civic Organization Memberships (Positions & Dates): None at this time

Previous Municipal Experience (Positions, Dates, Where): None; career focused on military assignments overseas.

What personal qualifications can you bring to this board? 18 years of management experience as well as event planning and coordination.

What is your personal vision for the City? I would like to see the City continue to grow and offer more diverse events and experiences for its community.

Why do you want to serve on this board? The Fort Concho National Historic Landmark has been a great partner with us. I would like to continue finding ways for our Soldiers to volunteer and to learn about our rich history.

Anything else you would like for us to know?

*The City Council adopted the Code of Ethics for members of the City Council and for the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation. Therefore, all Members shall comply with the laws of the nation, the State of Texas, and the City of San Angelo in the performance of their public duties. If you have been convicted of a MISDEMEANOR or FELONY, and/or placed on probation, fined or given a suspended sentence such as pretrial diversion or deferred adjudication in court within the last ten years, disclosure of such should be forwarded under separate cover. For a complete copy of the Code of Ethics, contact the City Clerk at 657-4405.

For Office Use Only:

Appointed by: CiCo Appt/Reappt Date: Term Dates: To From