



City of Abilene City Council Agenda

Shane Price, Mayor Pro-tem
Weldon Hurt, Council Member
Jack Rentz, Council Member
Robert Hanna, City Manager

Anthony Williams, Mayor

Donna Albus, Council Member
Kyle McAlister, Council Member
Travis Craver, Council Member
Stanley Smith, City Attorney
Shawna Atkinson, City Secretary

Notice is hereby given of a meeting of the City Council of City of Abilene to be held on December 3, 2020, at 8:30 a.m., at City Hall, 555 Walnut Street, Council Chambers, Abilene, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action. The City Council reserves the right to 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.

CALL TO ORDER

INVOCATION

1. Councilmember Weldon Hurt

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

2. **Service Awards Video Presentation:**

- Michael Matthews - 25 Years - Public Works

3. **Issue the Following to Councilmember-Elect Donna Albus - Place 3:**

- Certificate of Election
- Oath of Office

CONSENT AGENDA

All consent agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember or Citizen so requests, in which event the item will be removed from the Consent Agenda and considered separately.

4. **Minutes:** Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Special Meeting Held on November 16, 2020, and the Regular Meeting Held on November 19, 2020 **(Shawna Atkinson)**
5. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding Contract for Budget and Online Transparency Software to Questica Ltd. **(Mike Rains)**
6. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on awarding a bid to Cascade Engineering, Inc. for Solid Waste 95 Gallon Refuse Containers **(Greg McCaffery)**
7. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding a Bid (CB-2107) to Rotational Molding, Inc. for Solid Waste 300 Gallon Refuse Containers **(Greg McCaffery)**
8. **Ordinance (First Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on approving an Ordinance establishing the 2021 Standards of Care and Setting a Public Hearing for December 17, 2020 **(Lesli Andrews)**
9. **Ordinance (First Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Fiscal Year 2021 Budget Cuts **(Mike Rains)**

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

10. **Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending the Fiscal Year 2021 Annual Operating Budget for the City of Abilene by Appropriating Funds from the Bureau Justice Assistance Grant to Add One (1) Civilian Position to the Abilene Fire Department Budget Ordinance **(Cande Flores)**
11. **Ordinance (Final Reading) Z-2020-15:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Carriage Hills Development Corporation, agent Jacob & Martin LLC, to rezone property from Agricultural Open Space (AO) to a Residential Single-Family (RS-6) District on 52.88 acres of now-vacant land in the 7700-7800 blocks (east side) of Maple Street in far south Abilene **(Mike Warrix)**
12. **Ordinance (Final Reading) Z-2020-16:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Carriage Hills Development Corporation, agent Jacob & Martin LLC, to rezone property from Agricultural Open Space (AO) to a Planned Development (PD) District allowing residential townhome development having clusters of as few as two dwelling units, on 22.13 acres of now-vacant land located east from the 7700-7800 blocks of Maple Street and west from Kristie Path and Alex Way in the Sawgrass Addition **(Mike Warrix)**
13. **Ordinance (Final Reading) Z-2020-17:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from QT South LLC, agent Lauren Montgomery, to change the terms of Planned Development (PD) District Number PD 116 located on southeast corner of Old Anson Road and Interstate Highway 20 in northwest Abilene, specifically regarding the height and area of signs allowed there. Legal description being Lot 1 in Block 1 of the subdivision known as QT South LLC **(Mike Warrix)**
14. **Ordinance (Final Reading) Z-2020-19:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Oldham Partners LP and Windmill Circle Partners LP, agent Tony Conder, to rezone approximately 3.8 acres in a General Retail (GR) District extending 300 feet north from the 900 block of Gateway Street, and approximately 4.3 acres in an adjacent Neighborhood Retail (NR) District extending 300 feet west from the 3600-3700 blocks of Oldham Lane, to a General Commercial (GC) District **(Mike Warrix)**

15. **Ordinance (Final Reading) Z-2020-20:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Albert Houle, agents Chris Barnett and Dale Scoggins, to rezone approximately 8.14 acres at 7602 thru 7734 Hwy. 83-84 and situated at or near the southwest corner of Waldrop Drive and U.S. Hwys. 83-84, from an Agricultural Open Space (AO) District to a General Commercial (GC) District **(Mike Warrix)**
16. **Ordinance (Final Reading) Z-2020-21:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Vinson Higginbotham, agent Jack Zanger of Triangle Engineering, to rezone approximately 4.04 acres on the 4900-5000 blocks (southwest side) of South Clack Street, from an Agricultural Open Space (AO) to a General Commercial (GC) District **(Mike Warrix)**
17. **Ordinance (Final Reading) CUP-2020-08:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Oldham Partner LP and Windmill Circle Partners LP, agent Tony Conder, for approval of a Conditional Use Permit allowing retail sales and rental of trucks and other large vehicles and equipment on 24.371 acres in a General Commercial (GC) District at 750 Gateway Street and the 3600-3700 blocks (east side) of Loop 322 **(Mike Warrix)**
18. **Ordinance (Final Reading) OAM-2020-02:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending the Land Development Code, Chapter 2, "Zoning Regulations," Article 3, "Zoning Districts," Division 3, TABLE 2-4: Site Layout and Building Requirements for Nonresidential Zoning Districts," and Article 4, "Use Regulations," Division 3, "Requirements Applicable to Specific Land Uses," Section 2.4.3.3, "All Other Uses with Specific Requirements," to clarify Multiple Family Dwellings by Conditional Use Permit in Certain Non-Residential Districts **(Mike Warrix)**

PUBLIC COMMENTS

There will be no votes or any formal actions taken on subjects presented during public comment. The public comment period will only allow members of the public to present ideas and information to city officials and staff.

EXECUTIVE SESSION

19. **The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:**

A. 551.071 (Consultation with Attorney)

1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
2. Officer Patrick Sumrall and City of Abilene, Case No. 01-18-000-8653; Appeal of Indefinite Suspension to Arbitration, filed February 6, 2018
3. Alfredo Valencia v. Corey Davis and City of Abilene; Case No. 1:19-cv-00017-C; In the United States District Court, Northern District of Texas, Abilene Division, filed February 4, 2019.
4. City of Abilene v. Patrick Sumrall; Cause No. 27,733-B, In the 104th Judicial District Court, Taylor County, Texas, filed May 28, 2019
5. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
6. City of Abilene, Texas and Garfield Public/Private LLC v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-000900, In the 261st Judicial District Court, Travis County, Texas, filed February 13, 2020
7. Chandler Brooks v. Taylor County, et al.; Civil Action No. 1:20-cv-00049, In the United States District Court, Northern District of Texas, Abilene Division; filed March 5, 2020
8. John Doe v. Robert Hanna, Individually and as City Manager; Cause No. 28078-B; In the 104th Judicial District Court, Taylor County, Texas; filed July 7, 2020
9. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-004598, In the 53rd Judicial District Court, Travis County, Texas; filed September 1, 2020
10. Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District, et al.; Cause No. P-8277-83-CV, In the 83rd Judicial District Court, Pecos County, Texas; filed September 11, 2020
11. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
12. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
13. Governor's Executive Orders - COVID-19

B. 551.072 (Deliberations about Real Property)

1. Clyde Water

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

1. City Council may consider appointment, employment, compensation, reassignment, duties, discipline, or dismissal of public officers or employees, City Manager, City Attorney, Municipal Court Judge, City Secretary, and City Board and Commission Members
2. City of Abilene Boards & Commissions May be Discussed, as needed for (re)appointment

E. 551.076 (Deliberations about Security Devices)

F. 551.087 (Business Prospect/Economic Development)

1. Abilene Convention Center Hotel Project

RECONVENE

REGULAR AGENDA

20. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing Members to Various Boards and Commissions per the City Charter **(Shawna Atkinson)**
- Citizens Advisory Board for People with Disabilities
 - Landmarks Commission
21. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving an Agreement with Project One Stop **(Misty Mayo)**
22. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on approval of a Resolution approving of (i) a Restated Certificate of Formation (formerly Articles of Incorporation) of the DCOA with amendments and (ii) an Application to present to the Abilene City Council to amend the DCOA's Certificate of Formation (formerly Articles of Incorporation) **(Misty Mayo)**
23. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action Authorizing Changes to the DCOA's Bylaws **(Misty Mayo)**

ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Abilene 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 call 325-676-6208.

CERTIFICATION

I hereby certify the above meeting notice was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 25th day of November, 2020, at 9:45 a.m.

Shawna Atkinson, TRMC
City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 4. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Special Meeting Held on November 16, 2020, and the Regular Meeting Held on November 19, 2020 (Shawna Atkinson)

GENERAL INFORMATION

Approval of the Minutes from the Special Meeting held on November 16, 2020, and the Regular Meeting held on November 19, 2020

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 11-16-2020 Minutes - Special - Canvass
2. 11-19-2020 Minutes - Regular - Evening

SPECIAL CALLED MEETING
November 16, 2020 at 9:00 a.m.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL

The City Council of the City of Abilene, Texas met in Special Session on November 16, 2020, at 9:00 a.m. in the Council Chambers, 555 Walnut St. Mayor Anthony Williams was present and presiding with Mayor Pro-tem Weldon Hurt and Councilmembers Jack Rentz, Kyle McAlister, and Travis Craver. Deputy Mayor Pro-tem Donna Albus and Councilmember Shane Price were absent. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, City Secretary Shawna Atkinson, and various members of the City staff.

Councilmember Travis Craver delivered the invocation and led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

AGENDA ITEMS

2. Resolution: Canvassing the Returns and Declaring the Results of the General Election Held in the City of Abilene on November 3, 2020
[ASSIGNED RESOLUTION NO. 220-2020]

Shawna Atkinson, City Secretary, presented the item. The election results reported that Anthony Williams received 80.94% of the votes in Taylor County, and 81.17% of the votes in Jones County, and is therefore duly elected. Donna Albus received 63.84% of the votes in Taylor County, and 67.86% of the votes in Jones County, and therefore duly elected. Weldon Hurt ran unopposed, and is therefore duly elected.

Mayor Williams opened the public hearing. With no speakers coming forward, the public hearing was closed.

Mayor Pro-tem Hurt moved to approve the item as presented. Councilmember McAlister seconded the motion; motion carried.

AYES (5): Mayor Williams, Mayor Pro-tem Hurt, and Councilmembers Rentz, McAlister and Craver

NAYS (0): None

ABSENT (2): Deputy Mayor Pro-tem Albus, and Councilmember Price

3. Issue the following to Mayor-Elect Anthony Williams

- Certificate of Election: Presented by Mayor Pro-tem Hurt
- Oath of Office: Administered by City Secretary Atkinson

4. Issue the following to Councilmember-Elect Donna Albus

- Certificate of Election: Presented by Mayor Pro-tem Hurt
- Oath of Office: Administered by City Secretary Atkinson

This item was skipped, as Deputy Mayor Pro-tem Albus was absent.

5. Issue the following to Councilmember-Elect Weldon Hurt

- Certificate of Election: Presented by Mayor Williams
- Oath of Office: Administered by City Secretary Atkinson

6. Oral Resolution: Appointing the Mayor Pro-tem and Deputy Mayor Pro-tem

Mayor Williams stated that according to the rotation, Councilmember Shane Price would be Mayor Pro-tem and Councilmember Jack Rentz would be Deputy Mayor Pro-tem.

Mayor Williams opened the public hearing. With no speakers coming forward, the public hearing was closed.

Mayor Pro-tem Hurt moved to approve the appointment of Councilmember Shane Price as Mayor Pro-tem and Councilmember Jack Rentz as Deputy Mayor Pro-tem. Councilmember Craver seconded the motion; motion carried.

AYES (5): Mayor Williams, Mayor Pro-tem Hurt, and Councilmembers Rentz, McAlister and Craver

NAYS (0): None

ABSENT (2): Deputy Mayor Pro-tem Albus, and Councilmember Price

ADJOURNMENT

The meeting adjourned at 9:10 a.m.

Shawna Atkinson
City Secretary

Anthony Williams
Mayor

Minutes approved on: _____

CITY COUNCIL MEETING
November 19, 2020 at 4:30 p.m.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL

The City Council of the City of Abilene, Texas met in Regular Session on November 19, 2020, at 4:30 p.m. in the Council Chambers, 555 Walnut St. Mayor Anthony Williams was present and presiding with Deputy Mayor Pro-tem Jack Rentz and Councilmembers Weldon Hurt, Kyle McAlister and Travis Craver. Mayor Pro-tem Shane Price and Councilmember Donna Albus were absent. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, City Secretary Shawna Atkinson, and various members of the City staff.

EXECUTIVE SESSION

Mayor Williams recessed into Executive Session at 4:30 p.m. pursuant to the following of the Open Meetings Act, with the following issues discussed during this session, as listed on the agenda and authorized by the noted Texas Government Code Section:

- 20. A. 551.071 (Consultation with Attorney)
 - 1. Governors Executive Orders – COVID-19
 - 2. Extension of Disaster Declaration (Agenda Item #7)
- 20. B. 551.072 (Deliberations About Real Property)
 - 1. Extension of Disaster Declaration (Agenda Item #7)
- 20. F. 551.087 (Business Prospect/Economic Development)
 - 1. Abilene Convention Center Hotel Project

The Executive Session ended at 5:10 p.m. and reconvened to Open Session at 5:30 p.m. as noted on the posted agenda. Mayor Williams reported no votes or action were taken in Executive Session.

Councilmember Kyle McAlister delivered the invocation and led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS, ANNOUNCEMENTS

- Employee Service Awards
 - James Bradshaw – 25 Years – Public Works

CONSENT AGENDA

The Consent Agenda consisted of items 4-16. Items #7 and #11 were pulled for individual consideration.

Items pulled for individual consideration were as follows:

- Councilmember Hurt and David Swart, citizen– Item #7
- David Swart, citizen – Item #11

Deputy Mayor Pro-tem Rentz moved to approve the Consent Agenda, now consisting of items 4-6, 8-10 and 12-16. Councilmember Hurt seconded the motion. Motion carried.

AYES (5): Mayor Williams, Deputy Mayor Pro-tem Rentz, and Councilmembers Hurt, McAlister and Craver

NAYS (0): None

ABSENT (2): Mayor Pro-tem Price and Councilmember Albus

4. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on November 5, 2020
5. Resolution: Receive a Report, Hold a Discussion and Public Hearing and Take Action to Approve the Contract with United Way of Abilene to Manage the Regionally Coordinated Transportation Planning (RCTP)
[ASSIGNED RESOLUTION NO. 221-2020]
6. Resolution Receive a Report, Hold a Discussion and Public Hearing and Take Action to Approve Individual Purchases from Various Vendors that may exceed an Aggregate Expenditure of \$50,000 for each Vendor in Fiscal Year 2021
[ASSIGNED RESOLUTION NO. 222-2020]
8. Ordinance (First Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending the Fiscal Year 2021 Annual Operating Budget for the City of Abilene by Appropriating Funds from the Bureau Justice Assistance Grant to Add One (1) Civilian Position to the Abilene Fire Department Budget Ordinance
9. Ordinance (First Reading) Z-2020-15: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Carriage Hills Development Corporation, agent Jacob & Martin LLC, to rezone property from Agricultural Open Space (AO) to a Residential Single-Family (RS-6) District on 52.88 acres of now-vacant land in the 7700-7800 blocks (east side) of Maple Street in far south Abilene
10. Ordinance (First Reading) Z-2020-16: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Carriage Hills Development Corporation, agent Jacob & Martin LLC, to rezone property from Agricultural Open Space (AO) to a Planned Development (PD) District allowing residential townhome development having clusters of as few as two dwelling units, on 22.13 acres of now-vacant land located east from the 7700-7800 blocks of Maple Street and west from Kristie Path and Alex Way in the Sawgrass Addition
12. Ordinance (First Reading) Z-2020-19: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Oldham Partners LP and Windmill Circle Partners LP, agent Tony Conder, to rezone approximately 3.8 acres in a General Retail (GR) District extending 300 feet north from the 900 block of Gateway Street, and approximately 4.3 acres in an adjacent Neighborhood Retail (NR) District extending 300 feet west from the 3600-3700 blocks of Oldham Lane, to a General Commercial (GC) District
13. Ordinance (First Reading) Z-2020-20: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Albert Houle, agents Chris Barnett and Dale Scoggins, to rezone approximately 8.14 acres at 7602 thru 7734 Hwy. 83-84 and situated at or near the southwest corner of Waldrop Drive and U.S. Hwys. 83-84, from an Agricultural Open Space (AO) District to a General Commercial (GC) District
14. Ordinance (First Reading) Z-2020-21: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Vinson Higginbotham, agent Jack Zanger of Triangle Engineering, to rezone approximately 4.04 acres on the 4900-5000 blocks (southwest side) of South Clack Street, from an Agricultural Open Space (AO) to a General Commercial (GC) District

15. Ordinance (First Reading) CUP-2020-08: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Oldham Partner LP and Windmill Circle Partners LP, agent Tony Conder, for approval of a Conditional Use Permit allowing retail sales and rental of trucks and other large vehicles and equipment on 24.371 acres in a General Commercial (GC) District at 750 Gateway Street and the 3600-3700 blocks (east side) of Loop 322
16. Ordinance (First Reading) OAM-2020-02: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending the Land Development Code, Chapter 2, "Zoning Regulations," Article 3, "Zoning Districts," Division 3, TABLE 2-4: Site Layout and Building Requirements for Nonresidential Zoning Districts," and Article 4, "Use Regulations," Division 3, "Requirements Applicable to Specific Land Uses," Section 2.4.3.3, "All Other Uses with Specific Requirements," to clarify Multiple Family Dwellings by Conditional Use Permit in Certain Non-Residential Districts

ITEMS PULLED FOR INDIVIDUAL CONSIDERATION

7. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Modifying and Extending the Declaration of Local Disaster Issued October 22, 2020
[ASSIGNED RESOLUTION NO. 223-2020]

The item was pulled by Councilmember Hurt and David Swart, citizen.

Having pulled the item, David Swart stated that he understands that we have to keep approving this in order to receive funds, and thanked the Mayor for not having our officers issue citations for not wearing a mask. There are people who want to shut down the country, but he does not believe that is the answer.

Each Councilmember expressed their opinions and concerns in regards to this item.

Robert Hanna, City Manager, presented the item. Adoption of the item would modify and extend the Declaration of Local Disaster issued on October 22, 2020.

Annette Lerma, Health Director, gave a short presentation on the current COVID-19 numbers for Taylor County, and tips for staying safe during the upcoming holidays.

Mayor Williams opened the public hearing. The following addressed the Council:

- Samuel Garcia – stated that everything the experts have been telling us will happen, has happened, and that everyone needs to start wearing a mask. Mr. Garcia went to the Farmer's Market recently and stated vendors were not wearing their masks there.

With no other speakers coming forward, the public comment period was closed.

Councilmember McAlister moved to approve the item as presented. Deputy Mayor Pro-tem Rentz seconded the motion; motion carried.

AYES (4): Mayor Williams, Deputy Mayor Pro-tem Rentz, McAlister and Craver

NAYS (1): Councilmember Hurt

ABSENT (2): Mayor Pro-tem Price and Councilmember Albus

11. Ordinance (First Reading) Z-2020-17: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from QT South LLC, agent Lauren Montgomery, to change the terms of Planned Development (PD) District Number PD 116 located on southeast corner of Old Anson Road and Interstate Highway 20 in northwest Abilene, specifically regarding the height and area of signs allowed there. Legal description being Lot 1 in Block 1 of the subdivision known as QT South LLC

The item was pulled by David Swart, citizen.

Having pulled the item, David Swart stated that he thinks they are just making an adjustment on their signage. Walmart requested a 75ft sign recently and he thinks this is similar. Mr. Swart is in favor of this since it will benefit them to have a taller sign, which will then benefit the community with more sales tax.

Mike Warrix, Director of Planning & Development Services, presented the item. Adoption of the item would amend the PD ordinance to allow a free standing pole sign as tall as 100-feet, and as large as 700 square feet, at the above noted location.

Mayor Williams opened the public hearing. The following addressed the Council:

- Mike Talca, with QT – stated that this is really about visibility from the eastbound traffic. The trees block the visibility from that side and they want to make it easier to see so people don't have to turn around. Mr. Talca stated that they came to a compromise with Planning and Zoning in regards to the dimensions of the sign.

With no other speakers coming forward, the public hearing was closed.

Councilmember McAlister moved to approve the item as presented. Councilmember Craver seconded the motion; motion carried.

AYES (5): Mayor Williams, Deputy Mayor Pro-tem Rentz, and Councilmembers Hurt, McAlister and Craver

NAYS (0): None

ABSENT (2): Mayor Pro-tem Price and Councilmember Albus

REGULAR AGENDA

17. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the Renewal of the Water Supply Contract with the Hawley Water Supply Corporation
[ASSIGNED RESOLUTION NO. 224-2020]

Rodney Taylor, Director of Water Utilities, presented the item. Adoption of the item would authorize the renewal of the water supply contract with the Hawley Water Supply Corporation for a period of 40 years.

Mayor Williams opened the public hearing. With no other speakers coming forward, the public hearing was closed.

Councilmember Craver moved to approve the item as presented. Councilmember Hurt seconded the motion; motion carried.

AYES (5): Mayor Williams, Deputy Mayor Pro-tem Rentz, and Councilmembers Hurt, McAlister and Craver

NAYS (0): None

ABSENT (2): Mayor Pro-tem Price and Councilmember Albus

18. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing Members to Various Boards and Commissions per the City Charter.
[ASSIGNED RESOLUTION NO. 225-2020]

Mayor Williams opened the public hearing. The following addressed the Council:

- Samuel Garcia – stated that he has questions on the board appointment process. Mr. Garcia stated there is a position on the Development Corporation of Abilene board that will be expiring this month, and asked what the policy was to fill those positions, along with a timeline for filling them.

Mayor Williams addressed Samuel Garcia questions and stated that when some terms expire, members will stay until the position is filled.

Councilmember McAlister moved to (re)appoint the following:

Board	Term End Date
<i>Airport Development Board</i>	
Joe Crowder [Reappointment]	November 2023
Gray Bridwell [Reappointment]	November 2023
<i>Board of Building Standards</i>	
Gary Webb [Reappointment]	November 2022
<i>Citizens Advisory Board for People with Disabilities</i>	
Michelle Daniels [New]	October 2022

Deputy Mayor Pro-tem Rentz seconded the motion; motion carried

AYES (5): Mayor Williams, Deputy Mayor Pro-tem Rentz, and Councilmembers Hurt, McAlister and Craver

NAYS (0): None

ABSENT (2): Mayor Pro-tem Price and Councilmember Albus

19. Discussion: Receive a Report, Hold a Discussion and Public Hearing, and Provide Direction on Recommended Budget Cuts FY 2021

Robert Hanna, City Manager, presented the item. He presented Council with several options for budget cuts for FY 2021, including 2-1-1 A Call for Help, the Adaptive Recreation program, the dental program, senior transportation, and closing the Mockingbird Library branch (which he did not recommend). Mr. Hanna also presented a few revenue enhancements, including charging \$2.50 for senior meals, and charging a \$20 per player, per season facility use charge for ball teams. He recommended reallocating money from the Convention Center Capital Improvement fund to the General Fund, and some 9-1-1 fees to the General Fund. Mr. Hanna also stated that there are a few unfilled vacant positions in the City that he will not be filling.

Mayor Williams would like the Parks Board to weigh in on the closing the Adaptive Recreation program and the Senior Transportation. Councilmembers discussed their concerns regarding these cuts.

Mayor Williams opened the public hearing. The following addressed the Council:

- David Swart – stated that a lot of citizens do not know where to start and if you eliminate 2-1-1, they won't be able to help them. He also stated that he went to the Mockingbird Library without realizing it was closed, as the internet showed it to be open. Mr. Swart questioned if the hotel project was on pause because of these cuts, and his thoughts on event cancellations in the area.
- Samuel Garcia – stated his concerns about cutting the dental program. He thinks that in the middle of a pandemic, cutting a health program is not a good idea. Mr. Garcia stated if we are putting the hotel on hold, why not use those funds to keep the dental program.

With no other speakers coming forward, the public hearing was closed.

This item was for discussion only. No votes or action were taken at this time.

PUBLIC COMMENTS

Mayor Williams opened the public comment period. The following addressed the city council:

- David Swart – stated AEP finally repaired the lights under the Mockingbird underpass, and that the new fixtures look great. He expressed his thanks to whoever got that done. Mr. Swart stated Dr. Fauci wants everyone to do Zoom meetings for Thanksgiving and stated we shouldn't let fear stop us from gathering on holidays.
- Samuel Garcia – stated that the Development Corporation of Abilene's bylaw changes were passed at their last board meeting and will now go to Council for approval. Mr. Garcia stated that they have gone from four to nine employees recently. The last CEO made \$174,000 annually and the new one makes \$194,000 annually, plus benefits. The DCOA is spending money when the Council is talking about making cuts to the budget, and he thinks that when the CEO of the DCOA makes more than the Chief of Police, there is a problem.

With no other speakers coming forward, the public comment period was closed.

ADJOURNMENT

There being no further business, the meeting adjourned at 6:55 p.m.

Shawna Atkinson
City Secretary

Anthony Williams
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Mike Rains, Finance Director

SUBJECT: 5. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding Contract for Budget and Online Transparency Software to Questica Ltd. (*Mike Rains*)

GENERAL INFORMATION

The contract for the City's current budget and transparency software will expire on December 15, 2020. This software is utilized by City staff to create the annual budget and provide a financial transparency portal for the citizens of Abilene.

Staff has reviewed several different software options and has determined that Questica Ltd., meets the City's needs and provides the best value.

The City will be using COOP pricing from the National Cooperative Purchasing Alliance (NCPA) contract 01-86 to purchase Questica. The contract is an ongoing subscription for five years. The subscription will automatically renew for additional one-year terms unless terminated with 30 days notice. Contract pricing will not increase for the first five years of the contract. A 3% annual increase will occur beginning in year six. The first year includes a \$10,000 discount.

City staff is also requesting to purchase the optional Questica Budget Book feature which will aid in preparation of the annual budget book.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

The first year software costs of \$39,284.21 will be funded with currently budgeted funds. Implementation costs of \$78,947.37 will be funded with capital project funds set aside for software.

The optional Questica Budget Book feature at \$16,052.63 will be funded with currently budgeted funds.

Subsequent year's annual contract costs will be funded in the annual budget.

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution Awarding a Contract for Budget and Financial Transparency Software
2. QUESTICA LTD SOFTWARE SUBSCRIPTION AGREEMENT - CITY OF ABILENE
TX_FINAL - signed
3. Questica CIQ_Completed
4. Powerpoint - Resolution Awarding a Contract for Budget and Transparency Software

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AWARDING
A CONTRACT FOR BUDGET AND FINANCIAL TRANSPARENCY SOFTWARE TO
QUESTICA, LTD.**

WHEREAS, the City's current budget and financial transparency software contract expires on December 15, 2020; and

WHEREAS, City staff has selected Questica, Ltd. as the provider it would like to enter into a contract for budgeting and financial transparency software as it meets the City's needs and provides best value for the City of Abilene; and

WHEREAS, the contract is an ongoing contract subscription for five years and will automatically renew for one year terms after five years unless terminated with 30 days notice; and

WHEREAS, the contract price is \$118,231.58 for the first year and \$49,284.21 for each subsequent year through year five; and

WHEREAS, the contract price will not increase for five years and will increase 3% annually beginning in year six; and

WHEREAS, City staff desires to purchase the optional Questica Budget Book feature for \$16,052.63 annually; and

WHEREAS, the Questica Ltd. purchase is made through the National Cooperative Purchasing Alliance coop (NCPA) contract number 01-86.

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

Part 1: The City Council approves awarding the budgeting and financial transparency software contract to Questica, Ltd.

Part 2: That this Resolution shall take effect immediately from and after passage.

ADOPTED this 3th day of December, 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

Government Price Quotation

Questica at Carahsoft

carahsoft



11493 SUNSET HILLS ROAD | SUITE 100 | RESTON, VIRGINIA 20190
 PHONE (703) 871-8500 | FAX (703) 871-8505 | TOLL FREE (888) 66CARAH
 WWW.CARAHSOFT.COM | SALES@CARAHSOFT.COM

TO: Mike Rains
 Director of Finance
 Abilene, TX
 555 Walnut Street
 Abilene, TX 79604 USA

FROM: Garrett Smith
 Questica at Carahsoft
 11493 Sunset Hills Road
 Suite 100
 Reston, Virginia 20190

EMAIL: Mike.Rains@abilenetx.gov

EMAIL: Garrett.Smith@carahsoft.com

PHONE: (325) 676-6324

PHONE: (571) 662-3062

FAX: (703) 871-8505

TERMS: National Cooperative Purchasing Alliance (NCPA)
 Contract Number: 01-86
 Term: Through November 30, 2021
 F I I N: 52-2189693
 Shipping Point: FOB Destination
 Credit Cards: VISA/MasterCard/AMEX
 Remit To: Same as Above
 Payment Terms: Net 30 (On Approved Credit)
 Cage Code: 1P3C5
 DUNS No: 088365767
 Sales Tax May Apply

QUOTE NO: 24430596
QUOTE DATE: 11/05/2020
QUOTE EXPIRES: 12/31/2020
RFQ NO:
SHIPPING: ESD
TOTAL PRICE: \$118,231.58

TOTAL QUOTE: \$118,231.58

LINE NO.	PART NO.	DESCRIPTION	-	QUOTE PRICE	QTY	EXTENDED PRICE
YR1 SAAS SUBSCRIPTION						
1	QB-B100250M-1-509	Operating, Salary and Capital Budget Preparation and Budget Management Software, Performance Measurement Software - \$100-250M Budget 10 Additional Capital License Seats. Unlimited Read-Only Licenses, Allocations, Statistical Ledger, Performance, OpenBook Transparency Solution Questica - QB-B100250M-1		\$49,284.21 SLG	1	\$49,284.21
YR1 SAAS SUBSCRIPTION SUBTOTAL:						\$49,284.21
PROFESSIONAL SERVICES						
2	QUEST-PS(ABILENE)-509	Professional Services for Abilene, TX (Per Statement of Work) includes Design, Analysis, & Configuration, Project Management, Training, Integrations and IT Services Note: One-Time Fee Questica - QUEST-PS(ABILENE)		\$78,947.37 SLG	1	\$78,947.37
PROFESSIONAL SERVICES SUBTOTAL:						\$78,947.37
DISCOUNTS						
4	QUEST-DISC-509	Year 1 SaaS Discount Questica - QUEST-DISC		\$10,000.00 - SLG	1	-\$10,000.00
DISCOUNTS SUBTOTAL:						-\$10,000.00
SUBTOTAL:						\$118,231.58
TOTAL PRICE:						\$118,231.58
TOTAL QUOTE:						\$118,231.58

Government Price Quotation

Questica at Carahsoft

carahsoft



11493 SUNSET HILLS ROAD | SUITE 100 | RESTON, VIRGINIA 20190
PHONE (703) 871-8500 | FAX (703) 871-8505 | TOLL FREE (888) 66CARAH
WWW.CARAHSOFT.COM | SALES@CARAHSOFT.COM

LINE NO.	PART NO.	DESCRIPTION	-	QUOTE PRICE	QTY	EXTENDED PRICE
SUGGESTED OPTIONS						
LINE NO.	PART NO.	DESCRIPTION	-	QUOTE PRICE	QTY	EXTENDED PRICE
OPTIONAL FEATURE						
3	QUEST-BB-509	Questica Budget Book - 1 Seat (Annual) Questica - QUEST-BB		\$16,052.63 SLG	1	\$16,052.63
SUGGESTED SUBTOTAL:						\$16,052.63

Questica Budget Framework includes:

- 1 Seat (Operating, Personnel, & Capital) Hosted on Microsoft Azure Gov Cloud
- 120 Additional Operating License Seats
- 2 Additional Personnel License Seats
- 10 Additional Capital License Seats
- Unlimited Read-only Licenses
- Includes Opt. Features of Allocations, Statistical Ledger, Performance, OpenBook Transparency Solution

- Above pricing in US Dollars

- Applicable Taxes Extra

- Terms of Payment:

o Software Subscription (including annual maintenance, support, and hosting services):

- Due 100% upon Contract Effective Date (Net 30) and annually in advance for future years
- \$10,000 discount will apply for year one only
- 3% annual increase will apply, beginning in year 6

o Professional Services:

- 25% due the earlier of software installation or 30 days from Contract Effective Date
- 25% due the earlier of historical budget available for validation or 60 days from Contract Effective Date
- 25% due the earlier of actuals import integration configuration created & tested or 90 days from Contract Effective Date
- 25% due the earlier of completion of training or 120 days from Contract Effective Date

Additional Professional Services are available upon request at Questica's then current hourly rate, currently set at \$237/hr.

- Additional licenses may be purchased at the rate of \$526 per license, annually

CaseWare includes:

- 32 hours of initial Train-the-trainer training (CaseWare Champion) in our standard online training sessions
- Review Questica setup, account groups & cost centers and configuration of CaseWare to support these structures
- Walk client through standard content and identify requested modifications to:

o Fonts, indents & margins

o Ordering of documents

- Initial configuration of base content with client standards
- Configuration & testing of Questica Integration
- Guidance to client on their tasks (inserting schedules, pictures, embedded PDFs etc.)
- 30 hours After Care per year

Should the City of Abilene, TX desire, Questica can also provide (at additional cost):

- Customization to presentation (new tables, graphs, additional columns, new text sections etc.)
- A CIP Budget book
- End-user training
- Onsite implementation, support or training

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

THE CITY OF ABILENE, TX

CARAHSOFT TECHNOLOGY CORP.

Per: _____

Per: _____

Name: Robert Hanna

Name: Lorin Krzywicki

Title: City Manager

Title: Team Lead

Date: _____

Date: _____

I have authority to bind the organization

QUESTICA LTD.

Per: _____

Name: Stefan Baerg

Title: VP Sales & Marketing

Date: _____

I have authority to bind the organization



QUESTICA SOFTWARE SUBSCRIPTION AGREEMENT

This **SOFTWARE SUBSCRIPTION AGREEMENT** (the “**Agreement**”) is made 12/7/2020 (the “**Effective Date**”) by and between QUESTICA LTD., a corporation incorporated under the laws of the State of Delaware (“**Questica**”) and The City of Abilene, TX, including, without limitation, all its subdivisions, departments, and constituent entities within its legal scope and jurisdiction (collectively, the “**Subscriber**”).

1. DEFINITIONS

“**Affiliate**” means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for the purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“**Malicious Code**” means viruses, worms, time bombs, Trojan horses, and other harmful or malicious code, files, scripts, agents or programs.

“**Order Form**” means the documents for placing orders hereunder, including addenda thereto, that are entered into between You and Us from time to time, including addenda and supplements thereto.

“**Services**” means the products and services that are ordered by You or Your Affiliates under an Order Form and made available by Us online.

“**User Guide**” means the on-line users guide for the Services, made available on-line.

“**Users**” means individuals who are authorized by You to use the Services, for whom subscriptions to a Service have been ordered, and who have been supplied user identifications and passwords by You, (or by Us at your request). Users may include but are not limited to Your employees, consultants, contractors and agents, and third parties with which You transact business.

“**We**,” “**Us**,” “**Our**,” “**Questica Inc.**” or “**Questica**” means the company or entity providing the Services in the Agreement

“**You**,” “**Your**,” “**Subscriber**” means the company or other legal entity for which you are accepting the Agreement and Affiliates of that company or entity.

“**Your Data**” means all electronic data or information submitted by You to the Services, including but not limited to any data, content (including user content), information and files.

2. PROVISION OF SERVICES

2.1 Terms of Service. Terms, provisions, or conditions on any purchase order, acknowledgement, or other business form or writing that Customer may use in connection with the provision of Services (or software) by Questica will have no effect on the rights, duties, or obligations of the parties hereunder, regardless of any failure of Questica to object to such terms, provisions, or conditions.

2.2 Provision of Services. We shall make the Services available to You pursuant to this Agreement and the relevant Order Forms during a subscription term. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto. Order Forms shall be deemed incorporated herein by reference. You agree that Your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features.

2.3 User Subscriptions. Unless otherwise specified in the applicable Order Form, (i) Services are purchased as User subscriptions and may be accessed by no more than the specified number of Users, (ii) additional User subscriptions may be added during the applicable subscription term at the same price as that for the pre-existing subscriptions thereunder, prorated for the remainder of the subscription term in effect at the time the

additional User subscriptions are added and (iii) the added User subscriptions shall terminate on the same day as the pre-existing subscriptions. User subscriptions are for designated Users only and cannot be shared or used by more than one user but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Services.

2.4 Hosting, Product Maintenance and Support. For the first year of this Agreement, upon paying the Subscription Fee and for each year thereafter, provided that Subscriber continues to pay the Subscription Fees in accordance with the fees set out in Carahsoft Government Price Quotation #24430596, Questica shall provide Hosting, Maintenance and Technical Support Services (the "**Services**") for the software as outlined in Appendix A, if the Subscriber is not otherwise in breach of the provisions of this Agreement.

2.5 Implementation Services. Questica shall provide the professional service as defined in the Scope of Work ("SOW"), Appendix B, in a professional manner, consistent with industry standards. Unless otherwise agreed upon by both parties, or as the result of a delay on the part of Questica, the obligation to provide professional services to the Subscriber expires the earlier of:

1) completion of the services described in the SOW

2) 12 months from the effective date of the relevant Order Form.

2.6 Acceptance of Custom Work. Within thirty (30) business days from the delivery of each individual Custom Work, the Customer/Subscriber shall, in its sole discretion, review the Product Customization and notify Questica whether it finds the Customizations satisfactory or unsatisfactory. If it is determined that the Customizations are unsatisfactory, then it shall state in writing the reasons for its determination, including identifying any non-conformance with the Subscriber's specifications or expectations. Questica will promptly correct the deficiencies and reinstall the Customizations, and the approval procedure shall be reapplied until Subscriber finally declares the Customizations satisfactory. In the absence of a written response within 30 Business Days after the delivery of the Customizations or once the Subscriber has declared the Customizations satisfactory, the Customizations shall be considered 'Accepted'.

3. USE OF THE SERVICES

3.1 Our Responsibilities. We shall: (i) provide Our basic support for the Services to You at no additional charge, and/or upgraded support if purchased separately, (ii) use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which We shall give at least 8 hours' notice via the Services and which We shall schedule to the extent practicable during the weekend hours from 9:00 pm Friday to 6:00 am Monday Eastern Time), or (b) any unavailability caused by circumstances beyond Our reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Our employees), Internet services provider failure or delays, or denial of service attacks, and (iii) provide the Services only in accordance with applicable laws and government regulations.

3.2 Our Protection of Your Data. We shall maintain reasonable administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Your Data. We shall not (a) modify Your Data, (b) disclose Your Data except as compelled by law in accordance with Section 6.3 (Compelled Disclosure) or as expressly permitted in writing by You, or (c) access Your Data except to provide the Services and prevent or address service or technical problems, or at Your request in connection with customer support matters.

3.3 Your Responsibilities. You shall (i) be responsible for Users' compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of Your Data and of the means by which You acquired Your Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Us promptly of any such unauthorized access or use, and (iv) use the Services only in accordance with the User Guide and applicable laws and government regulations. You shall not (a) make the Services available to anyone other than Users, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Service or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.

4. FEES AND PAYMENTS FOR SERVICES

4.1 Fees. You shall pay all fees specified in all Order Forms as set out in Carahsoft Government Price Quotation #24430596. Except as otherwise specified herein or in an Order Form, (i) fees are based on services purchased and actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) the number of User subscriptions purchased cannot be decreased during the relevant subscription term stated on the Order Form. User subscription fees are based on monthly periods that begin on the

subscription start date and each monthly anniversary thereof; therefore, fees for User subscriptions added in the middle of a monthly period will be charged for the full monthly period and the monthly periods remaining in the subscription term.

- 4.2 Invoicing and Payment.** You will provide Us with a valid purchase order or alternative document reasonably acceptable to Us. We will invoice You in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information.
- 4.3 Overdue Charges.** If any charges are not received from You by the due date, then at Our discretion, (a) such charges may accrue late interest at a rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) We may condition future subscription renewals and Order Forms on payment terms shorter than those specified in Section 4.2 (Invoicing and Payment)
- 4.4 Suspension of Service and Acceleration.** If any amount owing by You under this or any other agreement for Our services is 30 or more days overdue, We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Our services to You until such amounts are paid in full. We will give You at least 30 days prior notice that Your account is overdue, in accordance with Section 11.1 (Manner of Giving Notice), before suspending services to You.
- 4.5 Payments and Disputes.** We shall not exercise Our rights under Section 4.3 (Overdue Charges) or 4.4 (Suspension of Service and Acceleration) if You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.
- 4.6 Taxes.** Unless otherwise stated, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal, or foreign jurisdiction (collectively, "**Taxes**"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by You, unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against it based on Our income, property and employees.
- 4.7 Travel Costs.** Unless noted otherwise, this quotation does not include any travel, lodging, or on-site expenses. If such travel is required and subsequently authorized, the United States General Services Administration standard travel and per diem rates shall apply. Air Travel, Rental Car (with associated fuel and parking costs), and Lodging costs shall be reimbursed at cost. Questica is not responsible for unpredictable (including Commercial Airline Travel) delays which may increase travel cost.

5. PROPRIETARY RIGHTS

- 5.1 Reservation of Rights in Services.** Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Services, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.
- 5.2 Restrictions.** You shall not (i) permit any third-party to access the Services except as permitted herein or in an Order Form (ii) create derivative works based on the Services except as contained herein, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes, (iv) reverse engineer the Services, or (v) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.
- 5.3 Your Applications and Code.** If You, a third party acting on Your behalf, or a User creates applications or program code using the Services, You authorize Us to host, copy, transmit, display and adapt such applications and program code, solely as necessary for Us to provide the Services in accordance with this Agreement. Subject to the above, We acquire no right, title or interest from You or Your licensors under this Agreement in or to such applications or program code, including any intellectual property rights therein.
- 5.4 Your Data.** Subject to the limited rights granted to You hereunder, We acquire no right, title or interest from You or Your licensors under this Agreement in or to Your Data, including any intellectual property rights therein.

- 5.5 **Suggestions.** We shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by You, including Users, relating to the operation of the Services. We may additionally develop, modify, improve, support, and operate Our Services based on Your use, as applicable, of any Services.

6. CONFIDENTIALITY

- 6.1 **Definition of Confidential Information.** As used herein, “**Confidential Information**” means all confidential information disclosed by a party (“**Disclosing Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; Our Confidential Information shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Your Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.
- 6.2 **Protection of Confidential Information.** The Receiving party shall use the same degree of care that uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party shall disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates and their legal counsel and accountants without the other party’s prior written consent.
- 6.3 **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest such disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party’s Confidential Information as part of a civil proceeding or otherwise to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable costs of compiling and providing secure access to such Confidential Information.

7. REPRESENTATIONS, WARRANTIES AND DISCLAIMERS

- 7.1 **Our Warranties.** We represent and warrant that (i) We have validly entered into this Agreement and have the legal authority to do so, (ii) the Services shall perform materially in accordance with the User Guide, (iii) the functionality of the Services will not be materially decreased during a subscription term, and (iv) We will not transmit Malicious Code to You, provided it is not in breach of this subsection (iv) if You or a User uploads a file containing Malicious Code into the Services and later downloads that file containing Malicious Code. For any breach of a warranty above, Your exclusive remedy shall be as provided in Section 10.3 (Termination for Cause) and Section 10.4 (Refund or Payment upon Termination) below.
- 7.2 **Your Warranties.** You represent and warrant that (i) You have validly entered into this Agreement and have the legal authority to do so; (ii) You will use the Services in accordance with applicable laws; and (ii) You have all necessary rights to use and upload any Data for use with the Services.
- 7.3 **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY REPRESENTATIONS, WARRANTIES OF KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED REPRESENTATIONS AND WARRANTIES, INCLUDING ANY REPRESENTATIONS AND WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8. MUTUAL INDEMNIFICATION

- 8.1 **Indemnification by Us.** We shall defend You against any claim, demand, suit, or proceeding made or brought against You by a third party alleging that the use of the Services as permitted hereunder infringes or misappropriates any Canadian or United States’ registered patents, copyrights or trade-mark rights of a third party (a “**Claim Against You**”), and shall indemnify You for any damages, legal fees and costs finally awarded

against You as a result of, and for amounts paid by You under a court-approved settlement of, a Claim Against You; provided that You (a) promptly give Us written notice of the Claim Against You; (b) Give Us sole control of the defense and settlement of the Claim Against You (provided that We may not settle any Claim Against You unless the settlement unconditionally releases You of all liability); and (c) provide to Us all reasonable assistance, at Our expense. In the event of a Claim against You, or if we reasonably believe the Services may infringe or misappropriate, We may in Our discretion and at no cost to you (i) modify the Services so that they no longer infringe or misappropriate, without breaching Our warranties under "Our Warranties" above, (ii) obtain a license for Your continued use of the Services in accordance with this Agreement, or (iii) terminate Your User subscriptions for such services upon 30 days' written notice and refund to You any prepaid fees covering the remainder of the term of such User subscriptions after the effective date of termination.

8.2 Indemnification by You. You shall defend Us against any claim, demand, suit or proceeding made or brought against Us by a third party alleging that Your Data, or Your use of the Services in breach of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law (a "**Claim Against Us**").

8.3 Exclusive Remedy. This Section 8 (Mutual Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section.

9. LIMITATION OF LIABILITY

9.1 Limitation of Liability. NEITHER PARTY'S CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) SHALL EXCEED THE AMOUNT PAID BY YOU HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT, PROVIDED THAT IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) EXCEED THE TOTAL AMOUNT PAID BY YOU HEREUNDER. THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 4 (FEES AND PAYMENT FOR SERVICES).

9.2 Exclusion of Consequential and Related Damages. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

10. TERM AND TERMINATION

10.1 Term of Agreement. This Agreement commences on the date You accept it and continues until all User subscriptions granted in accordance with this Agreement have expired or been terminated.

10.2 Term of Purchased User Subscriptions. User subscriptions purchased by You commence on the Effective Date of this Agreement and continue for 5 years. Additional user subscriptions will be prorated from the applicable order date through the remainder of the 5-year term. All user subscriptions shall automatically renew for additional one-year at the end of the then current term, unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless We have given You written notice of a pricing increase at least 60 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter. Any such pricing increase shall not exceed 7% of the pricing for the relevant Services in the immediately prior subscription term, unless the pricing in such prior term was designated in the relevant Order Form as promotional or one-time.

10.3 Termination for Cause. A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceedings relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

10.4 Refund or Payment upon Termination. Upon any termination for cause by You, We shall refund You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Upon any termination for cause by Us, You shall pay any unpaid fees covering the remainder of the term of all Order Forms after the effective date of termination. In no event shall any termination relieve You of the obligation to pay any fees payable to Us for the period prior to the effective date of termination.

- 10.5 Return of Your Data.** Upon request made by You within 30 days after termination of a Services subscription, We will make available to You for download a file of Your Data in comma separated value (.csv) format along with attachments in their native format. After such 30-day period, We shall have no obligation to maintain or provide any of Your Data and shall thereafter, unless legally prohibited, delete all of Your Data in Our systems or otherwise in Our possession or under Our control.
- 10.6 Surviving Provisions.** Section 4 (Fees and Payment for Services), 5 (Proprietary Rights), 6 (Confidentiality), 7.3 (Disclaimer), 8 (Mutual Indemnification), 9 (Limitation of Liability, 10.4 (Refund or Payment upon Termination), 10.5 (Return of Your Data), 10.6 (Surviving Provisions), 11 (Notices, Governing Law, Jurisdiction) and 12 (General Provisions) shall survive any termination or expiration of the Agreement.
- 11. NOTICES, GOVERNING LAW AND JURISDICTION**
- 11.1 Manner of Giving Notice.** Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, (iv) the first business day after sending by email (provided that email shall not be sufficient for notices of termination or an indemnifiable claim) Billing- related notices to You shall be addressed to the relevant billing contact designated by You. All other notices to You shall be addressed to the relevant Services system administrator designated by You.
- 11.2 Governing Law and Jurisdiction.** This Agreement shall be governed by the laws of the State of Delaware and the federal laws of the United States of America without regard to the conflict of law provisions thereof. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Subject to Section 11.2 above, the parties attorn to the exclusive jurisdiction of the courts of Texas in respect of this Agreement.
- 11.3 Waiver of Jury Trial.** Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.
- 12. GENERAL PROVISIONS**
- 12.1 Anti-Corruption.** You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.
- 12.2 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.
- 12.3 No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.
- 12.4 Export Compliance.** The Services, other technology We make available, and derivatives thereof may be subject to export laws and regulations of the United States, Canada and other jurisdictions. Each party represents that it is not named on any US or Canadian government denied-party list. You shall not permit Users to access or use Services in a US or Canada embargoed country or in violation of any US or Canadian export law or regulation.
- 12.5 Waiver.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right.
- 12.6 Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.
- 12.7 Reserved.**
- 12.8 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. In

the event of such a termination, We shall refund to You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

- 12.9 Entire Agreement.** This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form, the terms of such exhibit, addendum or Order Form shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in Your purchase order or other order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.
- 12.10 Cooperative Statement.** Other government organizations and educational or health care institutions may elect to participate in this Agreement (piggyback) at their discretion, provided We also agrees to do so.
- 12.11 Authorized reseller status; Option to purchase affiliate products.** Questica is a subsidiary of GTY Technology Holdings Inc. ("GTY") and an authorized reseller of products and services produced and provided by other subsidiaries of GTY (such subsidiaries, "Questica Affiliates"). These products and services include software-as-a-service technology for the procurement and vendor supplier sourcing industry, digital services and payment technology through a software-as-a-service platform, software solutions for grants management and indirect cost reimbursement and related implementation and consulting services, software tools to streamline permitting and licensing services, and additional web-based budgeting preparation, performance, management and data visualization solutions ("Affiliate Products"). Questica Affiliates include Bonfire Interactive Ltd., Bonfire Interactive US Ltd., eCivis Inc., CityBase, Inc., Open Counter Enterprise Inc. and Sherpa Government Solutions LLC. In addition to the products and services that are the subject of this Agreement, Subscriber has the option to purchase from either Questica, as an authorized reseller, or Questica Affiliates, Affiliate Products on terms and conditions, including pricing, to be agreed upon in writing by Subscriber and Questica or Subscriber and the applicable Questica Affiliate.
- 12.12 Media Releases.** Neither party shall use the name, trademark or logo of the other party without the prior written consent of the other party. Notwithstanding the foregoing, We may use the Your name and identify You as a Questica client in advertising, marketing materials, press releases and similar materials upon prior written consent.

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

THE CITY OF ABILENE, TX

QUESTICA LTD.

Per: _____

Per: _____

Name: Robert Hanna

Name: Stefan Baerg

Title: City Manager

Title: VP Sales & Marketing

Date: _____

Date: _____

I have authority to bind the organization

I have authority to bind the organization

APPENDIX A – Hosting, Maintenance and Technical Support Services

- (A) **Hosting Services.** Questica shall provide technical support and the associated hardware infrastructure to maintain the various Questica databases in a hosted environment. This includes performance tuning, database backups, disaster recovery availability, applying software upgrades and patches at the direction of the Subscriber, performing 24X7 server monitoring. Hosting Services do not include:

- I. Testing customizations during an upgrade
- II. Restoring a database backup required because of a Subscriber error
- III. Migrating data or reports among instances (example: from training or testing to production)

Questica may at its sole discretion, periodically make reasonable modifications or changes to the Hosting Services provided.

Subscriber is responsible for ensuring that its personnel have sufficient training to attain and maintain competence in the operation of the Software.

Technical support relating to the Hosting Services is available through Questica's normal business hours, Monday through Friday, 8:00am through 8:00pm, Eastern Standard Time on Business Days. Extended coverage is available for an additional fee. Questica will provide an initial response to all properly submitted support requests within two (2) business hours of initial submission.

- (B) **Product Maintenance.** On an as-available basis, Questica will provide enhancements, modifications or upgrades to the Software as Questica may from time to time make available to its Subscribers generally ("Updates") but excluding any New Product (a "New Product" being a solution which, in Questica's determination and subject to general industry standards, does not replace the Software licensed hereunder.) Updates do not include:

- I. Platform extensions including product extensions to (i) different hardware platforms; (ii) different windowing system platforms; (iii) different operating system platforms
- II. New applications
- III. Services associated with the application or installation of Updates

If requested, Questica will provide assistance in the testing of any site-specific customizations. Questica will provide a quote for any required rework associated with customizations resulting from the upgrade.

- (C) **Technical Support Services.** Questica will provide phone and e-mail based technical support of a reasonable nature as described herein. A technical support incident or problem is a single user defined problem seeking resolution. It must be related to the original intent and design of the software. Technical Support Services include the support of Questica supplied integrations that have not been modified by the Subscriber. Each Technical Support Service incident is deemed closed when a remedy, workaround, or recommendation for the installation of a current maintenance release has been offered, and a commercially reasonable effort has been made to restore operation to the original intent and design of the Software. Technical Support Service does not include:

- I. Custom programming services;
- II. On-site support;
- III. Subscriber developed interfaces, API interactions, or customizations;
- IV. Subscriber developed reports;
- V. End-User training or re-training;
- VI. Subscriber hardware or network issues;
- VII. Correction of data issues derived from user error or Software misuse;
- VIII. Changes to Questica developed custom reports or Permitted Customizations (including Questica supplied custom business rules or customized user screens) that are outside the scope of the accepted specification, scope of work, or authorized change requests;
- IX. Corrections to Questica developed custom reports or Permitted Customizations beyond six (6) months from the date of delivery (the upgrade protection period); and

- X. Changes to integration functionality made necessary due to Subscriber server modifications/replacement, or changes by upgrades or changes to the integrated financial system software or hardware.

Questica may at its sole discretion, periodically make reasonable modifications or changes to the Technical Support Services and/or Product Maintenance Services provided.

Subscriber is responsible for ensuring that its personnel have sufficient training to attain and maintain competence in the operation of the Software.

Technical Support Service is available through Questica's normal business hours, Monday through Friday, 8:00am through 8:00pm, Eastern Standard Time on Business Days. Extended coverage is available for an additional fee.

Scope of Work

Questica Budget Implementation for Abilene, TX

1. Revision History

Rev.	Date	Authors	Notes/Changes
1			

2. General

2.1. Shared Responsibility

Questica and The Customer agree that the implementation of Questica Budget is a shared responsibility, and that they will employ their best efforts to complete their agreed tasks on a timely basis. Neither Questica nor The Customer is expected to have resources available to mitigate timeframe slippage caused by the other party, and neither shall have an obligation to do so.

2.2. General Clarification

Initial Data Load

“Data import”, “import workbooks”, and “initial data load” are synonymous terms referring to the initial migration of data from The Customer's existing systems into Questica.

Where this initial data load is to be performed by Questica, the data shall be returned to Questica in Excel workbooks. Questica's Project Manager will provide blank workbooks for this purpose as an output of initial discovery meetings. These are adapted from standard templates to use The Customer's terminology and to incorporate all elements of The Customer's chart of accounts, other data entities, and columns within those data entities. Such data provided must be “clean”, consistent, and complete. The Questica PM is not responsible for cleaning data, and will not repeatedly load data in order to repair issues and/or add missing information.

The Customer can use the software's user interface or Questica's Excel® export/import feature to further amend and maintain data, or to load data where this is a customer task.

For example, where Questica's work to load prior year data may be limited to a specific number of years in order to reduce implementation cost, there is no system limit to the number of prior years that the customer can load using Excel® export/import.

Data Model

The Questica Budget system is a relational database built on a standard data model. Using the system's user interface, this data model may be enhanced to mirror The Customer's data structures, notably the chart of accounts that is unique to The Customer's institution. While all of the standard tables ('entities') must be retained, the following points are held to be true:

- Any of the standard entities may be renamed to match The Customer's terminology;
- Out-of-the-box entities may be ignored, or in some cases filled with place-holder data, if not useful;
- There is a defined, immutable, relationship between certain entities - for example Costing Centers (Operating) and Projects (Capital) roll up to a single Department, each in turn rolling up to a single Division;
- The GL Account/Account Category, Division/Department, Fund Category/Fund, and Asset Category/Asset Type structures must be consistent across all years and across the modules (Operating, Salaries, Capital, Financial Statements, and Performance);
- GL Account Categories must be categorized as containing either a revenue or expenditure accounts (accommodation is made for other account types in the Financial Statements module);
- Questica Budget enacts data integrity through the use of relational data structures. Data structures which do not follow accepted data principles (for example, re-using GL Accounts/Object Codes to mean different things to different Departments) can typically be accommodated but is not guaranteed and such accommodation can extend the import timeframe;
- A list of the standard entities and their relationship is available upon request.

Integrations

“Integration” as used in this Scope of Work refers to the automation of data exchange between Questica Budget and 3rd party systems. For each of the integrations in scope, Questica shall be responsible for:

- Configuring data transformations, as described by The Customer during the implementation.
- Providing the software interface into Questica Budget, and the operational infrastructure required to manage the integration, as well as the operational infrastructure required to manage the integration (e.g. FTP server).

Questica does not offer services to build the 3rd party system end of integrations. The Customer is responsible for creating data sources and destinations within their 3rd party systems, either through their IT team or through their system's integrator. Such data sources and destinations may be database queries, delimited files, and/or web services.

The Customer is advised that in a “cloud” environment, Questica is unlikely to be granted the local network access to The Customer's other enterprise systems for a direct database-to-database integration. The most likely mode of integration will be exchange of formatted text (.CSV) files transmitted using secure FTP (SFTP or FTPS). Integration via web services may be possible where the 3rd party system provides a web services interface that provides/accepts data required by The Customer. It will be The Customer's responsibility to create or cause to be created the necessary file transfer mechanism on their side of the transfer; and to ensure that the 3rd party system's integration components are available, including web services where used.

For all integrations in scope, the following are held to be true except where specifically listed as a customization:

- Records being copied into Questica require a unique key to unambiguously match incoming data with pre-existing records. This key may be a single field value (e.g. Object Code) or a combination of multiple values (e.g. Position+Employee Number). An exception report is provided for data elements which cannot be thus matched. In the case of the Capital integrations this is particularly noteworthy: each record must include a unique project identifier (e.g. Project Number).
- While it is likely that Questica can accommodate any chart of account segments (“chart fields”), and Questica shall accommodate reasonable requests for mapping chart fields to accommodate situations such as legacy account structures, the encoding and decoding of arbitrary structures and mappings (those which cannot be logically described) is not in-scope.

- Questica integrations do not include the synchronization of chart of account strings, segments, or combinations; which is to say that the list of funds, GL accounts, costing Active, and projects, etc. is not automatically updated from the general ledger or other external system.
- Each distinct data source and/or output file is considered one point of integration. For example, if Statistical Actuals are required from multiple data sources, Questica will need to configure one integration for each data source and a single Statistical Actuals integration will be insufficient.
- Filtering is coded into the integration and there is no custom user interface for the selective export of sections of the budget except to choose a budget year, or in the case of Actuals imports the date range.
- Standard budget export integrations, where in scope, do not have the ability to export only changes since the last export. The entire budget is exported each time. A budget amendment export integration is required in order to export selected parts of the budget, such as changes since the last export.
- Amended budget export integrations, where in scope, will be either export individual amendments as created, or export the batch of amendments since the last export, or import amendments from the general ledger system as read-only budget lines. Which of these options is used is a detail determined during the implementation but each amendment integration will only work in one of these modes.
- Actuals Import integrations cannot be used to amend the budget.

Customizations

Customizations include custom business rules, modifiers, user interface (grids, forms, etc), non-standard integrations, hand-crafted reports, and ad hoc entities. They are all detailed in section “2.9. Customizations” of this Scope of Work document. Sections prior to “2.9. Customizations” detail the delivery of standard product functionality and services.

2. Scope of Work

In the Scope of Work tables, entries in the column headed “Scope of Work” are defined as follows:

Entry	Meaning
In scope	The task or function is within the scope of work to be undertaken by Questica professional services. There may be additional refinement of the scope.
Customer task	The task or function is not within the scope of work to be undertaken by Questica professional services, but will be undertaken by The Customer, with such help from Questica as is detailed in the item description. There may be additional information qualifying this.
Not in scope	The task or function is not within the scope of work to be undertaken by Questica professional services, nor will it be undertaken by The Customer.

2.1. Questica Budget Configuration & Shared Components

Functional Area	Description	Scope of Work
Implementation Hosting	Hosting of production and test instances of Questica Budget during the implementation period.	N/A System to be implemented on Questica production hosting environment.
Production Hosting	Hosting of a single production instance of the Questica Budget system, as well as additional sandboxes for The Customer's development/test/QA/training needs. In addition to these server instances, The Customer must provide user workstation environments as follows: • A web browser: supported browsers - Microsoft Edge, Firefox latest release, Chrome latest release; • Microsoft .NET Runtime 4.6 installed; • Microsoft Excel® 2007 or newer (if spreadsheet export/import feature is required, and/or saving reports as Excel is required); • Microsoft Word® 2007 or newer (if scheduled reporting and/or saving reports as Word is required); • A ClickOnce browser extension (if self-serve report authoring is required from browsers other than Internet Explorer or Edge), or Microsoft's freely available desktop version of Report Builder installed.	In scope: As per hosting agreement.
Project Management & Analysis	Questica will assign a Project Manager/Analyst ("PM") to lead this implementation on Questica's behalf. The role and responsibility of the PM is to ensure that the product is implemented according to this Scope of Work and to carry out the tasks detailed in sub-section "2.10.1. Questica Project Management Responsibilities" of this Scope of Work. Limitations: - Weekly status meetings is the number of scheduled meetings for the purpose of status reporting that the Questica PM is obligated to attend/host. Exceeding this limit is at the discretion of Questica's PM. This does not limit his or her availability for ad-hoc contact as needed. - The scope includes overhead of project management and analysis as stated in the "Scope or Work" column at right. Where delays are not on the part of Questica, additional project management and analysis beyond this limit may be billable at Questica's standard services rate.	In scope with: - One weekly status meeting; - 23 weeks of project management and analysis contiguous from project kick-off, or until all other implementation services are delivered, whichever occurs first.
On-Site PM Visits	Each on-site visits by the Questica PM, and other implementation staff (excluding training, see below) shall be a minimum of one day and no more	Not in scope

	than five consecutive business days within the same working week. Where more than one individual is on-site at the same time this is considered as multiple visits (one per individual attending). Meeting premises, facilities (including external internet access) and equipment are to be provided by The Customer. Costs associated with travel, board and lodging for on-site visits are payable by The Customer as per contract. All other work by the Questica lead(s) will be carried out off-site and contact will be via normal telecommunication channels.	
Application Level Security	Determine how and when to use the various security levels available within Questica Budget, enter users and assign them to groups and roles.	Customer task: Questica will assist with this task until administrators have received training in security configuration.
Single Sign-On	Configure Questica Budget to use The Customer's existing Windows, LDAP, CAS, Google, or SAML Authentication, for user logon. Note that in a cloud hosting environment the Customer will need to have ADFS (Active Directory Federation Service) on their domain server. Configuration of ADFS on their domain server is a Customer task.	In scope: Configure production instance to use The Customer's Windows Authentication for user logon. Questica is not responsible for software and configuration changes required to make it authenticate with non-standard implementations of authentication protocols.
Import Configuration ...		
Import Master Configuration Data	Configuration and data import of the following Questica standard data structures, using data supplied by The Customer in Excel® workbooks provided by Questica: • Division/Department hierarchy; • Fund Categories and Funds; • Account Categories and Expense and Revenue GL Accounts • Statistical Account Categories and Statistical Accounts • Other Chart of Account Segment Values • Performance Measure Units	In scope
Analytics ...		
Standard Reports	Provision of Questica Budget's standard reports. These reports are provided as-is and may not fully address The Customer's specific reporting requirements.	In scope
Administrator Authored Reporting	Questica's reporting infrastructure allows users to create ad hoc views which can be used as datasets when using Report Builder 3.0 for administrator authored reporting ; as the data source for dashboard widgets; and as part of the ad-hoc	In scope

	analytics interface. Each ad hoc view requires a base “entity” (database table), which can be one of Questica's native data entities; a user configured entity; or a custom built “report entity” which consolidates the data from multiple entities and presents it to the ad hoc view as a single entity ready to report on.	
--	--	--

2.2. Operating Module

The Questica Budget Operating module is included in this installation.

Functional Area	Description	Scope of Work
Optional Features ...	<i>The following optional add-ins offer functionality necessary for very specific budgeting activities, as described. An additional license cost is associated with each add-in.</i>	
Staff Planning Add-in	The Staff Planning add-in is supplementary to the Salaries module. It is used to build budget based on shift plans for full shift coverage, for example staffing a hospital ward, rather than by head-count/FTEs. This add-in accounts for non-productive time and auto-allocates additional and partial Positions to ensure full shift coverage within costing Centers.	Not in scope
Configuration ...		
Import Costing Centers	Configuration and data import of standard Questica Operating data structures, using data supplied by The Customer in Excel® workbooks provided by Questica. At a minimum, the files will contain the data necessary to: • Create Costing Centers (for each historical and current/future budget year to be loaded); • Add Costing Centers to Departments consistent with, and shared by, the Capital budget module; • Associate Costing Centers with Funds; • Define Budget Promotion Stages.	In scope
Initial Data Load ...		
Import Initial Budget	Import the current/future Operating budget from data import workbooks: • Create dollar budget line items at the chart of account level ... by Costing Center.	In scope: Questica will import the most recent budget with 1 years of future forecast data. Questica will repeat the import once, to accommodate a refresh prior to going live.
Import Historic Budgets	Import prior years' Operating budgets. All prior years must have a chart of account structure that is the same, or a subset of, the initial budget. Only	In scope: Questica will import 2 prior years' budgets.

	the amended OR the approved budget will be imported in each of these prior years, but not both.	
Import Actuals Transactions	Import Operating actuals transactions from data import workbooks.	Customer task: The Customer can add their historical data manually, or using Questica's Excel® export/import feature, or with an automated integration.
Import Initial Statistical Budget	Import the current/future Operating statistical budget from data import workbooks: • Create statistical budget line items at the statistical account level ... by Costing categorized.	Customer task: The Customer will enter their statistical budget data using the Questica user interface or Questica's Excel® export/import feature.
Import Historic Statistical Budgets	Import prior years' Operating statistical budgets. All prior years must have a statistical account structure that is the same, or a subset of, the initial budget. Only the amended OR the approved budget will be imported in each of these prior years, but not both.	Customer task: The Customer can add their historical statistical budget data using the Questica user interface or Questica's Excel® export/import feature.
Import Statistical Actuals Transactions	Import Operating statistical actuals transactions from data import workbooks.	Customer task: The Customer can add their historical data manually, or using Questica's Excel® export/import feature, or with an automated integration.
Import Initial Staff Plan	Import current staff plan as start point for next budget year from data import workbooks.	Not in scope
Integration ...		
Budget Export	Automated facility to transfer the Operating module budget data from Questica Budget to The Customer's Infor Lawson general ledger at the approved budget object/costing centre level when invoked by a user. Note that this scope item is in addition to the built-in budget export, which will create a CSV file using the configured account structure suitable for import into most general ledger systems.	In scope: Questica will create no more than 1 point of integration for the approved operating budget.
Amended Budget Export	Automated facility to transfer individual approved amendments to the Operating module budget data, from Questica Budget to The Customer's Infor Lawson general ledger, or the other direction as required. This interface is required only in the case where The Customer requires the amended budget to be	In scope: Questica will create no more than 1 point of integration for the operating budget amendments.

	synchronized between the two systems and where the general ledger cannot be updated by re-running the full export provided in the item in the "Budget Export" item above.	
Actuals Import	Automated facility to transfer actual data from The Customer's Infor Lawson general ledger to the Questica Budget Operating module at a transaction level on a daily basis when automatically scheduled; and/or on demand. Note that this scope item is in addition to the built-in actuals import which is able to read a CSV file, provided it conforms to some simple formatting requirements and the configured account structure.	In scope: Questica will create no more than 1 point of integration for the operating actual costs.
Statistical Budget Export	Automated facility to transfer the Operating statistical budget data from Questica Budget to a single target system at the approved budget object/costing centre level when invoked by a user.	Not in scope
Amended Statistical Budget Export	Automated facility to transfer individual approved amendments to the Operating statistical budget data, from Questica Budget to a single target system, or the other direction as required. This interface is required only in the case where The Customer requires the amended budget to be synchronized between the two systems and where the 3rd party system cannot be updated by re-running the full export provided in the item in the "Statistical Budget Export" item above.	Not in scope
Statistical Actuals Import	Automated facility to transfer actual data from a single target system to the Questica Budget Operating statistics at a transaction level on a daily basis when automatically scheduled; and/or on demand.	Not in scope

2.3. Salaries Module

The Questica Budget Salaries module is included in this installation.

Functional Area	Description	Scope of Work
Initial Data Load ...	Configuration and data import of standard Questica Salaries data structures, using data supplied by The Customer in Excel® workbooks provided by Questica. At a minimum, the files will contain the data necessary to: • Create positions; • Create salary grades; • Create salary grade steps; • Create modifiers (benefits); • Create employees; • Allocate employees to positions; • Allocate positions to costing centers. For the purpose of the above, the definitions of positions, grades, grade steps,	

	<i>employees and modifiers shall be those found in the Questica Budget Salaries manual. The relationships between them shall be those currently supported by Questica Budget and described in the Questica Budget Operating Manual.</i>	
Import Positions & Employees	Import from data import workbooks.	In scope
Import Grades & Scales	Import from data import workbooks.	In scope
Create Benefits (Modifiers)	Create “modifiers” to generate supplementary personnel costs such as benefits, allowances, and insurance. Note that modifiers are not simple 2 dimensional data that can be represented in a spreadsheet. It is not possible to load modifiers in bulk from Excel® workbooks.	Customer task: Questica will assist with this task until administrators have received training in modifier configuration.
Import Position/Costing Center Allocations	Import from data import workbooks.	In scope
Integration ...		
Payroll Actuals Import	Automated facility to transfer actual payroll transactions at the employee/position detail level from The Customer’s HR or payroll system to the Questica Budget Operating module; automatically scheduled, and/or on demand. This data may be used to replace existing GL Actuals with payroll detail or may be stored in a separate table.	Not in scope
HR Data Sync.	Automated facility to synchronize Salaries data between Questica Budget and The Customer’s HR or payroll system. This integration synchronizes: • New, deleted and updated employees; • New, deleted and updated positions; • Changes in employee-position relationships; • Changes in position-costing centre relationships. The integration of profiles (bargaining units), grades, steps, pay scales and benefits shall not be included unless expressly referred to in the “Customizations” section of this Scope of Work. Notwithstanding responses to Requests for Proposals or other communications between Questica and The Customer, the integration of custom chart field items is not included unless expressly set out in the “Customizations” section of this Scope of Work.	In scope: Questica will create no more than one integration for Employees, one for Positions, and one for Position Allocations.

2.4. Capital Module

The Questica Budget Capital module is included in this installation.

Functional Area	Description	Scope of Work
Configuration ...		
Import Projects	Configuration and data import of standard Questica Operating data structures, using data supplied by The Customer in Excel® workbooks provided by Questica. At a minimum, the files will contain the data necessary to: • Create Projects (including closed projects where historical budget is to be loaded); • Add Projects to Departments consistent with, and shared by, the Operating budget module; • Define Project Promotion Stages. The configuration data may optionally contain data necessary to: • Define Asset Categories & Asset Types; • Define Project Regions; • Define a Single Set of Project Ranking Metrics.	In scope
Initial Data Load ...		
Import Initial Budget	Import the current/future capital budget from data import workbooks: • Create dollar budget line items with GL Accounts and Funds ... by Project.	In scope: Questica will import the most recent budget with 5 years of future forecast data. Questica will repeat the import once, to accommodate a refresh prior to going live.
Import Historic Budgets	Import prior years' capital budgets. All prior years must have a chart of account structure that is the same, or a subset of, the initial budget. Only the amended OR the approved budget will be imported in each of these prior years, but not both.	In scope: Questica will import 2 prior years' budgets.
Import Actuals Transactions	Import capital actuals transactions from data import workbooks.	Customer task: The Customer can add their historical data manually, or using Questica's Excel® export/import feature, or with an automated integration.
Import Initial Statistical Budget	Import the current/future capital statistical budget from data import workbooks: • Create statistical budget line items at the statistical account level ... by Project	Customer task: The Customer will enter their statistical budget data using the Questica user interface or Questica's Excel® export/import feature.
Import Historic Statistical Budgets	Import prior years' capital statistical budgets. All prior years must have a statistical account structure that is the same, or a subset of, the initial budget. Only the amended OR the approved budget	Customer task: The Customer can add their historical statistical budget data using the Questica

	will be imported in each of these prior years, but not both.	user interface or Questica's Excel® export/import feature.
Import Statistical Actuals Transactions	Import capital statistical actuals transactions from data import workbooks.	In scope: Questica will import up to 2 years of actual costs. The Customer can add older actuals manually or using Questica Budget's spreadsheet import feature if desired.
Integration ...		
Budget Export	Automated facility to transfer the Capital module budget data from Questica Budget to The Customer's Infor Lawson general ledger or project system at the approved budget object/costing centre level when invoked by a user. Note that this scope item is in addition to the built-in budget export, which will create a CSV file using the configured account structure suitable for import into most general ledger systems.	In scope: Questica will create no more than 1 point of integration for the approved capital budget.
Amended Budget Export	Automated facility to transfer individual approved amendments to the Capital module budget data, from Questica Budget to The Customer's Infor Lawson general ledger or project system, or the other direction as required. This interface is required only in the case where The Customer requires the amended budget to be synchronized between the two systems and where the general ledger cannot be updated by re-running the full export provided in the item in the "Budget Export" item above.	Not in scope
Actuals Import	Automated facility to transfer actual data from The Customer's Infor Lawson general ledger or project system to the Questica Budget Capital module at a transaction level on a daily basis when automatically scheduled; and/or on demand. Note that this scope item is in addition to the built-in actuals import which is able to read a CSV file, provided it conforms to some simple formatting requirements and the configured account structure.	In scope: Questica will create no more than 1 point of integration for the capital project actuals.
Statistical Budget Export	Automated facility to transfer the Capital statistical budget data from Questica Budget to a single target system at the approved budget object/costing centre level when invoked by a user.	Not in scope
Amended Statistical Budget Export	Automated facility to transfer individual approved amendments to the Capital statistical budget data, from Questica Budget to a single target system, or the other direction as required.	Not in scope

		This interface is required only in the case where The Customer requires the amended budget to be synchronized between the two systems and where the 3rd party system cannot be updated by re-running the full export provided in the item in the “Statistical Budget Export” item above.	
Statistical Import	Actuals	Automated facility to transfer actual data from a single target system to the Questica Budget Capital statistics at a transaction level on a daily basis when automatically scheduled; and/or on demand.	Not in scope

2.5. Financial Statements

The Questica Budget Financial Statements add-in is not included in this installation.

2.6. Performance Measures

The Performance Measures module is included in the framework license, however this SoW does not include configuration of the system by Questica. The Customer may use the online training material to make use of Performance Measures.

Note that read-only licenses are not available for Questica's Performance Measures module. Purchase of an 'Unlimited Read Only' license does not grant read-only users access to this module.

2.7. OpenBook

Questica's “OpenBook” cloud service for data transparency is included in this implementation.

Functional Area	Description	Scope of Work
Configuration ...		
System Administration	General configuration of OpenBook to set the look-and-feel, captions, and add users.	Customer task: As a customer task, The Customer will leverage Questica's training material and reasonable assistance of Questica's PM or consultant to understand the administration options.
Configuration of Visualizations	The Customer is able to add multiple “visualizations” of their data to their OpenBook site. Each dataset is displayed according to a template selected from a library of visualization styles.	Customer task: As a customer task, The Customer will leverage Questica's training material and reasonable assistance of Questica's PM or consultant to understand the visualizations.
Configuration of Questica Budget	Configure ad hoc views in Questica Budget as a convenient source of source of OpenBook data.	In scope: Questica will, with the help of The Customer, configure up to 3 ad hoc views as a

		source of OpenBook data. The Customer is able to configure as many additional ad hoc views as required.
Integration ...		
Import from Questica Budget	Connection of OpenBook to Questica Budget, through a shared API key, and the publication of ad hoc views for seamless import of data into OpenBook from Questica Budget.	In scope
Import from CSV Files	Initial and ongoing population of datasets through the import of .CSV files.	Customer task:As a customer task, The Customer will leverage Questica's training material and reasonable assistance of Questica's PM or consultant to load and configure datasets from CSV files.

2.8. Training

Functional Area	Description	Scope of Work
Online Resources	Questica has invested in creating and maintaining a substantial library of online training courseware in the Questica Help and the Questica Academy. Having signed-up with an valid Customer email address, all material is available to all users during and after the implementation.	
Training Approach	Questica's standard training model is to train the trainers and/or advanced users within The Customer's organization in all aspects of the application related to the system delivered. Training is a blend of online courseware and "live" training, either in a classroom (if in scope, see "Training Location" below) or via a web conference. In the case of video training Questica's PM will field outstanding questions after the scheduled viewing. Where a specialist trainer is "In Scope" below this might be as a follow-up to a video or presentation of the entire course.	
Training Schedule	Questica's PM will help determine at which point in the implementation the delivery of training is most appropriate. The Customer may prefer to receive some or all of their training in the early stages of the implementation, in the knowledge that such training will need to be carried out using a generic training database. Alternatively The Customer may choose to wait until the implementation is substantially complete in order to be trained on their own instance of Questica. Having received train-the-trainer training, the Customer is responsible for training the end users, except where explicitly included in scope (below).	
Training Location	* Note that this item relates only to location of training and does not confer training in addition to those items scoped below. On-Site Training:	

	Is not included. Remote Training: All training provided by Questica will be delivered using web conferencing tools. Attendees are able to participate in the training from multiple locations using their own computer, or in a conference room with shared screen (their own computer is recommended). Audio is provided by telephone or the computer's own audio facilities. These sessions may be recorded upon request, with the unedited recording provided to The Customer for storage and dissemination using their own media repository.	
Instructional Videos/eLearning Courseware	Instructional on-boarding videos (one per module) or full eLearning courseware (covering all modules) aimed at end-users. This material will show general system usage, and how to enter and query budgets tailored to The Customer's process.	Not in scope
<i>The following sections detail the proposed training. The Customer's PM will work with Questica's PM or training specialist to determine the final training plan and topics may be swapped to receive more of one and less of another, provided that the total amount of training does not exceed this proposed plan.</i>		
Training: Administration	Training in Questica Budget administration is delivered via a series of training courseware, such as pre-recorded videos.	In scope: This will be delivered in one training session.
Training: Administrator Authored Reporting	Training in the use of ad hoc views and dashboards is delivered via pre-recorded training videos. Questica also provides instructional videos on the use of the Report Builder 3.0 report authoring tool but recommend that users make use of the many online resources to gain expertise in this tool.	In scope: Up to 2 training sessions will be held on this topic.
Train-the-Trainer: Operating	"Train the trainer" training in the use of Questica Budget's Operating module.	In scope: Up to 3 training sessions will be held on this topic.
Train-the-User: Operating	"Train the user" training in the use of Questica Budget's Operating module.	Customer task
Train-the-Trainer: Staff Planning	"Train the trainer" training in the use of Questica Budget's Staff Planning feature.	Not in scope
Train-the-User: Staff Planning	"Train the user" training in the use of Questica Budget's Staff Planning feature.	Not in scope
Train-the-Trainer: Salaries	"Train the trainer" training in the use of Questica Budget's Salaries module.	In scope: This will be delivered in one training session.
Train-the-User: Salaries	"Train the user" training in the use of Questica Budget's Salaries module.	Customer task
Train-the-Trainer: Capital	"Train the trainer" training in the use of Questica Budget's Capital module.	In scope: This will be delivered in one training session.

Train-the-User: Capital	“Train the user” training in the use of Questica Budget's Capital module.	Customer task
Train-the-Trainer: Financial Statements	“Train the trainer” training in Questica Budget's Financial Statements feature is delivered via a pre-recorded training video.	Not in scope
Train-the-Trainer: Performance Measures	“Train the trainer” training in the use of Questica Budget's Performance module is via pre-recorded training video.	Not in scope
Train-the-User: Performance Measures	“Train the user” training in the use of Questica Budget's Performance module.	Not in scope

2.9. Budget Book

Questica Budget Book Powered by CaseWare is included in this implementation. The Customer agrees to the following in respect of the creation of the Budget Book:

- 1) That the implementation of the Budget Book shall be guided by FH Black & Company Inc. (“FH Black”).
- 2) That the Budget Book shall be implemented using the CaseWare desktop publishing application, to be hosted on a computer provided by The Customer.
- * Note: CaseWare is an industry leading desktop publishing application. It is not available as a cloud-based application and is not covered by a Questica cloud/SaaS/hosting.
- 3) To provide on-going guidance to the FH Black team respecting presentation and disclosure requirements, general ledger/Questica account structure, budget processes, etc., as necessary.
- 4) To develop and submit to the FH Black team Questica Ad-Hoc Reports that contain all automated values and narrative to be included in the standard budget book content.
- 5) In the case that Questica Budget groupings be insufficient for Budget Book requirements, to group all accounts by Object and by Function as recommended/advised by FH Black within a CaseWare “Working Papers” file.
- 6) To reconcile and adjust the financial data within the “Working Papers” file as is necessary to agree with previously published reports. That this process may also require posting adjusting journal entries within CaseWare and if so required, the client will be responsible for this work.
- 7) To provide a mapping/group legend for each value in the statements, schedules and notes.
- 8) To complete miscellaneous tasks as may be assigned by the FH Black team during the implementation.
- 9) To attend CaseWare Working Papers and Financials Template courses as deemed necessary by FHB. The cost of this training is included in the annual fee for a single user (“CaseWare Champion”) only.
- 10) To review, test and sign-off on all FH Black work within five (5) business days of receipt of such work.

Functional Area	Description	Scope of Work
-----------------	-------------	---------------

Budget Book Option	Questica offers three options for the publishing of a Budget Book: 1) Template Budget Book Powered by CaseWare - Single User; 2) Template Budget Book Powered by CaseWare - Multi-User (5 Seats); 3) Custom Budget Book.	In scope: Template Budget Book Powered by CaseWare - Single User. Implementation and configuration of CaseWare's standard Budget Book library: ▸ Review Questica setup, account groups & cost centers and configuration of CaseWare to support these structures. ▸ Configure standard content and identify requested modifications to: - Fonts, indents, and margins - Ordering of documents ▸ Initial configuration of standard content with client standards. ▸ Configuration & testing of Questica integration. ▸ Guidance to client on their tasks (inserting schedules, pictures, embedded PDFs etc.).
CIP Add-on	Addition of CIP to the standard template, either as a separate book or inclusion in a single book.	In scope
Ad Hoc Views & Reports	The Customer is responsible for submitting to the FH Black team ad hoc views and reports that contain ALL automated values and narrative to be included in the standard budget book content. The scope of this activity is to assist The Customer in creating some or all of those data sources.	Customer task: As a customer task, The Customer will leverage Questica's training material and reasonable assistance of Questica's PM or consultant to configure ad hoc views in Questica Budget.

Aftercare	Annual aftercare is used to work with FH Black consultants to install updated versions of software, tweak the style sheets to change the presentation of their data, re-configure existing content, group new G/L accounts, modify groupings, address reorganizations, and other common tasks. Aftercare does NOT cover customization of existing content or development of new custom content that The Customer may wish to add.	In scope: 30 hours of Aftercare annually.
Train-the-Trainer	Initial Train-the-trainer training (“CaseWare Champion”).	In scope: The Customer's “CaseWare Champion” will attend 32 hours of FH Black standard online training.

2.9. Customizations

2.9.1. Custom Business Rules (CBRs), Modifiers, User Interface

This Scope of Work does not include the development of customizations.

Customizations not listed here can be accommodated upon receipt and acceptance of a change order, which will include a specification and may include an estimate for the work to be charged on a time & materials basis at the applicable rate.

2.9.2. Custom Reports, Custom Ad Hoc Entities and Custom Dashboards

This Scope of Work does not include the development of custom reports or ad hoc entities.

Custom reporting and dashboard requirements not listed here can be accommodated upon receipt and acceptance of a change order, which will include a specification and may include an estimate for the work to be charged on a time & materials basis at the applicable rate.

2.9.3. Specifications

Before Questica undertakes any customizations described herein, as well as integrations with other systems, and data imports, The Customer and Questica shall prepare and sign-off on the detailed specifications (“Specifications”) for the work to be performed.

2.9.4. Change Orders

Any changes to the agreed specifications, including changes requested by The Customer within the warranty period, shall be the subject of a new change order and the work to be carried out thereunder shall be separately quoted, agreed, and billed and shall not be included as part of this Scope of Work.

2.9.5. Warranty

Once completed the custom work shall be warranted by Questica in accordance with the "Technical Support Services" section of the Questica Software License Agreement.

2.10. Project Management

2.10.1. Questica Project Management Responsibilities

1. Coordinating the development of the project plan in consultation with The Customer project manager and team members.
2. Ensure the timely execution of Questica's deliverables.
3. Ensuring that members of The Customer team are sufficiently educated in the Questica Budget application understand the implications of initial design decisions.
4. Providing The Customer with timely and detailed descriptions of the items identified as "Customer task" within this SoW, along with their expected completion dates.
5. Providing regular progress status reports to the key team members.
6. Advising The Customer of the impact on the expected delivery dates of any Questica or Customer deliverable is advanced or delayed.
7. Tracking issues through n issue log.
8. Author and coordinate the approval of change order estimates, and the execution of the deliverables approved.

2.10.2. The Customer Project Management Responsibilities

1. Running The Customer's project according to The Customer's norms, standards, practices, and protocols.
2. Acting as primary communication point with the Questica PM.
3. Providing definitive responses to the Questica PM on all decision points.
4. Ensuring the timely execution of The Customer's deliverables, as identified within this SoW, and advising the Questica PM of expected completion dates.
5. Ensuring that implementation training material is reviewed in a timely manner.
6. Ensuring that change orders contain a full specification of the changes required.
7. Ensuring that customizations are fully specified and documented.

8. Ensuring that all Customer team members have a clear understanding of their responsibilities to the project.
9. Approving (sign-off) Questica deliverables.

2.10.3. Project Planning

1. The project plan will be prepared by the Questica project manager in consultation with The Customer's project manager and team members.
2. The project planning phase will determine whether Questica Budget modules are to be implemented serially or in parallel and, if serially, the order of module implementation.
3. The implementation of each Questica Budget module will involve the following stages:
 - a. An overview of, and training in, the module and the ways in which the module can be extended by configuration and customizations.
 - b. A determination of how best to configure and, if necessary, customize the module to meet the objectives of The Customer.
 - c. An overview of the advantages and, if present, disadvantages of the proposed configuration and customizations.
 - d. Documentation of the agreed configuration and customizations.
 - e. The preparation of data import templates consistent with the agreed configuration and customizations.
 - f. The completion by The Customer of the data import templates.
 - g. The import by Questica of the data import templates.
 - h. Customer approval of the imported Questica Budget structures and data.
 - i. The creation of custom report entities to support The Customer's reporting, where such reporting is not readily available within Questica Budget's natural data model.
 - j. Training in the creation of (ad hoc) views, and ad hoc print reports using Microsoft Report Builder 3.0.
 - k. Determination of custom reporting requirements that cannot be met by the standard reports and the use of the out-of-the-box ad hoc reporting features.
 - l. The preparation of change orders and specification for any custom reports not detailed in this Scope of Work.
 - m. The development by Questica of any required custom reports, whether detailed in this Scope of Work or added to the scope through a change order.
 - n. The testing and acceptance of custom reports and report views.
 - o. The deployment of custom reports and report views.
 - p. The development of an integration strategy for updating the Questica Budget database with actual result data from the financial system and the passing of budget data into the financial system.

- q. The development by The Customer of the integration components (queries, intermediate tables, file output/input etc.) which are required to access actual data from the financial system/HR System and update the financial system with budget data.
- r. The development by Questica of:
 - i. integration components which transform budget data prior to updating the financial system;
 - ii. integration components which transform actual result data prior to updating the Questica Budget database;
 - iii. integration components required to initiate the execution of integrations.
- s. The deployment of all integration components.
- t. The testing and acceptance by The Customer of the integration components.

2.11. Customer Resources

- 1. The requirement for Customer resources is variable with:
 - a. The duration of the project.
 - b. The degree of internal Customer consultation.
 - c. The level of internal Customer agreement.
 - d. The number of customizations.
 - e. The familiarity of Customer staff with the SQL Server environment.

APPENDIX C – Contract Exceptions

This Appendix C is reserved for agreed upon changes or exceptions to the Software Subscription Agreement. Changes in this Appendix C supersede and replace the identified language or section from the Software Subscription Agreement.

END OF SOFTWARE SUBSCRIPTION AGREEMENT DOCUMENT

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

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

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

NA

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes

☐ No

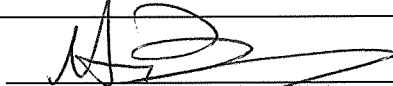
B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

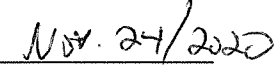
☐ Yes

☐ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 
Signature of vendor doing business with the governmental entity


Date

Resolution Awarding A Contract for Budget and Transparency Software to Questica Ltd.



Resolution Awarding a Contract for Budget and Financial Transparency Software to Questica Ltd.

- The City's current budgeting and transparency software contract expires on December 15, 2020.
 - City staff has selected Questica Ltd as the provider that meets the City's needs and provides best value.
 - Contract includes SAAS Operating Budget, Capital Budget, Personnel Forecasting; Performance Measures; OpenBook transparency; and the optional program Budget Book software.
 - The City will utilize the National Cooperative Purchasing Alliance (NCPA) for the purchase
-



Resolution Awarding a Contract for Budget and Financial Transparency Software to Questica Ltd.

Five Year Cost - Questica LTD

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	Total Five Year Cost
SAAS - Operating Budget, Capital Budget, Personnel, Open Book - Transparency Implementation	\$49,284.21	\$49,284.21	\$49,284.21	\$49,284.21	\$49,284.21	\$246,421.05
Discount	78,947.37	-	-	-	-	78,947.37
	-10,000.00	-	-	-	-	-10,000.00
	\$118,231.58	\$49,284.21	\$49,284.21	\$49,284.21	\$49,284.21	\$315,368.42
Budget Book - Caseware	\$16,052.63	\$16,052.63	\$16,052.63	\$16,052.63	\$16,052.63	\$80,263.15
	\$134,284.21	\$65,336.84	\$65,336.84	\$65,336.84	\$65,336.84	\$395,631.57



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Greg McCaffery

SUBJECT: 6. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on awarding a bid to Cascade Engineering, Inc. for Solid Waste 95 Gallon Refuse Containers (Greg McCaffery)

GENERAL INFORMATION

This item was advertised on October 25 and November 1, 2020, with a bid opening of November 10, 2020. This purchase is for the replacement and new customers using 95-gallon containers within the Solid Waste Services Division.

The contract is for up to 2,000 containers, with 5 bids being received. The low qualified bid was received from Cascade Engineering, Inc. Grand Rapids, MI in the amount of \$45.84 per container, for a total base bid of \$91,880.00.

SPECIAL CONSIDERATIONS

This contract will be for 2,000 containers and will be in effect through December 2021. The containers will be ordered on an as needed basis.

FUNDING/FISCAL IMPACT

This bid is good for 2,000 95-gallon refuse containers. Funding will be allocated through our annual Solid Waste Fund.

STAFF RECOMMENDATION

Award bid CB-2106 for 95 Gallon Refuse Containers to Cascade Engineering, Inc., Grand Rapids, MI with a unit price of \$45.84 per container, with a total base bid of \$91,880.00.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 95_GAL_RESOLUTION NO. ____ (3)
2. CB2106 BID TABSHEET
3. 95 Gallon Bid Award City Council Presentation Slides (2) (1)

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AWARING BID TO CASCADE ENGINEERING, INC., GRAND RAPIDS, MICHIGAN.

WHEREAS, the City of Abilene duly advertised and gave such notice, as required by law, for bids for purchase of Solid Waste 95-gallon Refuse Containers; and

WHEREAS, the purchase enables the City of Abilene to continue to provide trash collection services within the City; and

WHEREAS, the following qualified bid was received and opened on November 10, 2020:

Cascade Engineering, Inc., Grand Rapids, MI \$45.84 per Container

WHEREAS, Cascade Engineering, Inc. Grand Rapids, MI submitted the successful low bid in the amount of \$45.84 per Container, for a total of \$91,880.00 for 2,000 containers, with their bid meeting specifications.

Staff recommends awarding the bid to the low bidder, Cascade Engineering, Inc. Grand Rapids, MI.

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

PART 1: That the City Council approves this bid in the amount of \$91,880.00

PART 2: That this Resolution shall take effect immediately from and after passage.

ADOPTED this 3rd day of December, 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

**CITY OF ABILENE
PURCHASING DIVISION
TABULATION OF BIDS**

PAGE
1 OF 1

DEPARTMENT: SOLID WASTE SERVICES
BID NO.: CB-2106
TIME OF OPENING: 11:00 A.M.
DATE OF OPENING: NOVEMBER 10, 2020

CASCADE ENGINEERING
GRAND RAPIDS, MI

SCHAEFER SYSTEMS
INTERNATIONAL, INC.
CHARLOTTE, NC

TOTER, LLC
STATESVILLE, NC

IPL PLASTICS, INC.
FORSYTH, GA

REHRIG PACIFIC COMPANY
DALLAS, TX

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	95-GALLON FULLY AUTOMATED CARTS	2,000	EA	*45.84		47.50		48.01		49.21			DOES NOT MEET SPECS		
BASE BID				91,880.00		95,000.00		96,020.00		98,420.00					
DISCOUNT															
TOTAL BID				91,880.00		95,000.00		96,020.00		98,420.00					

*NOTES: INDICATES RECOMMENDED AWARD

Agenda Item: Bid Award

Resolution for Bid Award
Solid Waste Services 95 - Gallon Containers

Bid No. CB – 2106
(McCaffery)



Agenda Item Summary

- Bids were advertised for replacement and new inventory Solid Waste Services 95 - gallon containers on Oct. 25th and Nov. 1st .
- Five (5) bids were received on November 10, 2020, with one not meeting specifications.
- Low Bid, meeting specifications was received from Cascade Engineering, Grand Rapids, MI in the amount of \$45.84 per container for a total of \$91,680.
- Staff Recommends Award of Bid to Cascade Engineering, Inc.



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Greg McCaffery

SUBJECT: 7. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding a Bid (CB-2107) to Rotational Molding, Inc. for Solid Waste 300 Gallon Refuse Containers (Greg McCaffery)

GENERAL INFORMATION

This item was advertised on October 25 and November 1, 2020, with a bid opening of November 10, 2020. This purchase is for the replacement and new customers using 300-gallon containers within the Solid Waste Services Division.

The contract is for up to 600 containers, with one bid being received from Rotational Molding, Inc., Gardena, CA in the amount of \$259.80 container for a total base bid of \$155,880.00.

SPECIAL CONSIDERATIONS

This contract will be for 600 containers and will be in effect through December 2021. The containers will be ordered on an as needed basis.

FUNDING/FISCAL IMPACT

This bid is good for 600 - 300 gallon refuse containers. Funding will be allocated through our annual Solid Waste Fund.

STAFF RECOMMENDATION

Award bid CB-2106 for 300 gallon refuse containers to Rotational Molding, Inc., Gardenia, California, with a unit price of \$259.80 per cart, with a total base bid of \$155,880.00.

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 300_GAL_RESOLUTION NO. ____ (1)
2. CB2107 BID TABSHEET
3. 300 Gallon Bid Award City Council Presentation Slides (1)

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AWARING BID TO ROTATIONAL MOLDING, INC., GARDENA, CALIFORNIA.

WHEREAS, the City of Abilene duly advertised and gave such notice, as required by law, for bids for purchase of Solid Waste 300-Gallon Refuse Containers; and

WHEREAS, the purchase enables the City of Abilene to continue to provide trash collection services within the City; and

WHEREAS, the following qualified bid was received and opened on November 10, 2020:

Rotational Molding, Inc., Gardena, CA \$259.80 per Container

WHEREAS, Rotational Molding, Inc. Gardena, CA submitted the successful low bid in the amount of \$259.80 per Container, for a total of \$155,880.00 for 600 containers, with their bid meeting specifications.

Staff recommends awarding the bid to the low bidder, Rotational Molding, Inc. Gardena, CA.

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

PART 1: That the City Council approves this bid in the amount of
\$155,880.00

PART 2: That this Resolution shall take effect immediately from and after
passage.

ADOPTED this 3rd day of December, 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

**CITY OF ABILENE
PURCHASING DIVISION
TABULATION OF BIDS**

PAGE
1 OF 1

DEPARTMENT: SOLID WASTE SERVICES
BID NO.: CB-2107
TIME OF OPENING: 11:00 A.M.
DATE OF OPENING: NOVEMBER 10, 2020

ROTATIONAL MOLDING INC
GARDENA, CA

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	300-GALLON FULLY AUTOMATED CONTAINERS	600	EA	*259.80											
BASE BID				155,880.00											
DISCOUNT															
TOTAL BID				155, 880.00											

*NOTES: INDICATES RECOMMENDED AWARD

Agenda Item: Bid Award

Resolution for Bid Award
Solid Waste Services 300 - Gallon Containers

Bid No. CB – 2107
(McCaffery)



Agenda Item Summary

- Bids were advertised for replacement and new inventory Solid Waste Services 300 - gallon carts on Oct. 25th and Nov. 1st .
- One bid was received on November 10, 2020. (Other two (2) other companies directly contacted did not return a bid.)
- Low Bid, meeting specifications was received from Rotational Molding, Inc., Gardena, CA in the amount of \$259.80 per Container for a total of \$155,880.
- Staff Recommends Award of Bid to Rotational Molding, Inc.



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: **8. Ordinance (First Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on approving an Ordinance establishing the 2021 Standards of Care and Setting a Public Hearing for December 17, 2020 (Lesli Andrews)**

GENERAL INFORMATION

In August of 1997 the 74th Legislature enacted 42.041(14) of the Texas Human Resources Code, which exempts youth programs operated by a municipality from state child-care licensing requirements. The Texas Human Resources Code provides that in order for a municipality to be exempt from the state's licensing requirements, the governing body of the municipality must annually adopt standards of care by ordinance after a public hearing. The major difference in the City's standards is that we have established standards for 6-13 years of age, whereas the state's standard is for 0-6 years of age, a population we mostly do not serve.

SPECIAL CONSIDERATIONS

The standards of care require three inspections. Review levels be performed each year to ensure compliance. The first level is performed by the Recreation Coordinator to confirm adherence to the standards themselves. The second is a visual inspection of the facilities to be conducted by the division manager with the assistance of a Parks and Recreation Professional not associated with the City of Abilene. The visual inspection was conducted on November 6, 2020. The Parks and Recreation Professional who assisted was Carl White, Parks and Recreation Director, from San Angelo, Texas. The third level is an annual inspection by both the Fire Department and Environmental Health. All of these inspections and reviews were satisfactorily completed and the program is in compliance. A copy of the 2021 Standards of Care will be online for additional

access.

The only change in the 2021 Standard of Cares was the removal of the verbiage "and other designated schools" on page 3 in the General Administration section, under section 1. Organization, subsection C. This identified the locations for the City supported program offerings. We no longer offer our programs outside of the City operated recreation centers, therefore the designated schools reference was removed.

FUNDING/FISCAL IMPACT

No funding or fiscal impact.

STAFF RECOMMENDATION

Staff recommends adopting the 2021 Standards of Care.

BOARD OR COMMISSION RECOMMENDATION

The 2021 Standards of Care were adopted at the November 17, 2020 Parks and Recreation board meeting.

ATTACHMENTS:

1. 2021_Ordinance_Standards_of_Care
2. 2021StandardsofCareFinal
3. 2021 standards of care letter
4. Standards of Care 2021 Presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, ESTABLISHING STANDARDS OF CARE FOR CITY OF ABILENE YOUTH PROGRAMS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; AND CALLING A PUBLIC HEARING.

WHEREAS, the City of Abilene, through the Division of Recreation, provides youth programs that contribute to the overall wellbeing of youth and families of the City of Abilene; and

WHEREAS, these youth programs are presently held at the Recreation Centers; and

WHEREAS, the 74th Legislature enacted Section 42.041(14) of the Texas Human Resources Code, which would exempt youth programs operated by a municipality from child-care state licensing requirements provided the governing body of the municipality annually adopts standards of care by ordinance after a public hearing; and

WHEREAS, The City of Abilene has had Standards of Care in place for twenty years which have functioned well; and

WHEREAS, Abilene Parks and Recreation Board the Administrator of Recreation for the City of Abilene recommends the Standards of Care as set forth in Exhibit “A” be adopted by the City of Abilene:

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

- Section 1.** That all of the recitals and preambles hereinabove stated are found to be true and correct and are incorporated herein and made a part of this ordinance.
- Section 2.** That the Youth Programs’ Standards of Care for the City of Abilene, as detailed in Exhibit “A” attached hereto and incorporated herein for all purposes, are hereby approved and adopted.
- Section 3.** That all ordinances or parts of ordinances in conflict with the provisions of the ordinance are hereby repealed.
- Section 4.** That, if any provision of this ordinance will be held to be invalid or unconstitutional, the remainder of such ordinance will continue in full force and effect, the same as if such invalid or unconstitutional provision had never been a part hereof.
- Section 5.** That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required.

PASSED ON FIRST READING this 3rd day of December, 2020.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the ___ day of December 2020, to permit the public to be heard prior to final consideration of this ordinance.

PASSED ON SECOND AND FINAL READING this 17th day of December 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

City of Abilene Recreation Division



Standards of Care for Youth Programs 2021

Community Services Office
633 Walnut Street
Abilene, TX 79601
(325) 676-6217

www.abilenetx.gov/parksandrec
parksandrec@abilenetx.gov

Table of Contents

<i>General Administration</i>	3
Organization	3
Definitions	4
Objectives of Youth Program	5
Inspections/Monitoring/Enforcement	5
Enrollment	6
Suspected Abuse	6
 <i>Staffing</i>	 6
Recreation Center Coordinators	6
Recreation Specialist/Leaders	7
Playground Supervisor/Aides	8
Training	9
 <i>Operations</i>	 10
Staff/Participants Ratio	10
Notifications	10
Discipline	10
Programming	11
Communication	12
Transportation	12
 <i>Facility Standards</i>	
Safety	12
Fire	13
Health	13
Participants	14

ABILENE YOUTH PROGRAMS

STANDARDS OF CARE

General Administration

1. Organization

- A. The governing body of the City of Abilene Youth Programs is the Abilene City Council.
- B. Implementation of the Youth Program's Standards of Care is the responsibility of the Recreation Administrator and departmental employees.
- C. Youth Programs ("Program") to which these Standards apply are the programs held at the City Recreation Centers currently operated by the City of Abilene. Other programs may be subsequently designated by the City of Abilene.
- D. Each of the City of Abilene Youth Program sites will have a current copy of the Standards of Care available for public and staff review.
- E. Parents of participants will be provided a current copy of the Standards of Care during the registration process or the Standards of Care can be accessed on the City of Abilene website at www.abilenetx.gov/camps. Parents of participants will be informed that the City of Abilene Youth Programs is not licensed by the State.
- F. Criminal background checks will be conducted on prospective Youth Program employees. If results of the criminal checks indicate that an applicant has been convicted for any of the following offenses, he or she may not be considered for employment:
 - (1) A felony or a misdemeanor classified as an offense against a person or family;
 - (2) A felony or misdemeanor classified as public indecency;
 - (3) A felony or misdemeanor violation of any law intended to control the possession or distribution of any controlled substance or any violation of the City Policy;
 - (4) Any offense involving moral turpitude;
 - (5) Any offense that would potentially put the City of Abilene or participants of the Program at risk.
 - (6) In addition, a nationwide check of databases for the Sex Offender Registration Program will be conducted on prospective Program Staff. If results of the check indicate that an applicant is a registered sex offender, he or she will not be considered for employment.

2. Definitions

- A. City: City of Abilene.
- B. City Council: City Council of the City of Abilene.
- C. Department: Community Services Department of the City of Abilene.
- D. Director: City of Abilene Director of Community Services Department or designee.
- E. Division: Recreation Services Division of the City of Abilene.
- F. Employee: Someone who has been employed by the City of Abilene and has been assigned responsibility for managing, administering, or implementing some portion of the City of Abilene Youth Programs.
- G. Parent(s): A parent or guardian who has legal custody and authority to enroll a child in the City of Abilene Youth Programs.
- H. Participant: A youth whose parent has completed all required registration procedures and who has been determined to be eligible for the City of Abilene Youth Programs.
- I. Program Manual: A notebook of policies, procedures, required forms, and organizational and programming information relevant to City of Abilene's Youth Programs.
- J. Program Site: Any area or facility where the City of Abilene Youth Programs is held.
- K. Recreation Coordinator: City of Abilene Recreation Division full-time Programmer who has been assigned administrative responsibility for the City of Abilene Youth Programs.
- L. Recreation Specialist or Recreation Leader: Any City of Abilene Recreation Division employee (full-time or part-time) who has been assigned responsibility to implement the City of Abilene Youth Programs.
- M. Playground Supervisor or Playground Aide: Any City of Abilene Recreation Division temporary employee who has been assigned responsibility to implement the City of Abilene Youth Programs.
- N. Administrator: City of Abilene Administrator of Recreation Services or his or her designee.
- O. Youth Program(s) or Program: City of Abilene Youth Programs held at the City's Recreation Centers are currently operated by the City of Abilene. Other programs may be subsequently designated by the City of Abilene. These programs are not child-care facilities.

3. Objective of Youth Programs

- A. To provide Youth with the opportunity of recreational activities which may include sports, games, arts and crafts, education, dance, drama, special events, field trips, etc...
- B. To provide an encouraging atmosphere by emphasizing the positive development of physical skills, emotional development, and growth of self-confidence.
- C. To provide a safe environment by promoting good health and welfare for all participants.
- D. To teach Youth how to spend leisure time wisely in an effort to meet the emotional, physical, and social needs of Youth.

4. Inspections/Monitoring/Enforcement

- A. An annual facility inspection report will be initiated by the Recreation Coordinator of each Program to confirm adherence to the Standards of Care. This report will be submitted in March.
 - (1) Inspection reports will be sent to the Administrator for review and kept on record for at least two years.
 - (2) The Administrator will review the report and establish deadlines and criteria for compliance with the Standards of Care.
- B. The Administrator will make visual inspections of the facilities, based on the following schedule. A Parks and Recreation Professional that is not associated with the City of Abilene will assist on one of the following inspections.
 - (1) A pre-summer check in April of each year; and
 - (2) A fall check in October of each year.
- C. Complaints regarding enforcement of the Standards of Care will be directed to the Recreation Coordinator. The Recreation Coordinator will be responsible for taking the necessary steps to resolve the problems. Complaints regarding enforcement of the Standards of Care and their resolution will be recorded by the Recreation Coordinator and forwarded to the Administrator, the complaint and the resolution will be noted.
- D. The Administrator will provide an annual report to the Parks and Recreation Board on the overall status of the Youth Programs and their operation relative to compliance with the adopted Standards of Care.

5. Enrollment

- A. Before a child may be enrolled, a parent/guardian must sign registration forms that contain:

- (1) Name, address, and telephone number of the child;
- (2) Name and address of parents/guardian and telephone numbers during program hours;
- (3) The names and telephone numbers of people to whom the child may be released;
- (4) A statement of the child's special needs; and
- (5) A signed liability waiver which also includes permission for field trips and emergency medical authorization.
- (6) Signed acknowledgement of program code of conduct.

6. Suspected Abuse

Program employees will report suspected child abuse in accordance with the Texas Family Code. In a situation where an Employee is involved in an incident with a child that could be considered child abuse, the incident shall immediately be reported to the Recreation Division Manager. The Recreation Division Manager will immediately notify the Police Department and any other agency, as may be appropriate.

Staffing – Responsibilities and Training

1. Recreation Center Coordinators

- A. Qualifications

1. Recreation Coordinators will be full-time, professional employees of the City of Abilene Recreation Division
2. Recreation Coordinators must meet the minimum education/experience requirements for employment with the City of Abilene to plan and implement recreation activities.
3. Recreation Coordinators must be able to pass a background investigation, including testing for illegal substances.
4. Coordinators must have a current certification in First Aid and Cardio Pulmonary Resuscitation (CPR)– Adult and Child. These certifications must be from a nationally recognized certifying organization, i.e., American Heart Association or American Red Cross.
5. Recreation Coordinators must complete City of Abilene mandatory training.

- B. Job Functions

1. Recreation Coordinators are responsible for administering the Youth Programs daily operations in compliance with the Adopted Standards of Care.
2. Recreation Coordinators are responsible for hiring, supervising, and evaluating Recreation Specialist/Leaders.
3. Recreation Coordinators are responsible for planning, implementing, and evaluating programs.
4. Recreation Coordinators maintain supplies, equipment and all necessary documentation for the operation of the Youth Programs.
5. Recreation Coordinators must communicate with Parent(s) as necessary.
6. Recreation Coordinators know and follow all City of Abilene, Division, and Program Manual standards, policies and procedures that apply to Youth Programs.
7. Recreation Coordinators ensure that participants are released only to a Parent(s) or an adult designated by the Parent(s).

2. Recreation Specialist/Recreation Leader

A. Qualifications

1. Recreation Specialist/Leaders may be full-time, part-time, or temporary employees of the City of Abilene Recreation Division.
2. Recreation Specialist/Leaders should be able to consistently exhibit competency, good judgment, and self-control when working with children.
3. Recreation Specialist/Leaders must relate to children with courtesy, respect, tolerance, and patience.
4. Recreation Specialist must have a current certification in First Aid and Cardio Pulmonary Resuscitation (CPR)– Adult and Child. These certifications must be from a nationally recognized certifying organization, i.e., American Heart Association or American Red Cross.
5. Recreation Specialist/Leaders must pass a background investigation, including testing for illegal substances.
6. Recreation Specialist/Leaders will be responsible for understanding and following all City of Abilene, Departmental, Division, and Program standards, policies, and procedures that apply to the City of Abilene Youth Programs.

B. Job Functions

1. Recreation Specialist/Leaders will be responsible for providing participants with an environment in which they can feel safe, enjoy wholesome recreation activities, and can participate in appropriate social opportunities with their peers.
2. Recreation Specialist/Leaders will directly lead activities using a method that will provide opportunities for involvement of all participants on an equal basis.
3. Recreation Specialist/Leaders must exhibit enthusiasm for the activity to impart a feeling of excitement in the participants.
4. Recreation Specialist/Leaders will promote a non-competitive, positive, image-enhancing environment for each participant through the direction of fun, varied, and well-organized activities.
5. Recreation Specialist/Leader must be with participants at all times while they are participating in the Program.
6. Recreation Specialist/Leaders ensure that participants are released only to a Parent(s) or an adult designated by the Parent(s).

3. Playground Supervisor and/or Playground Aide

A. Qualifications

1. Playground Supervisor/Aides will be temporary employees of the City of Abilene Recreation Division.
2. Playground Supervisor/Aides should be able to consistently exhibit competency, good judgment, and self-control when working with children.
3. Playground Supervisor/Aides must relate to children with courtesy, respect, tolerance, and patience.
4. Playground Supervisor/Aides must pass a background investigation, including testing for illegal substances.
5. Playground Supervisor/Aides will be responsible for understanding and following all City of Abilene, Departmental, Division, and Program standards, policies, and procedures that apply to the City of Abilene Youth Programs.

B. Job Functions

1. Playground Supervisor/Aides will assist in leading activities using a method that will provide opportunities for involvement of all participants on an equal basis.

2. Playground Supervisor/Aides must exhibit enthusiasm for the activity to impart a feeling of excitement in the participants.
3. Playground Supervisor/Aides will promote a non-competitive, positive, image-enhancing environment for each participant through the direction of fun, varied, and well-organized activities.
4. Playground Supervisor/Aides will be responsible for picking up the areas used by their group after each activity.
5. Playground Supervisor/Aides must be with participants at all times while they are participating in the Program.
6. Playground Supervisor/Aides ensure that participants are released only to a Parent(s) or an adult designated by the Parent(s).

4. Training/Orientation

- A. The Division is responsible for providing training and orientation to Program employees in working with children and for specific job responsibilities.
- B. Program employees must be competent with the Standards of Care for Youth Program operation as adopted.
- C. Program employees must be competent with the Program's policies, including discipline, guidance, and release of participants as outlined in the Summer Playground Manual.
- D. Program employees will be trained in appropriate procedures to handle emergencies.
- E. Program employees will be trained in areas including City, Departmental, Division and Program policies and procedures; provision of recreation activities; safety issues; and organization.
- F. Program employees will be electronically tested annually over program manuals and Standards of Care.

Operations

1. Staff-Participant Ratio

- A. The City of Abilene Youth Programs, the minimum employee to participant ratio will be 1 to 20 for participants from ages 6-13.
- B. Each participant should have a Program employee who is responsible for him or her and who is aware of details of the participant's habits, interests, and any special needs as identified by the participant's parent during the registration process.

2. Notification

- A. Parents must be notified immediately when Program employees are aware of the following:
 - (1) Participant is injured; or
 - (2) Participant has a sign or symptom requiring exclusion from the site (i.e. communicable disease, fever, and/or illness).
- B. All parents must be notified if there is an outbreak of any communicable disease. The disease will be reported to the Abilene Taylor County Public Health District.

3. Discipline

- A. Program employees will implement discipline and guidance in a consistent manner, based on the best interests of Program participants.
- B. There will be no cruel or harsh punishment or treatment. Examples include, but not limited to:
 - 1. Using physical punishment or any action administered to the body such as, but not limited to rough handling, or forcing child(ren) to assume an uncomfortable position.
 - 2. Restraining movement by tying, enclosing in a confined space, shaking, or using exercise as punishment.
 - 3. Being verbally abusive, including, but not limited to, threats, belittling remarks, humiliation, embarrassment, or frightening a child.
 - 4. Giving any child the authority to punish another child.
 - 5. Placing a child out of visual/hearing range, in the dark, or in an unventilated area.
 - 6. Punishing a child for a toileting accident.
 - 7. Taunting a child by mocking or any other form of jeering.
 - 8. Giving preferential attention to any child over another child.

- C. Program employees may use brief, supervised separation from the activity if necessary.
- D. As necessary, Program employees will initiate discipline reports to the parents of participants. Parents will be asked to sign participant discipline reports to indicate they have been advised about a specific problem or incident.
 - 1. A sufficient number and/or severe nature of discipline report(s), as detailed by the Disciplinary Policy in the Program and Operations Manuals, may result in a Participant being suspended from the Youth Program immediately. If a Participant is suspended from the program, an Authorized Person must pick up the Participant.
 - 2. Participants will be removed from the Program Site as soon as possible in instances of danger to other Participants or Program Staff. This includes, but is not limited to, continuous disruption of the Youth Program, inappropriate sexual behavior, bullying, hitting or biting other Participants or Program Staff and damage to any City property.
- E. A sufficient number and/or severe nature of discipline reports as detailed in the Program manual may result in a participant being suspended and/or expelled from the Program.
- F. In instances where there is a danger to other participants or staff, offending participants will be removed from the Program site as soon as possible.
- G. Any person(s) creating a nuisance, causing a disturbance, or creating an unsafe environment at any Program Site will be subject to ejection from the site and possible arrest and legal action.

4. Programming

- A. Program employees will provide activities for each group according to the participants' ages, interests, and abilities. The activities will be appropriate to participants' health, safety, and well-being. The activities also will be flexible and designed to promote the participants' emotional, social, and mental growth.
- B. Program employees will provide indoor and outdoor time periods to include:
 - (1) Alternating active and passive activities;
 - (2) Opportunity for individual and group activities; and
 - (3) Outdoor time each day that weather permits.
- C. Program employees will be attentive and considerate of the participants' safety on field trips and during any transportation provided by the Program. Participants must be counted before leaving the Program Site and before boarding the transportation to return to the Program Site.

- (1) During trips, Program employees supervising participants must have immediate access to emergency medical forms and emergency contact information for each participant.
- (2) Program employees will have transportation cards of the participants in the group and must check the roll frequently.
- (3) Program employees should have First-Aid supplies and a guide to First-Aid and emergency care available on field trips.
- (4) Notice of any field trips will be displayed at a prominent location at each Program site.

5. Communication

- A. Each Program site will have access to a telephone for use in contacting the Recreation Center or making emergency calls.
- B. The Recreation Coordinator will post the following telephone numbers adjacent to a telephone accessible to all Program employees at each site:
 - (1) Ambulance or emergency medical services.
 - (2) City of Abilene Police Department.
 - (3) City of Abilene Fire Department.
 - (4) Poison control.
 - (5) The telephone number for the site itself.

6. Transportation

- A. First-Aid supplies and a First-Aid emergency care guide will be available in all Program vehicles that transport children.
- B. All Program vehicles used for transporting participants must have available a portable fire extinguisher located in the passenger compartment of the vehicle which will be accessible to the adult occupants.

Facility Standards

1. Safety

- A. Program employees will inspect Program sites daily to detect sanitation and safety concerns that might affect the health and safety of the participants.
- B. Buildings, grounds, and equipment on the Program site will be inspected, cleaned, repaired, and maintained to protect the health of the participants.
- C. Program equipment and supplies should be safe for the participants use.

- D. Program employees should have First-Aid supplies available at each site, during transportation and for the duration of any off-site activity.
- E. Program employees should have first-aid supplies readily available to staff in a designated location. Program employees should have an immediately accessible guide to First-Aid and emergency care.
- F. Program air conditioners, electric fans, and heaters should be mounted out of participants reach or have safeguards that keep participants from being injured.

2. Fire

- A. In case of fire, danger of fire, explosion, or other emergency, Program employee's first priority is to evacuate the participants to a designated safe area.
- B. The Program site will have an annual fire inspection by the City of Abilene Fire Department, and the resulting report will detail any safety concerns observed. The report will be forwarded to the Administrator who will review and establish deadlines and criteria for compliance.
- C. Each Program site must have at least one (1) fire extinguisher approved by the Fire Marshall readily available to all Program employees. The fire extinguisher is to be inspected monthly by the Recreation Center Coordinator. All of the City of Abilene Youth Program employees will be trained in the proper use of fire extinguishers.

3. Health

- A. Illness or Injury
 - (1) A participant who is considered to be a health or safety concern to other participants or staff will not be admitted to the Program.
 - (2) Illnesses and injuries will be handled in a manner to protect the health of all participants and employees. Emergency responders will be notified in the event of an injury that cannot be remedied through basic first aid. An accident report shall be completed and forwarded to the Recreation Supervisor.
 - (3) An ill Youth will not be allowed to attend or participate if the Youth is suspected of having a temperature and/or accompanied by behavior changes or other signs or symptoms until a medical evaluation indicating that the Youth can return to the Youth Program.
 - (4) Program employees will follow plans to provide emergency care for injured participants or for participants with symptoms of an acute illness as specified in the Program manual.

- (5) Program employees will follow the recommendation of the Texas Department of State Health Services concerning the admission or readmission of any participant after a communicable disease.

C. Toilet Facilities

- (1) The Program site will have inside toilets located and equipped so children can use them independently and Program employees can supervise as needed.
- (2) There must be at least one flush toilet for every thirty (30) children. Urinals may be counted in the ratio of toilets to children but must not exceed fifty percent (50%) of the total number of toilets.
- (3) An appropriate and adequate number of lavatories will be provided.

D. Sanitation

- (1) The Program site must have adequate light, ventilation, and heat.
- (2) The Program must have an adequate supply of water, meeting the standards of the Texas Department of State Health Services for drinking water, and ensure that it will be supplied to the participants in a safe and sanitary manner.
- (3) Program employees must see that garbage is removed from Program sites daily.
- (4). The Program site will have an annual health inspection by the City of Abilene Health Department, and the resulting report will detail any health concerns observed. The report will be kept on file at the center. Information from this report will be included in the Director's annual report to the City Council.

4. Participants

- A. All participants must wear tennis shoes daily, unless the Youth is in the swimming pool or participating in an activity that requires no shoes to be worn.
- B. Youth must respect the Employees, Program Site, and each other.



**City of San Angelo
Parks & Recreation Department
702 South Chadbourne
San Angelo, Texas 76903
(325) 657-4279/4450**

November 6, 2020

Ann Hall
Division Manager
City of Abilene Parks & Recreation
633 Walnut St.
Abilene, TX 79601

On Friday, November 6, 2020, I came to visit your recreation centers: Daniels, Sears, Cobb, and Rose. I am happy to report that all of the centers not only met the standard of care and operation expected of municipal recreation centers, they collectively exceeded them.

My overall impression of the centers is that they are well loved, well used (even during the pandemic), and well cared for. All of the staff was very professional, courteous and knowledgeable. I enjoyed seeing how the centers are used and how they help breathe life into the neighborhoods they serve.

Attached are my inspection sheets with some notes of items that should be considered.

Thank you for the opportunity to come see your centers. In doing so, I have gained some ideas we can consider trying at our centers.

Carl White
Parks and Recreation Director
City of San Angelo, Texas
325-657-4279
Carl.white@cosatx.us

Standards of Care Review

Recreation Center: Daniels

Date: Nov 6, 2020 Inspector: Carl White

SAFETY	Yes	No
First Aid kit stocked with Band-Aids and other essential items	☒	☐
First Aid kit readily assessable in designated area	☒	☐
Center Coordinators: CPR/First Aid Certified	☒	☐

Comments:

FIRE	Yes	No
At least one fire extinguisher	☒	☐
Fire Extinguishers were current	☒	☐
Fire Extinguishers locations were labeled	☒	☐
Emergency Exit map posted	☒	☐

Comments:

- one emergency exit light not lighting (side entrance)

COMMUNICATION	Yes	No
Emergency Contact Numbers Posted	☒	☐
EMS or Ambulance contact information posted	☒	☐
Police Department contact information posted	☒	☐
Fire Department contact information posted	☒	☐
Poison Control contact information posted	☒	☐
Recreation Center contact information posted	☒	☐

Comments:

Other:

- main parking lot; accessible parking space marked on the curb well but no sign on pole (is one required?)

Standards of Care Review

Recreation Center: Sears

Date: Nov 6, 2020 Inspector: Carl White

SAFETY	Yes	No
First Aid kit stocked with Band-Aids and other essential items	✓	
First Aid kit readily assessable in designated area	✓	
Center Coordinators: CPR/First Aid Certified	✓	

Comments:

FIRE	Yes	No
At least one fire extinguisher	✓	
Fire Extinguishers were current	✓	
Fire Extinguishers locations were labeled	✓	
Emergency Exit map posted	✓	

Comments:

- one fire extinguisher, in storage room, gauge not showing in "green"
- teen room emergency exit has no lit exit sign

COMMUNICATION	Yes	No
Emergency Contact Numbers Posted	✓	
EMS or Ambulance contact information posted	✓	
Police Department contact information posted	✓	
Fire Department contact information posted	✓	
Poison Control contact information posted	✓	
Recreation Center contact information posted	✓	

Comments:

Other:

- electrical wires outside in back exposed
- hot water heater discharge line discharges into drain in the closet

★ great use and programs!

Standards of Care Review

Recreation Center: Cobb

Date: Nov 6, 2020 Inspector: Carl White

SAFETY	Yes	No
First Aid kit stocked with Band-Aids and other essential items	✓	
First Aid kit readily assessable in designated area	✓	
Center Coordinators: CPR/First Aid Certified	✓	

Comments:

- one main first aid kit in locked file cabinet. must have key to access.
- storage blocking access to electrical panels. ✓ corrected on site

FIRE	Yes	No
At least one fire extinguisher	✓	
Fire Extinguishers were current	✓	
Fire Extinguishers locations were labeled	✓	
Emergency Exit map posted	✓	

Comments:

COMMUNICATION	Yes	No
Emergency Contact Numbers Posted	✓	
EMS or Ambulance contact information posted	✓	
Police Department contact information posted	✓	
Fire Department contact information posted	✓	
Poison Control contact information posted	✓	
Recreation Center contact information posted	✓	

Comments:

Other:

- South entrance trip hazard on concrete walkway

* wonderful park next to center. Add walkway around the park.
well-used + loved center!

Standards of Care Review

Recreation Center: Rose

Date: Nov 6, 2020 Inspector: Carl White

SAFETY	Yes	No
First Aid kit stocked with Band-Aids and other essential items	☒	
First Aid kit readily assessable in designated area	☒	
Center Coordinators: CPR/First Aid Certified	☒	

Comments:

FIRE	Yes	No
At least one fire extinguisher	☒	
Fire Extinguishers were current	☒	
Fire Extinguishers locations were labeled	☒	
Emergency Exit may posted	☒	

Comments:

- need emergency exit on side or rear

COMMUNICATION	Yes	No
Emergency Contact Numbers Posted	☒	
EMS or Ambulance contact information posted	☒	
Police Department contact information posted	☒	
Fire Department contact information posted	☒	
Poison Control contact information posted	☒	
Recreation Center contact information posted	☒	

Comments:

* Nice, neat center!

Standards of Care



Standards of Care

- Summer, Winter Break, Spring Break Camps and After School Programs are open to ages 6 to 13.
- Parents are provided with a copy of the document and it is posted www.abilenetx.gov/camps.
- The Standards of Care are intended to be minimum standards by which the City of Abilene will operate the City's Youth Programs. The programs operated by the City are recreational in nature and are not licensed by the state of Texas as certified day care programs.



Basic Requirements

- Adequate and readily available first aid kits.
- Full time staff must be current certified in CPR and First Aid.
- Current fire extinguisher properly labeled and emergency exits signs are posted.
- Posting of emergency contact including fire, police, poison control, and contact information for Recreation Center.
- Registration collection of names, addresses, phone numbers, and sign waiver of liability. This is done electronically through the registration software.
- Defines job titles, qualifications, and responsibilities.
- Outlines the ratio (Abilene is 20 children per 1 staff).
- Lists facility standards that includes lighting, toilet facilities, and communicable diseases.



Standards of Care

- We perform an Internal Inspection annually.
- Environmental Health and Fire Department conducts an annual inspection.
- We also have an outside Parks and Recreation professional perform a review. This was done on November 6th, by Carl White, Parks and Recreation Director for the City of San Angelo.



Standards of Care

Steps in the adoption:

- Approval by Parks and Recreation Board – Approved November 17, 2020
- First Reading by City Council
- Public Hearing and vote by City Council





**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Honorable Mayor & Members of City Council

FROM: Mike Rains, Finance Director

SUBJECT: 9. Ordinance (First Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Fiscal Year 2021 Budget Cuts (*Mike Rains*)

GENERAL INFORMATION

Details to be discussed during the meeting.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. Ordinance-Revised Budget 2021 (1)
2. FY 2021 Budget Cut Presentation

ORDINANCE NO. _____

AN ORDINANCE APPROVING REVISED BUDGET FIGURES FOR FISCAL YEAR 2020-2021; FOR THE CITY OF ABILENE; APPROPRIATING FUNDS; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; CALLING A PUBLIC HEARING.

WHEREAS, the City Manager has prepared a revision of certain figures in the 2020-2021 budget and submitted same to the City Council; and,

WHEREAS, the City Council has reviewed and considered said proposed revised budget and made revisions of same; and,

WHEREAS, said budget, as revised by the City Council, was duly set for a public hearing ordered to be called by the City Council and held on December 17th, 2020, after due notice, as required by the Charter of the City of Abilene and laws of the State of Texas; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the revised figures, prepared and submitted by the City Manager for the 2020-2021 budget, be, and the same are hereby, in all things, approved and appropriated, and any necessary transfers between accounts and departments are hereby authorized, approved, and appropriated.

PART 2: That the City Manager and his authorized and designated employees, at his direction, be, and are hereby, authorized to sign or release easements, permits, licenses, and change orders; to sign interlocal agreements as authorized by state law; to sign documents authorizing the payment of funds, and to expend public funds as authorized by state law unless otherwise authorized by the City Council; to settle paving assessment, weed mowing, demolition, and other disputes based on legal questions of whether the assessments are enforceable or other extenuating factual circumstances. The City Manager is authorized to adjust compensation, within Council policy guidelines, of any City employee, including appointees, when in his discretion an adjustment needs to be made to retain qualified personnel. The intent of this section is to provide the ability to conduct daily affairs of the City, which involves numerous decisions of a routine nature and to retain qualified personnel.

PART 3: That the City Council hereby approves grants and contracts that are set out by this budget and authorizes the City Manager and his authorized and designated employees, at his discretion, to sign said federal, state, and other such grant and contract documents, including interlocal agreements, on behalf of the City. The funds for said contracts, agreements, and purchases are hereby approved and appropriated. The intent of this section is to approve and simplify the grant process and approve expenditures that are exempt from the Purchasing and Contracting Authority of Municipalities, Chapter 252 of the Local Government Code.

PART 4: That upon passage of this ordinance on first reading, the City Secretary be, and is hereby authorized and directed to have published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, a notice that a public hearing will be held in the Council Chambers of the City Hall in Abilene, Texas, at 4:30 P.M., on the 17th of December, 2020, to permit the public to be heard prior to consideration of this ordinance for second and final reading, said publication to be made on the 13th of December 2020, being more than twenty-four (24) hours prior to the time designated for such public hearing in accordance with Section 18 of the City Charter. 102.0065(b) Local Government Code, Special Notice by publication for Budget – except that if another law requires the governing body to give notice, by publication, of a hearing on a budget this section does not apply.

PART 5: That any ordinance, resolution, policy or any provision or section of the code of the City of Abilene, Texas, as amended, in conflict herewith, be, and the same is hereby repealed to the extent of any conflict. It is specifically provided that Resolution 40-1997 concerning liability claims shall remain in full force and effect.

PART 6: That the number, classification, and designation of each position as provided in Texas Local Government Code Ann., Chapter 143 (Vernon 1988), Municipal Civil Service, for the Police and Fire Departments, as set out below, are hereby created, established, and adopted as the official plan for the classified service of the Police and Fire Departments of the City of Abilene for the fiscal year October 1, 2020 through September 30, 2021, or as may be amended by City Council. Any position in the classified service of the Police and Fire Departments of the City of Abilene not below listed, is hereby abolished.

<u>Police Department</u>		<u>Fire Department</u>	
Assistant Police Chief	2	Deputy Fire Chief	2
Police Lieutenant	11	Battalion Chief	5
Police Sergeant	24	Fire Captain	12
Police Officers	<u>179</u>	Fire Lieutenant	33
	216	Fire Fighter	<u>146</u>
			198

PART 7: That the General Fund budget is amended as set forth in Exhibit A attached and incorporated into as part of this Ordinance.

PASSED ON FIRST READING on the 3rd day of December, A.D. 2020.

After passage on first reading, a notice of the time and place said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene. The same being more than twenty-four (24) hours prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on its second and final reading.

PASSED ON SECOND AND FINAL READING AT A PUBLIC HEARING on the
17th day of December, A.D. 2020.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

GENERAL FUND	ADOPTED 2020-2021	AMENDED 2020-2021
Fund Balance Beginning	\$ 26,274,818	\$ 26,274,818
Current Revenues and Operating Transfers In	\$ 107,467,870	\$ 105,003,440
Total Expenditures	\$ 107,059,430	\$ 104,943,269
Fund Balance Ending	\$ 26,683,258	\$ 26,334,989

Discussion: Receive a Report, Hold a Discussion and Public Hearing, and Provide Direction on Recommended Budget Cuts FY 2021 *(Robert Hanna)*



What is the problem?

The Internet Tax Freedom Act of 1998 (ITFA) prohibited state and local governments from taxing Internet access.

Those governments already taxing Internet access were granted a three-year moratorium.



What is the problem?

The ITFA moratorium on taxation was extended eight different times, and was eventually made permanent by the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA).

The grandfather clause for Internet access taxation expired on June 30, 2020.



What is the problem?

It is anticipated that we will see a 4% decline in sales tax due to the Internet access taxation moratorium expiring.

In addition, COVID-19 is having an impact on the City's Convention Center operations, as well as other general fund operations.



What is the problem?

Local Sales and Use Tax	\$ 2,000,000
Convention Center	\$ 500,000
Court Fines	\$ 150,000
Hotel Occupancy Tax	\$ 150,000
Loss of Program Revenue	<u>\$ 330,000</u>
Total Revenue Shortfalls	\$ 3,130,000



Recommended Cuts

Staff is recommending stopping the following programs:

211 – A Call for Help

Adaptive Recreation

Dental Program

Senior Transportation



Recommended Cuts

Staff explored, but does not recommend stopping the following programs:

Mockingbird Branch Library



Recommended Cuts

211 – A Call for Help

City of Abilene provides \$149,080 to United Way of Abilene to administer the 211 – A Call for Help program.

United Way of Abilene provides the City of Abilene \$110,000 in direct aid for Adaptive Recreation, Healthy Texas Women, and the Dental Program.

The City Manager recommends the City stops funding this program.



Recommended Cuts

Adaptive Recreation

The City of Abilene spends \$274,900 annually on Adaptive Recreation.

The program has not been operational since March when we shut down several City programs in response to COVID-19.

The City Manager recommends the City stops funding this program.



Recommended Cuts

Dental Program

The City of Abilene funds a Dental Program in the amount of \$269,240 annually.

Originally planned to be self sufficient, this program has required \$407,804 in general fund subsidy since FY 2018 to remain in operation.

The City Manager recommends the City stops funding this program.



Recommended Cuts

Senior Transportation

The City of Abilene funds a Senior Transportation program in the amount of \$118,000 annually.

The program has not been operational since March when we shut down several City programs in response to COVID-19.

The City Manager recommends the City stops funding this program.



Potential Other Cuts

Mockingbird Branch Library

The City of Abilene funds the Mockingbird Branch Library program in the amount of \$407,540 annually.

The program has not been operational since March when we shut down several City programs in response to COVID-19.

The City Manager recommends the City continue funding this program.



Recommended Cuts

A Call for Help	\$ 149,080
Adaptive Recreation	\$ 274,900
Dental Program	\$ 49,000
Senior Transportation	<u>\$ 118,000</u>
Total General Fund Impact	\$ 590,980



Revenue Enhancements

Staff has identified two types of revenue enhancements: (1) reallocation of current revenues, (2) appropriation and charge of new revenues.



Reallocation of Current Revenues

The City Manager recommends reallocation of \$408,440 in Ad Valorem surplus, \$650,000 in Convention Center capital improvement funds, \$313,660 in 911 fees to be used for general fund purposes.



New Revenue

The City Manager recommends creating two new user fees.

1.) \$2.50 charge for senior meals, generating \$185,920 dollars.

2.) \$20 per player, per season facility use charge, generating \$119,000 dollars.



Revenue Enhancements

\$2.50 Senior Meals	\$ 185,920
\$20 Facility Charge	\$ 119,000
911 Fees	\$ 313,660
Convention Center Uses	\$ 650,000
Ad Valorem Surplus	<u>\$ 408,440</u>

Total General Fund Impact \$ 1,677,020



Unfilled Vacancies

The City has a number of vacancies that have been intentional held open until we understood the impact of COVID-19 and the Internet access taxation issue.

The City Manager will not fill these vacancies, and they total \$867,171 dollars.



In Summary

Recommended Cuts	\$ 1,458,151
------------------	--------------

Revenue Enhancements	<u>\$ 1,677,020</u>
----------------------	---------------------

Total General Fund Impact	\$ 3,135,171
---------------------------	--------------



QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Cande Flores, Fire Chief

SUBJECT: 10. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending the Fiscal Year 2021 Annual Operating Budget for the City of Abilene by Appropriating Funds from the Bureau Justice Assistance Grant to Add One (1) Civilian Position to the Abilene Fire Department Budget Ordinance (Cande Flores)

GENERAL INFORMATION

The FY 2021 budget ordinance, in regards to Fire Department staffing, currently designates (8) non-civil service staff personnel.

In September of 2019, the Behavioral Action Team (BAT) was notified that we had been awarded a federal grant from the Bureau of Justice Assistance, under the Department of Justice. The grant has been named the Justice Reinvestment Initiative (JRI). This is a 3-year grant that will be used to fund a second Community Response Team (CRT) for response within the Abilene city limits.

The second CRT will be staffed by a non-civil service paramedic from the Abilene Fire Department. This member will be supervised by AFD staff and will follow AFD policies and protocols.

SPECIAL CONSIDERATIONS

There is an active CRT (CRT-1) in place that has successfully been operating since June, 2019. The second team will be named CRT-2 and will be scheduled to cover certain portions of the week that are not covered by CRT-1.

FUNDING/FISCAL IMPACT

The JRI is a non-matching grant that will fully fund the salary and benefits of the CRT-2 paramedic for a 3-year period.

STAFF RECOMMENDATION

Staff recommends amending the budget ordinance to increase non-civil service staff from (8) to (9) personnel.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. ORDINANCE-Amending FY2021 Annual Operating Budget-Transfer funds-Add AFD civil position
2. CRT2 Budget Ordinance Amendment Presentation

AN ORDINANCE AMENDING THE FISCAL YEAR 2021 ANNUAL OPERATING BUDGET FOR THE CITY OF ABILENE; BY APPROPRIATING FUNDS FROM THE BUREAU JUSTICE ASSISTANCE GRANT IN ORDER TO ADD ONE NON-CIVIL SERVICE POSITION TO THE ABILENE FIRE DEPARTMENT AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, on August 13, 2020 the City Council of the City of Abilene (City) approved on final reading the Fiscal Year 2021 Annual Operating Budget (FY21 Budget); and,

WHEREAS, the FY21 Budget included sufficient funding for eight approved non-civil service positions within the Abilene Fire Department; and,

WHEREAS, additional staffing is needed in order to meet the requirements of a second Community Response Team; and,

WHEREAS, the award of the Bureau Justice Assistance Grant to the Betty Hardwick Center provides full funding for additional Community Response Team staff; and,

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

PART 1: That the Fiscal Year 2021 Annual Operating Budget be amended by increasing from eight (8) to nine (9) the approved number of non-civil service positions in the Abilene Fire Department.

PART 2: That the Fiscal Year 2021 Annual Operating Budget be amended by transferring up to \$69,092.40 from the Betty Hardwick Center to the Fiscal Year 2021 Annual Operating Budget, Abilene Fire Department Fund, Support Services Division.

PART 3: That any ordinance, resolution, policy or any provision or section of the code of the City of Abilene, Texas, as amended, in conflict herewith, be, and the same is hereby repealed to the extent of any conflict.

PASSED ON FIRST READING this 19th day of November, 2020.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 29th day of November, 2020, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 3rd day of December, 2020, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 3rd day of December, 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

BUDGET ORDINANCE AMENDMENT

ABILENE FIRE DEPARTMENT

November, 2020



CRT HISTORY

- 2018
 - Behavioral Action Team (BAT) created to find solutions for increasing local behavioral and mental health problems
 - Review of the local system recommended a Community Response Team to serve behavioral and mental health clientele
- 2019
 - CRT-1 was initiated as a three-person team
 - APD Police Officer
 - AFD Paramedic
 - Betty Hardwick Center (BHC) Mental Health Specialist
 - June 13, 2019 – CRT-1 placed into service
 - Immediately produced positive results in the targeted areas



JUSTICE REINVESTMENT INITIATIVE (JRI)

- February 2019
 - Council approved AFD and APD to pursue the Justice Assistance Grant (JAG)
 - Grant submission was specifically related to the CRT
 - Betty Hardwick Center was listed as the Grant Administrator
- September 2019
 - Betty Hardwick Center was notified that we had been awarded the Grant
 - The Grant named had changed to the Justice Reinvestment Initiative
 - Award was just over \$1 million
 - Award period is 36 months



CRT-2

- JRI will be utilized to fund CRT-2 for the next 36 months
- CRT-2 will have the same team composition as CRT-1
- AFD will hire a civilian paramedic to serve on CRT-2
 - Paramedic will be a non-civil service AFD employee
 - Will follow all AFD protocols and policies
 - AFD's Budget Ordinance for Authorized Personnel will have to increase by (1) during the Grant Period
 - Non-civil service staff will increase from (8) to (9) personnel
 - CRT-2 will be evaluated during the Grant Period and at the conclusion
 - Available funding will determine if CRT-2 continues after the Grant Period



FISCAL IMPACT

- Justice Reinvestment Initiative (JRI) is a non-matching grant
- Zero impact to the City's Annual Budget during the Grant Period
- Grant Period is for 36 months
- Fully covers AFD paramedic salary and benefits



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: **11. Ordinance (Final Reading) Z-2020-15:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Carriage Hills Development Corporation, agent Jacob & Martin LLC, to rezone property from Agricultural Open Space (AO) to a Residential Single-Family (RS-6) District on 52.88 acres of now-vacant land in the 7700-7800 blocks (east side) of Maple Street in far south Abilene *(Mike Warrix)*

GENERAL INFORMATION

The applicant is requesting to rezone vacant property from Agricultural Open Space (AO) to Residential Single Family (RS-6).

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 7-0.

ATTACHMENTS:

1. Z-2020-15 council ordinance
2. Z-2020-15 Council Staff Report full
3. Z-2020-15 Council presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING the 19th day of November, 2020.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of October, 2020, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 3rd day of December, 2020, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 3rd day of December, 2020.

ATTEST:

CITY SECRETARY

MAYOR

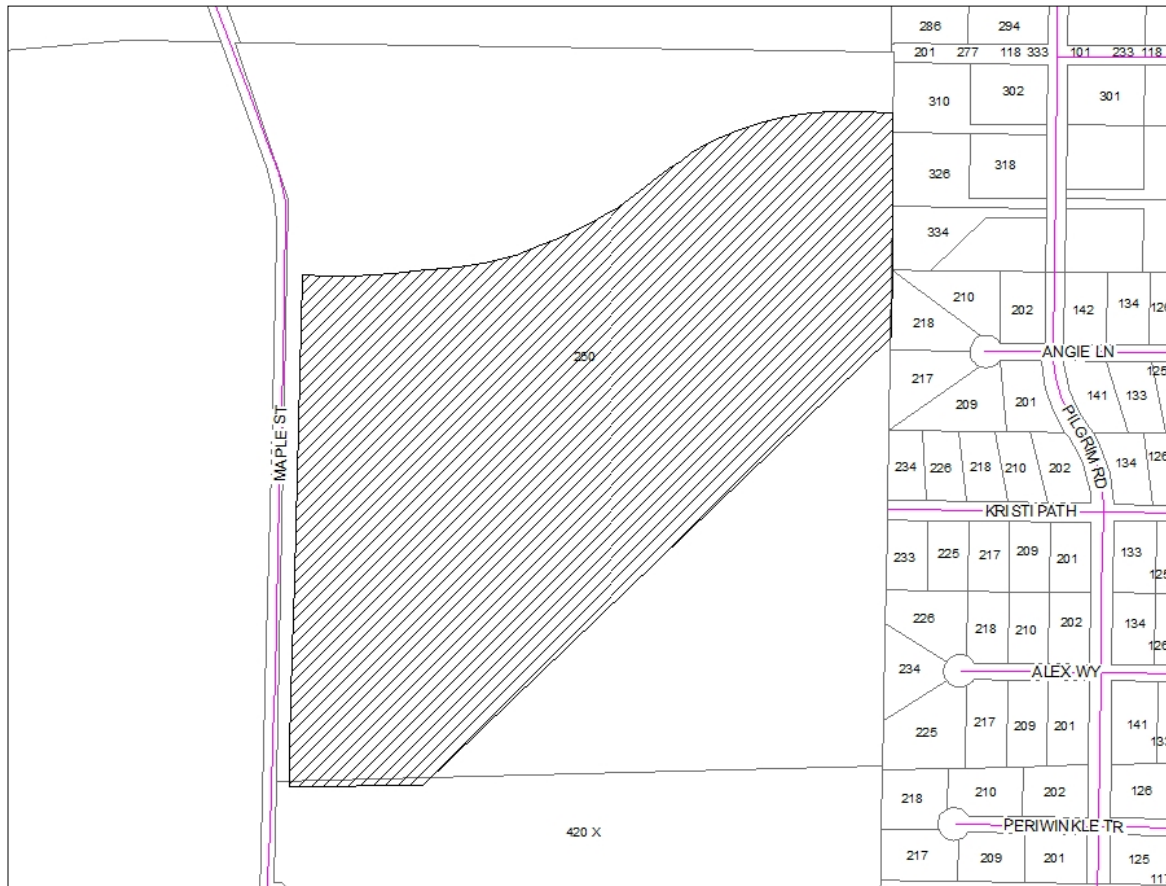
APPROVED:

CITY ATTORNEY

EXHIBIT A

Change the zoning classification of the following described tract, from an Agricultural Open Space (AO) District to a Residential Single Family (RS-6) District 6:

Legal Description being approximately 52.88 acres out of the Southwest quarter of Section 14, Lunatic Asylum Lands, City of Abilene, Taylor County, Texas.



Location: Northeast corner of Maple & FM 707

-END-

ZONING CASE Z-2020-15

STAFF REPORT



REQUEST: Rezoning

APPLICANT:

Owner: Carriage Hills Development Corporation

Agent: Jacob & Martin

HEARING DATES:

P & Z Commission: November 3, 2020

City Council 1st Reading: November 19, 2020

City Council 2nd Reading: December 3, 2020

LOCATION:

- Northeast corner of Maple & FM 707
- Legal description (s): 52.88 acres out of the Southwest quarter of Section 14, Lunatic Asylum Lands, City of Abilene, Taylor County, Texas.

PROPOSAL AND REQUESTED ACTION:

The applicant is requesting to rezone vacant property from Agricultural Open Space (AO) to Residential Single Family (RS-6).

APPLICATION REVIEW:

According to Section 1.4.1.4 (Criteria for Approval) in the City of Abilene Land Development Code, the Planning & Zoning Commission and City Council may consider the following factors in making a determination regarding requested zoning changes:

(1) Whether the proposed zoning amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan map, as amended;

The Future Land Use and Development Plan Map of the Comprehensive Plan designates this general area for single family use. The Residential Single-Family (RS-6) District-6 is intended to permit the residential development of detached single-family dwelling units, permitted accessory structures, and appropriate desirable open space on lots of not less than 6,000 square feet in area. This proposed zone change promotes the Comprehensive Plan's goal of protecting the residential character of the included areas by excluding most commercial and other incompatible activities as appropriate while encouraging a suitable environment for single family residences.

(2) Whether the proposed zoning amendment will be appropriate in the immediate area of the subject property.

Currently the property is zoned AO and is undeveloped. Agricultural Open Space zoning is considered a 'holding' zone until the land is ready to be developed. Adjacent properties to the West have been developed with single-family RS-6 homes. The proposed change of zoning to RS-6 would allow for single-family houses to be built in the next section of Carriage Hills Subdivision which is primarily RS-6. The zone change to RS-6 would be appropriate in the immediate area.

	Zoning	Existing Land Use
North	RS-6	Residential Single Family
South	AO	Agricultural Open Space
East	Outside City Limits	Residential Single Family
West	AO	Agricultural Open Space

(3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.

The subject property has access to an existing water mains and sewer mains. Therefore water and sewer capacity should not be a limiting factor to the development of these properties.

STAFF COMMENTS:

According to the Future Land Use and Development Plan Map of the Comprehensive Plan, this location is designated to provide an option for more dense single-family lots than the other single-family zoning districts in order to serve a range of individual requirements represented by the citizenry of Abilene.

STAFF RECOMMENDATION:

Staff recommends approval of the request. The rezoning request was reviewed pursuant to Section 1.4.1.4 (Criteria for Approval). It is consistent with the General Land Use and zoning character of the immediate area (Section 2.3.2.5 Residential Single-Family), and with the Comprehensive Plan and Future Land Use and Development Plan Maps.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval of the requested rezoning by a vote of seven (7) to zero (0) on November 3, 2020.

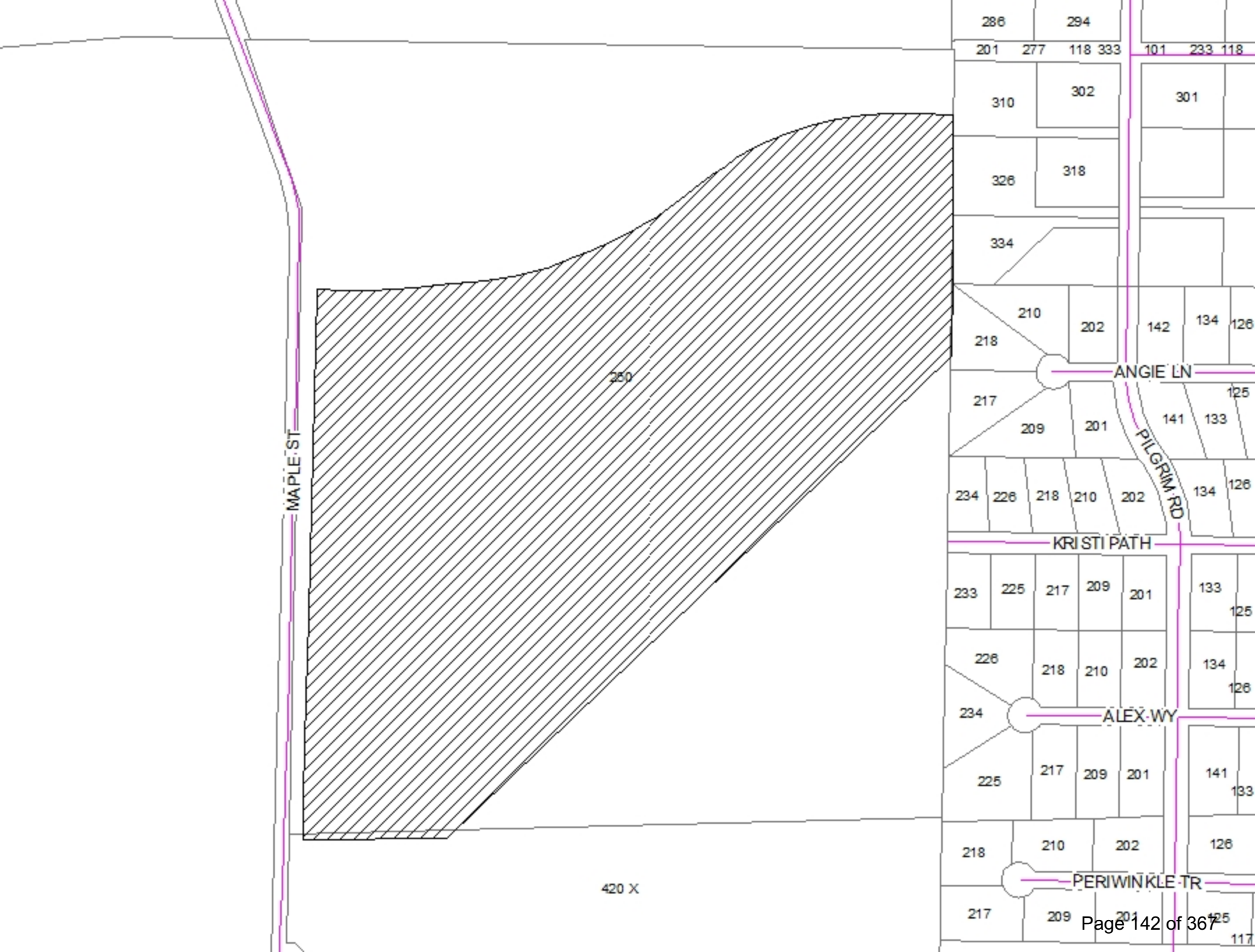
NOTIFICATION:

The Planning Services Division sent, with certificate of mailing, public notices to the applicant and to all owners of property within a 200-foot radius of the subject property.

Owner	Situs	Response
BRIGGS DEREK & CRYSTAL	326 PILGRIM RD	
CANARIO DANIEL G	334 PILGRIM RD	Opposed
CARRIAGE HILLS DEV CORP		
CITY OF ABILENE		
EZEKE CHUKWUEMEKA CHARLES &	218 ANGIE LN	
JOHNSON HEATH & CHERA MCCALL	210 ANGIE LN	
LEIJA PETE ANTHONY & MONICA	217 ANGIE LN	
SHOPS AT CARRIAGE HILLS LLC	420 X E BELTWAY S	In favor
SHOPS AT CARRIAGE HILLS LLC	250 E BELTWAY S	In favor
THYNE CHARLES J II & ANNA F		
WILLIAMSON ASHLEY KAYE	310 PILGRIM RD	

ATTACHMENTS:

- Application
- Site Plan Exhibit
- PowerPoint





Development Application

Planning

- ☐ Conditional Use
 ☐ Easement Release
 ☒ Rezoning
 ☐ Other
☐ PDD
 ☐ Street Name Change
 ☐ Thoroughfare Abandonment
 ☐ PDD Amendment
 Other: _____

Project Name: Carriage Hills
 Address: NE Corner of Maple & FM707 No. of lots: _____ Acreage: 75.023
 Legal Description: A0777 SUR 14 L A L SW/4, ACRES 92.013
 Subdivision Name: Carriage Hills Block: _____ Lot: _____
 Current Zoning: AO Proposed Zoning (if applicable): RS-6 & PD (Base Zoning) MD

OWNER AND AUTHORIZATION

Owner Name: Carriage Hills Development Corporation
 Address: 13209 Villa Montana Way
 City, State, Zip: Austin, TX 78732-1635 Fax: _____
 Phone: 325-665-4348 Email: _____

I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) Jacob & Martin will act as my agent before the Planning and Zoning Commission.

Agent Name: Jacob & Martin
 Address: 3465 Curry Lane
 City, State, Zip: Abilene, TX 79606 Fax: 325-691-5134
 Phone: 325-695-1070 Email: cfarrow@jacobmartin.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: [Signature] Date: _____

FOR OFFICE USE ONLY

Received: 9/16/20 Fee: \$ \$2000 Receipt No.: 0001055778
 Case No.: Z-2020-15 Reviewed By: [Signature]
 AND

Z-2020-16 (PDD 167)

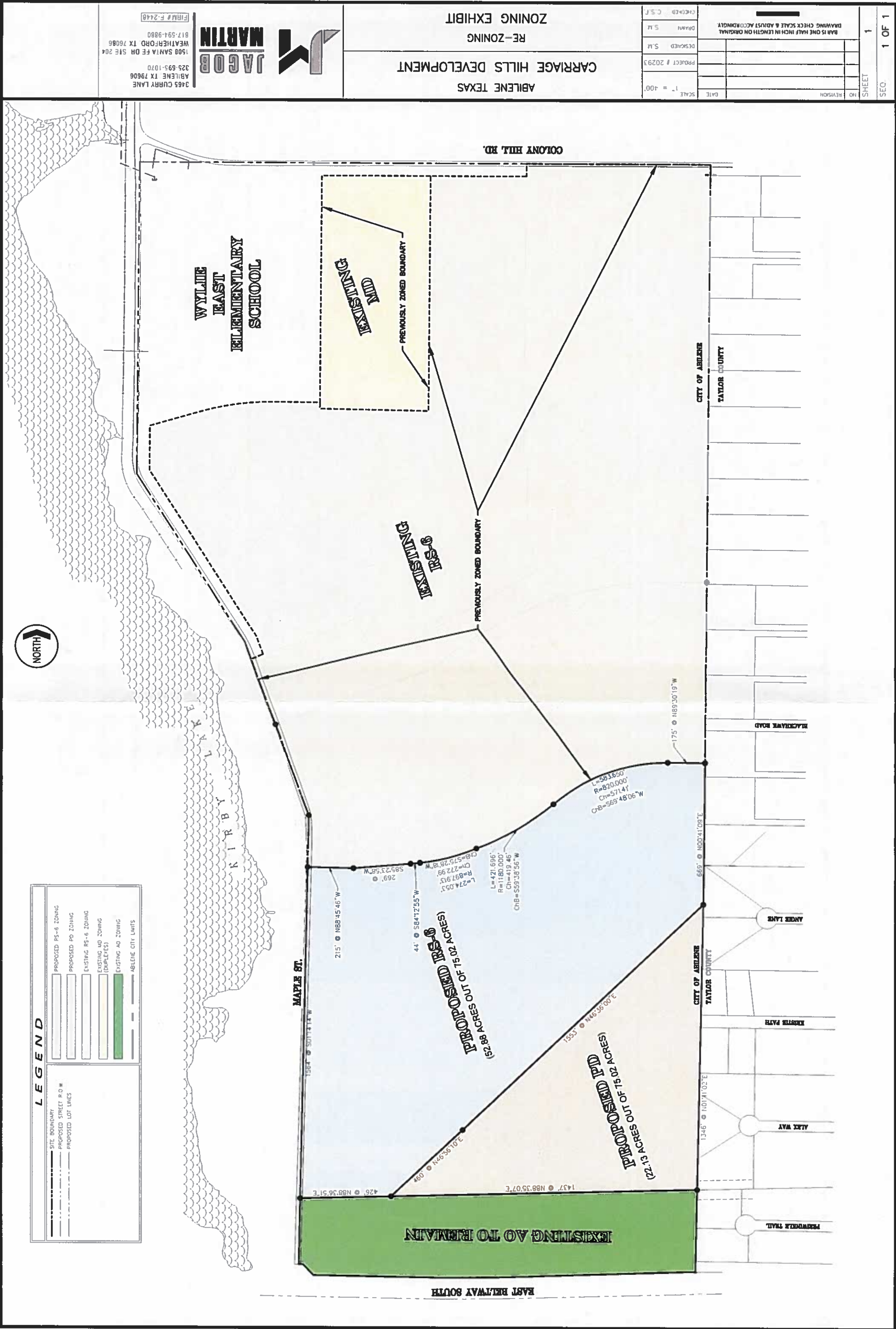


1. Please (if necessary) provide background information for the zoning request and explain why you feel it is appropriate.

This zoning request is to support the next phase of residential development of the Carriage Hills subdivision. We believe single family residential and planned development district are appropriate land use for this property given the recent development in the area as well as the future land use plan and request staff's support in this regard. RS-6 and PD zoning (with the intent to construct duplex housing) is requested for a portion of this property, and would be replacing AO, typically a holding zoning until a property is developed.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

X:\CTM_Workshop\2023-Carrage Hills, Section 4\Engineering\Draw\2020 09 15, Carrage Hills SEC 4 zoning exhibit.dwg



CASE #: Z-2020-15

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: SHOPS AT CARRIAGE HILLS LLC
Address: 250 E BELTWAY S

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒

I am opposed ☐

Additional Comments:

Signature: _____

NOV 2 AM11:12

CASE #: Z-2020-15

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below.
You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

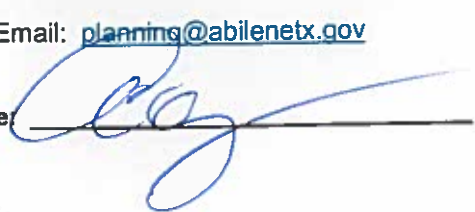
Name: SHOPS AT CARRIAGE HILLS LLC
Address: 420 X E BELTWAY S

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒
Additional Comments:

I am opposed ☐

Signature: 

NOV 2 AM 11:12



Watts, Nick <nick.watts@abilenetx.gov>

[Planning] Zone change

1 message

Charity Canario <dccanario@gmail.com>

Wed, Nov 11, 2020 at 5:20 PM

To: planning@abilenetx.gov

To Whom it may concern,

I am opposed to zone change Z-2020-16.

I am opposed to zone change Z-2020-15.

Sincerely,

Daniel G. Canario
334 Pilgrim Road
Abilene, TX 79602

--

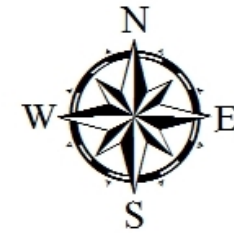
You received this message because you are subscribed to the Google Groups "Planning Services" group.

To unsubscribe from this group and stop receiving emails from it, send an email to planning+unsubscribe@abilenetx.gov.To view this discussion on the web visit [https://groups.google.com/a/abilenetx.gov/d/msgid/](https://groups.google.com/a/abilenetx.gov/d/msgid/planning/CAHj7b0EfzOdP044r%2BJenPFihkreQvaU7WrbBcrc2F7zdvTs-nw%40mail.gmail.com)[planning/CAHj7b0EfzOdP044r%2BJenPFihkreQvaU7WrbBcrc2F7zdvTs-nw%40mail.gmail.com](https://groups.google.com/a/abilenetx.gov/d/msgid/planning/CAHj7b0EfzOdP044r%2BJenPFihkreQvaU7WrbBcrc2F7zdvTs-nw%40mail.gmail.com).

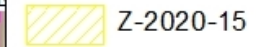
Case:	Z-2020-15
Owner:	Carriage Hills Development Corporation.
Agent:	Jacob & Martin
Request:	Rezone from AO to RS-6
Legal Description:	52.88 acres out of the Southwest quarter of Section 14, Lunatic Asylum Lands, Taylor County, Texas
Notification:	2 in Favor, 1 Opposed
Planning & Zoning Recommendation:	Approval



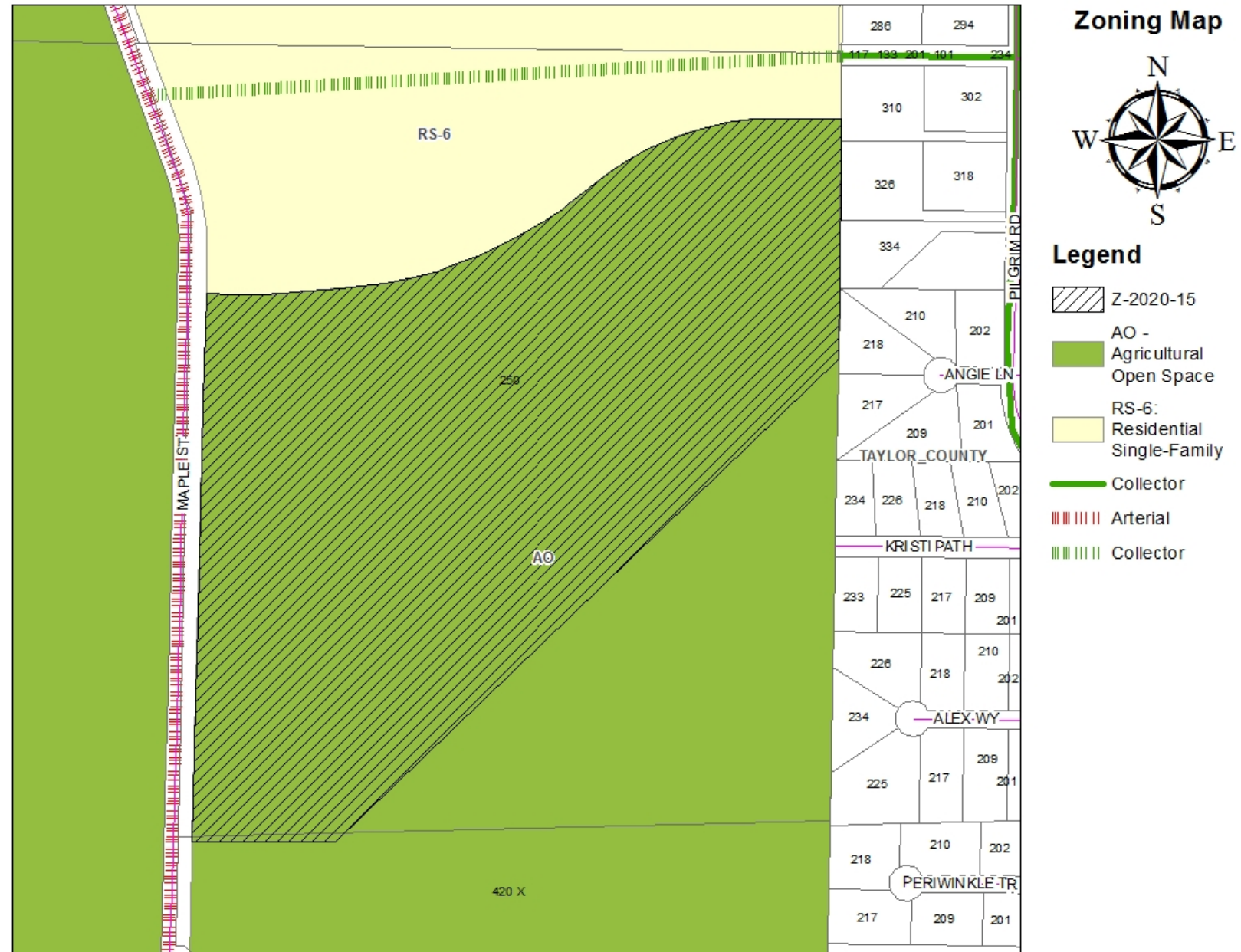
Location Map



Legend



Z-2020-15 ZONING MAP



RESIDENTIAL SINGLE FAMILY (RS-6) PERMITTED USES

RESIDENTIAL USES:

- C Bed & Breakfast
- C Dwelling – Duplex
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Single-Family Detached
- C Group Home

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P/C Day Care Operation – Home-Based
- P Dwelling – Accessory
- TP Field Office or Construction Office (temporary)
- P Garage Sale
- P Home Occupation
- C Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recreation Equipment, Mobile (storage & parking)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- C Civic, Social, and Fraternal Organization
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- P Fire/Police Station
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Church or Place of Worship
- P School: Public/Private

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

P
C
TP

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Section 2.4.3 of the Land Development Code)
Permitted as a Conditional Use Permit, Requiring Approval by City Council
Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling– Industrialized Housing Unit
- P Dwelling – Single-Family Detached
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P Animal Lot
- P Day Care Operation – Home-Based
- P Dwelling – Accessory
- TP Field Office or Construction Office (temporary)
- P Garage Sale
- P Home Occupation
- C Mobile Home (permanent security residence)
- C Mobile Home (temporary security residence)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)

CULTURAL AND RECREATIONAL USES:

- p Civic, Social, and Fraternal Organization
- P Fairgrounds/Rodeo
- C Motorized Racing
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Zoo

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- C Correction, Detention, or Penal Facilities
- P Fire/Police Station
- C Military and Armed Forces Reserve Center
- C Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P School: Public/Private

SERVICE

- C Kennel (with outdoor pens)
- P Kennel (without outdoor pens)
- P Veterinary Service (all size animals)

TRADE – RETAIL USES

- C Liquor Store (on premises consumption) (Defined under Liquor Store)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Airport, Heliport and Flying Field Terminals – Commercial
- C Antenna Tower – Commercial
- P Public Utility Facility
- C Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

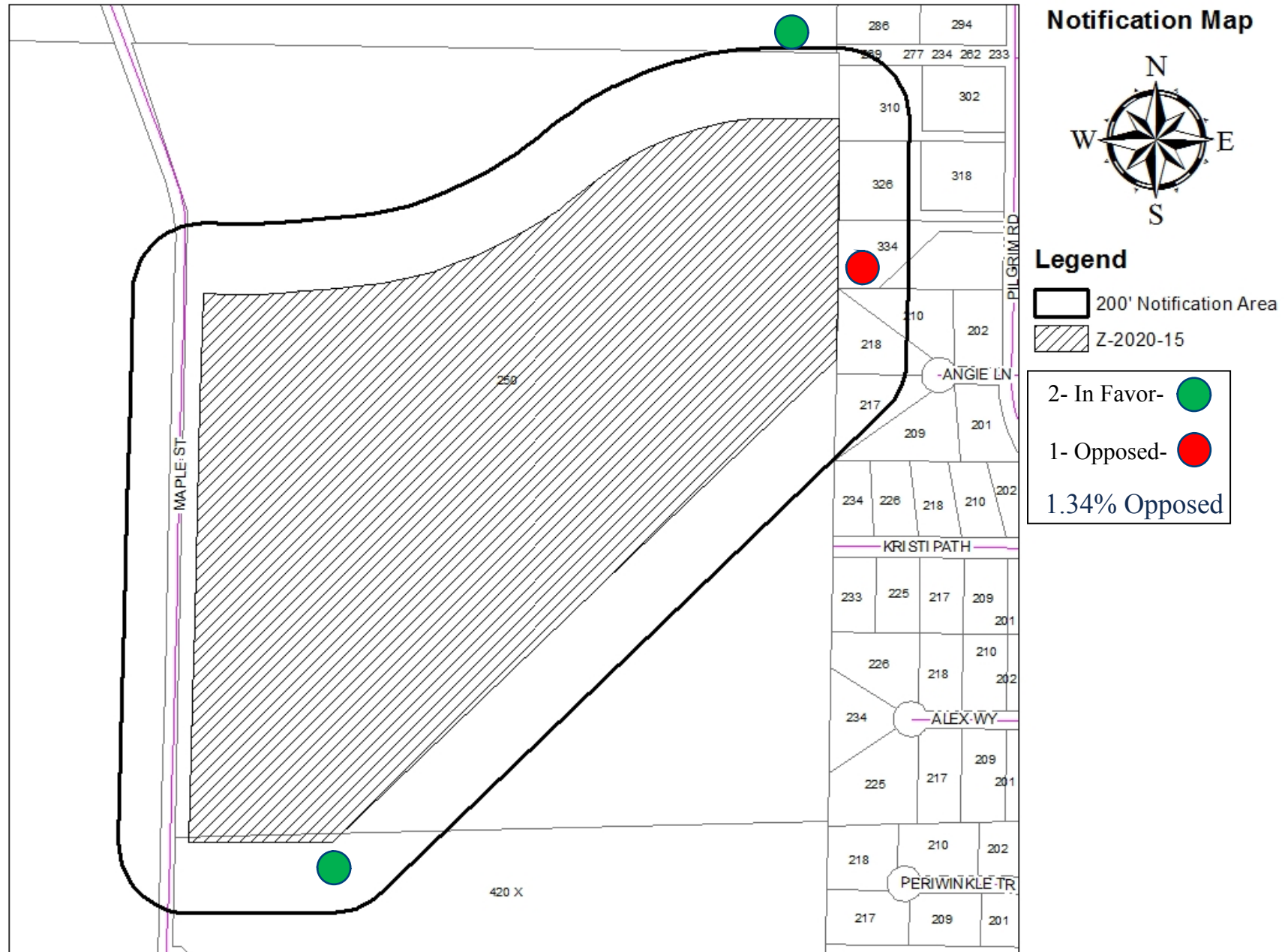
- P Farming, Ranching & Livestock, Hatchery
- C Mining
- C Petroleum or Gas Well

LEGEND

- P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Section 2.4.3 of the Land Development Code)
- C Permitted as a Conditional Use Permit, Requiring Approval by City Council
- TP Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment



Z-2020-15 NOTIFICATION AREA MAP



- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Approval
- Planning & Zoning Recommendation: Approval

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: **12. Ordinance (Final Reading) Z-2020-16:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Carriage Hills Development Corporation, agent Jacob & Martin LLC, to rezone property from Agricultural Open Space (AO) to a Planned Development (PD) District allowing residential townhome development having clusters of as few as two dwelling units, on 22.13 acres of now-vacant land located east from the 7700-7800 blocks of Maple Street and west from Kristie Path and Alex Way in the Sawgrass Addition *(Mike Warrix)*

GENERAL INFORMATION

The applicant is requesting to rezone from Agricultural Open space (AO) to a Planned Development (PD167) District with a base zoning of Medium Density (MD).

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of this request with a "Type B" buffer by a vote of 7-0.

ATTACHMENTS:

1. PD 167 Council Ordinance
2. Z-2020-16 Staff Report full
3. Z-2020-16 Council Presentation

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, CONCERNING PDD 167, A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING the 19th day of November, 2020.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17rd day of October, 2020, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 3rd day of December, 2020, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 3rd day of December, 2020.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

Exhibit "A"

PART 1: Land Title. Title to land not dedicated to public use and services or for utility purposes and not otherwise designated for development purposes shall remain in possession of the owner thereof, his heirs, assigns, lessees and successors in interest and shall not be the responsibility of the City of Abilene for any purpose.

PART 2: Development Specifications. All development in the Planned Development shall be in accordance with any maps, topographical and drainage plans, utility plans, architectural drawings, site plan, plat, and any other required plans filed in connection with this requested Planned Development, which are hereby incorporated by reference and included as part of this ordinance. All use and development within the Planned Development must be in compliance with the general Comprehensive Zoning Ordinance of the City of Abilene except as otherwise specifically provided herein.

PART 3: Building Specifications. All structures in the herein said Planned Development shall be constructed in accordance with all pertinent building and construction codes of the City of Abilene.

PART 4: Zoning. That the Land Development Code of the City of Abilene is hereby further amended by changing the zoning district boundaries, as hereinafter set forth: from Agricultural Open Space (AO) to PD (Planned Development) District.

That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PART 5: Legal Description. The legal description of this PD is as follows:

22.13 acres out of the Southwest quarter of Section 14, Lunatic Asylum Lands, City of Abilene, Taylor County, Texas.



Location:
Northeast corner of Maple Street and FM 707

PART 6: Purpose. The purpose of the Planned Development (PD) request is to allow the development of duplexes with half of each duplex on one lot.

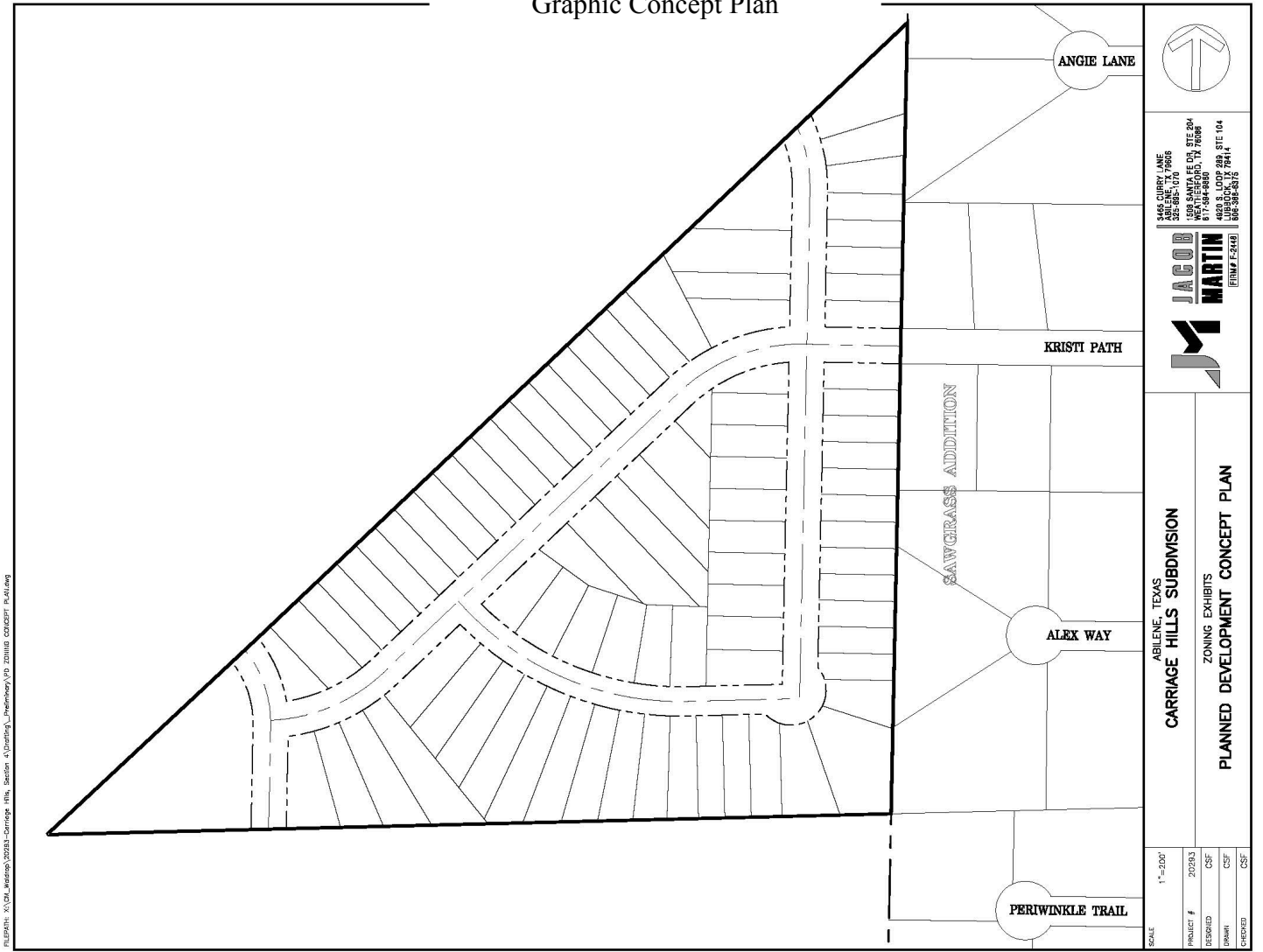
PART 7: Specific Modifications. The following regulations shall govern the use and development of this Planned Development District:

A. Permitted uses and Specific Regulations

1. Minimum lot width of 40 feet with half of each duplex on one lot
2. Minimum lot area of 4000 square feet
3. Minimum of 12 feet separation between each duplex structure

Except as otherwise specified in and allowed by this ordinance, the use and development of this subject property shall be governed by regulations applicable to the Medium Density (MD) zoning classification.

Graphic Concept Plan



-END-

ZONING CASE Z-2020-16

STAFF REPORT



REQUEST: Rezoning

APPLICANT:

Owner: Carriage Hills Development Corporation

Agent: Jacob & Martin

HEARING DATES:

P & Z Commission: November 3, 2020

City Council 1st Reading: November 19, 2020

City Council 2nd Reading: December 3, 2020

LOCATION:

- Northeast corner of Maple Street & FM 707
- Legal description (s): 22.13 acres out of the Southwest quarter of Section 14, Lunatic Asylum Lands, Taylor County, Texas.

PROPOSAL AND REQUESTED ACTION:

The applicant is requesting to rezone from Agricultural Open space (AO) to a Planned Development (PD167) District with a base zoning of Medium Density Residential (MD). The development planned for this property will be subject to all regulations of Abilene's Land Development Code ordinarily applicable to the Medium Density (MD) zoning classification, except as follows:

1. Site Layout and Building Requirements applicable in MD Districts amended to stipulate:
 - a. Minimum lot width of 40 feet (Duplex's with shared wall with half of each duplex on one lot)
 - b. Minimum lot area of 4000 square feet
 - c. Minimum of 12 feet of separation between each structure on each lot

APPLICATION REVIEW:

According to Section 1.4.1.4, Criteria for Approval, of the City of Abilene Land Development Code, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

- (1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan map, as amended;**

The Future Land Use and Development Plan Map of the Comprehensive Plan designates this general area as low-density residential. However, the first section of Carriage Hills Subdivision has approximately 12.5 acres zoned as Medium Density (MD). The Medium Density (MD) District is designed to encourage the provision of conveniently located, centrally maintained accommodations, with a combination of single-family, two-family (duplex), triplex, quadraplex, and townhouse housing units. The proposed zone change would be consistent with the existing subdivision and protect the residential character of the included areas by excluding most commercial and other incompatible activities as appropriate while encouraging a suitable environment for family life.

- (2) Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.**

The proposed land use is consistent with the surrounding properties in the immediate vicinity, which are primarily residential.

	Zoning	Existing Land Use
North	AO	Vacant Land
South	AO	Vacant Land
East	Outside City Limits	Residential Single Family
West	AO	Vacant Land

(3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.

The subject property has access to an existing water mains and sewer mains. Therefore, water and sewer capacity should not be a limiting factor to the development of these properties. The subject property is located along an existing arterial street (Maple St.). Roads of this nature are customarily appropriate for accommodating the projected increase in traffic.

(4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.

It is the opinion of the staff that there are no other factors, which substantially affect the public health, safety, morals, or general welfare of the City of Abilene.

STAFF COMMENTS: The Land Development Code site layout and building requirements for residential zoning districts states that the minimum lot size for MD districts is an area of 6,000 square feet, 60 feet in width and 100 feet in depth. MD districts also permit a maximum of 12 dwelling units per acre with a minimum of 6 feet separation between each structure on opposing lots. This proposed PD would decrease the lot dimensions by 2,000 square feet to 4,000 square feet but would increase the separation of structures by 6 feet to 12 feet. This increase of separation between structures should preserve open space and avoid overcrowding this proposed residential district.

STAFF RECOMMENDATION:

This rezoning request was reviewed pursuant to Section 1.4.1.4 (Criteria for Approval) in the Land Development Code and staff recommends approval. However, staff is not recommending the Type "B" landscape buffer recommended by the Planning & Zoning Commission because the Land Development Code requires only a Type "A" buffer when adjacent to a lower intensity residential districts. Adjacent properties fall within Taylor County and are not zoned for a lower intensity residential district, therefore a Type "A" land use buffer would not be enforceable.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval of this request with at Type "B" buffer by a vote of seven (7) to zero (0).

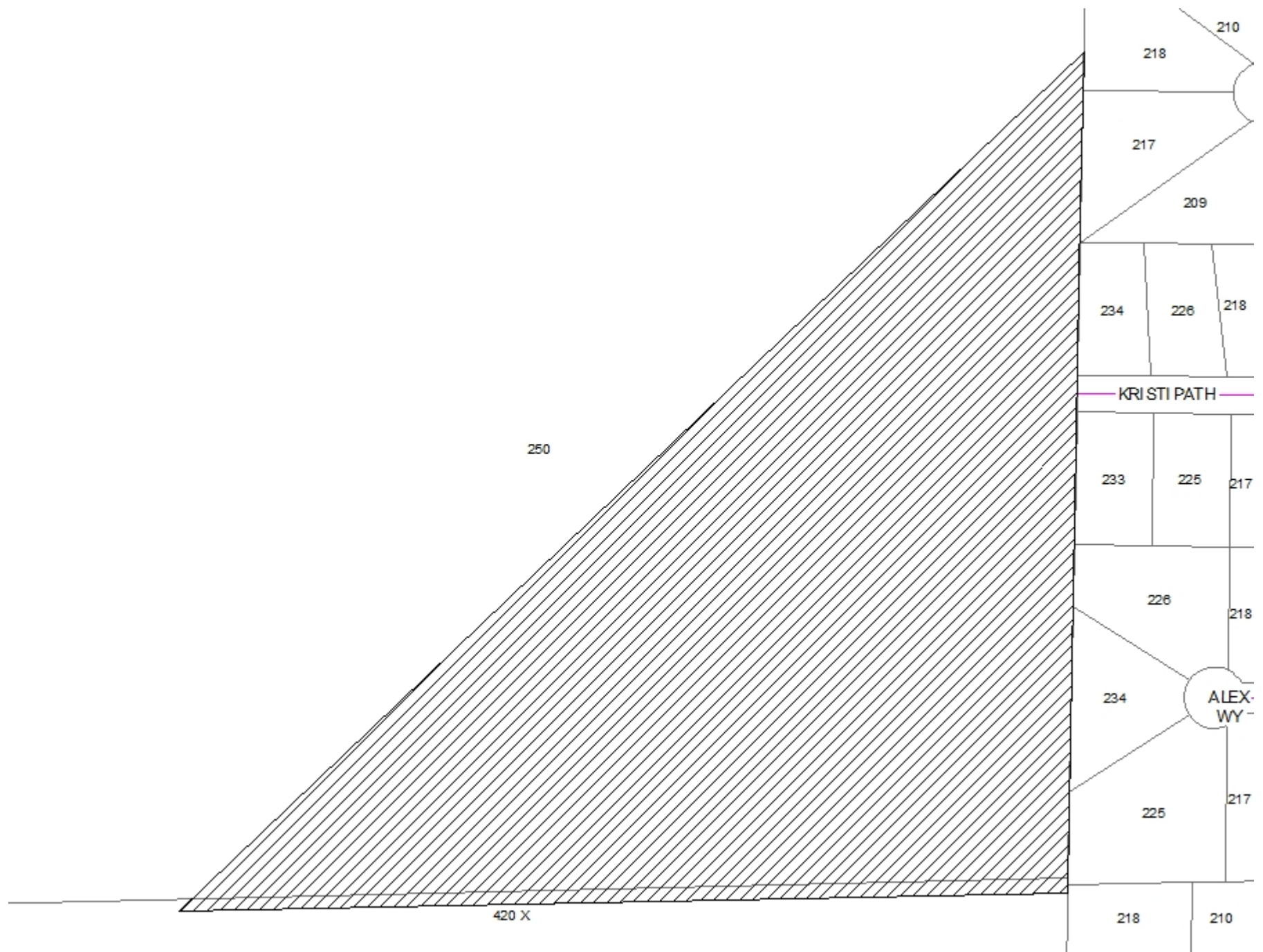
NOTIFICATION:

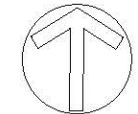
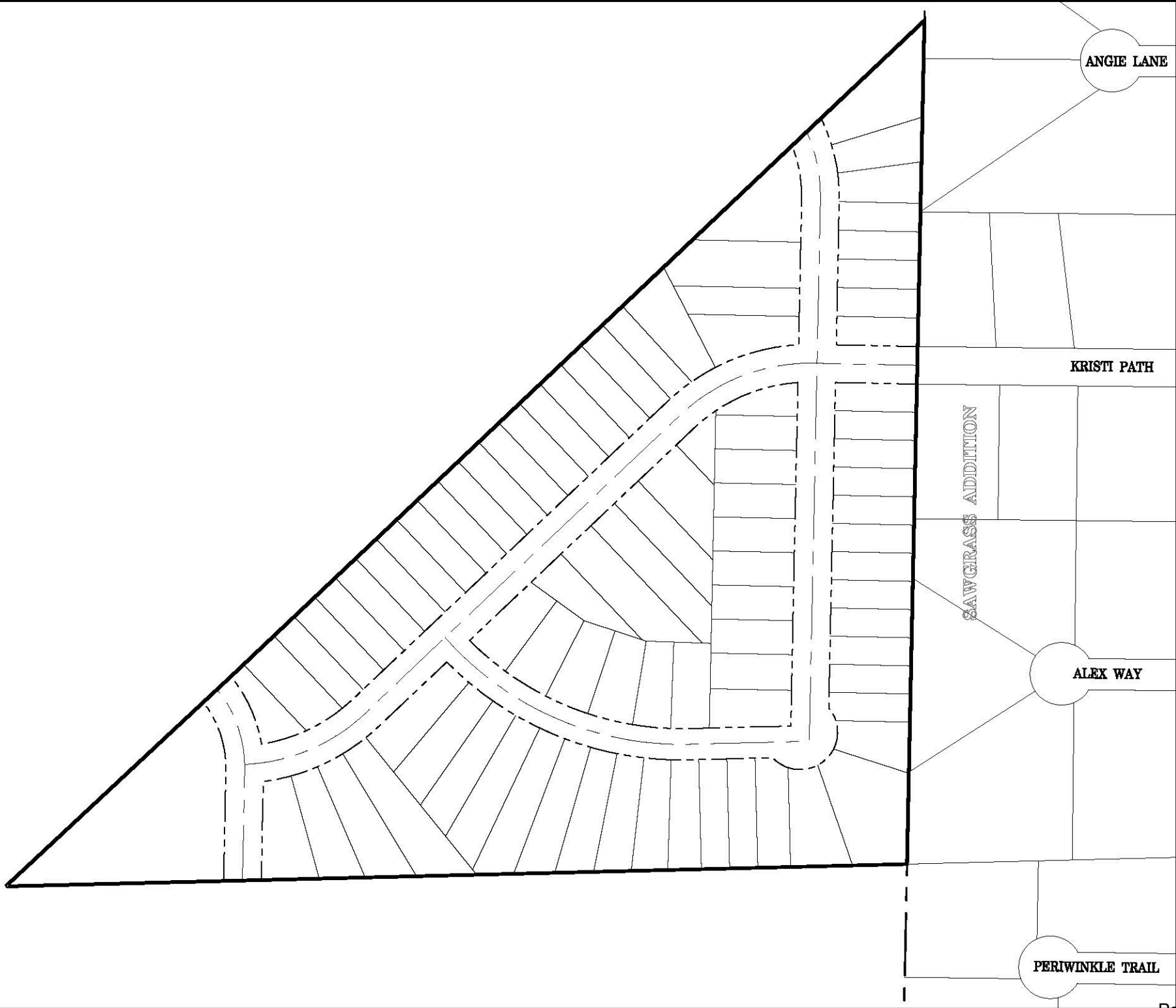
The Planning Services Division sent, with a certificate of mailing, public notices to the applicant and property owners within a 200-foot radius.

Owner	Situs	Response
CANARIO DANIEL G	334 PILGRIM RD	Opposed
EZEOKO CHUKWUEMEKA CHARLES &	218 ANGIE LN	
GIBSON KYLE C & KATIE M	225 KRISTI PATH	Opposed
GIESECKE LEON & JANET	225 ALEX WY	Opposed
HALE DEREK & LINDSEY	226 KRISTI PATH	
JOHNSON HEATH & CHERA MCCALL	210 ANGIE LN	
LEIJA PETE ANTHONY & MONICA	217 ANGIE LN	
MINEAR JASON M	233 KRISTI PATH	
MOORE MICHAEL D & LACEY ERIN	226 ALEX WY	Opposed
NEESE JOHN MELVIN &	218 PERIWINKLE TR	Opposed
PRICE NOEL SCOTT & MISTY	234 KRISTI PATH	
SHOPS AT CARRIAGE HILLS LLC	420 X E BELTWAY S	In favor
SHOPS AT CARRIAGE HILLS LLC	250 E BELTWAY S	In favor
TAYLOR CLINT	209 ANGIE LN	
TAYLOR COUNTY		
TOVAR ROGELIO & MARTHA	234 ALEX WY	
URY JEFFREY S & BUSHRA	217 PERIWINKLE TR	

ATTACHMENTS:

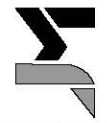
- Application
- PowerPoint





3465 CURRY LANE
ABILENE, TX 79606
325-692-1070
1508 SANTA FE DR, STE 204
WEATHERFORD, TX 76086
817-594-8880
4020 S. LOOP 289, STE 104
LUBBOCK, TX 79414
806-386-6375

**JACOB
MARTIN**
FIRM# F-2448



ABILENE, TEXAS
CARRIAGE HILLS SUBDIVISION

ZONING EXHIBITS
PLANNED DEVELOPMENT CONCEPT PLAN

SCALE	1"=200'
PROJECT #	20293
DESIGNED	CSF
DRAWN	CSF
CHECKED	CSF



Development Application

Planning

☐ Conditional Use ☐ Easement Release ☒ Rezoning ☐ Other
☐ PDD ☐ Street Name Change ☐ Thoroughfare Abandonment ☐ PDD Amendment
 Other: _____

Project Name: Carriage Hills
 Address: NE Corner of Maple & FM707 No. of lots: _____ Acreage: 75.023
 Legal Description: A0777 SUR 14 L A L SW/4, ACRES 92.013
 Subdivision Name: Carriage Hills Block: _____ Lot: _____
 Current Zoning: AO Proposed Zoning (if applicable): RS-6 & PD (Base Zoning) MD

OWNER AND AUTHORIZATION

Owner Name: Carriage Hills Development Corporation
 Address: 13209 Villa Montana Way
 City, State, Zip: Austin, TX 78732-1635 Fax: _____
 Phone: 325-665-4348 Email: _____

I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) Jacob & Martin will act as my agent before the Planning and Zoning Commission.

Agent Name: Jacob & Martin
 Address: 3465 Curry Lane
 City, State, Zip: Abilene, TX 79606 Fax: 325-691-5134
 Phone: 325-695-1070 Email: cfarrow@jacobmartin.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: [Signature] Date: _____

FOR OFFICE USE ONLY

Received: 9/16/20 Fee: \$ 2000 Receipt No.: 0001055778
 Case No.: Z-2020-15 Reviewed By: [Signature]
AND

Z-2020-16 (PDD 167)



1. Please (if necessary) provide background information for the zoning request and explain why you feel it is appropriate.

This zoning request is to support the next phase of residential development of the Carriage Hills subdivision. We believe single family residential and planned development district are appropriate land use for this property given the recent development in the area as well as the future land use plan and request staff's support in this regard. RS-6 and PD zoning (with the intent to construct duplex housing) is requested for a portion of this property, and would be replacing AO, typically a holding zoning until a property is developed.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

dwelling units. There shall be no more than six (6) contiguous townhouse units with the same or approximately the same front building line where such units front onto a minor street or sub collector. More than six (6) contiguous units shall have variable front building lines as set forth herein this subsection.

- (e) **Building Lines.** The minimum building setback from lot boundaries shall be as set forth in Table 2-2 for all principal buildings adjacent to streets. Where private streets are installed over lot boundaries, measurement of building lines shall be from the edge of pavement or face of curb.
 - (1) **Front Building Line.** Townhouse units shall be set back from the front property line a minimum of twenty feet (20').
 - (2) **Exterior Side Building Line.** Townhouse units that have lot frontage separated from a side street by at least ten feet (10') of parkway, as defined herein this LDC, shall be set back from the exterior side boundary by at least ten feet (10'). Townhouse units having lot frontage separated from the side street by less than ten feet (10') of parkway, or where fronting onto a private street, shall be set back from the exterior side boundary by at least twenty feet (20').
 - (3) **Interior Side Building Line.** If not contiguous to another townhouse unit, all townhouse units shall be set back from any interior side boundary a minimum of five feet (5').
 - (4) **Rear Building Line.** The minimum setback line from rear lot boundaries, for all townhouse units, shall be ten feet (10').
- (e) **Number of Dwelling Units per Lot.** There shall be a maximum of one (1) dwelling unit per lot, with each townhouse unit located on an individual lot.
- (f) **Common Areas – Management & Maintenance.** For any land and/or facilities to be used in common by residents of the development, including private streets, there shall be provisions made for the establishment of a property owners association to manage and maintain such common land and/or facilities.
- (g) **Garage Setback.** The garage for each townhouse unit shall be setback no less than twenty feet (20') from the most proximate parallel property line.
- (h) **Separate Utilities:** All utilities shall be provided separately to each lot within the TH district so that each unit is individually metered.
- (i) **Site Plan Required.** A Site Plan in accordance with Chapter 4, Article 1, Division 1 shall be required for all development, except single-family and two-family, within this TH District.
- (j) **Concept Plan Required.** A concept plan is required at the time of a zoning change to a TH zoning district.

Section 2.3.2.8 Residential Medium Density (MD) District

- (a) **Purpose.** The Residential Medium Density (MD) District is designed to encourage the provision of conveniently located, centrally maintained accommodations, with a combination of single-family, two-family (duplex), triplex, quadraplex, and townhouse housing units. This district provides for a combination of these housing

types at a density maximum of twelve (12) dwelling units per acre. This district may provide a medium density “buffer” or transition district between lower density residential areas and multi-family, non-residential areas, or major thoroughfares. This district is also designed to achieve the following:

- (1) Protect the residential character of the included areas by excluding most commercial and other incompatible activities, as appropriate.
- (2) Encourage a suitable environment by permitting certain appropriate institutions and facilities to be located in residential neighborhoods.
- (3) Preserve open space and avoid overcrowding by requiring certain minimum yards, open spaces, and lot areas.
- (4) Provide an option for housing unit diversity to serve a range of individual requirements represented by the citizenry of Abilene.

(b) **Authorized Uses.** The following are authorized uses under the regulations established in this chapter:

- (1) Permitted and conditional uses as authorized in the Land Use Matrix in Article 5, Division 2 of this Chapter 2;
- (2) Accessory uses as authorized in Article 5, Division 3 of this Chapter 2.

(c) **Site Layout and Building Requirements.**

- (1) All development within this district shall meet building requirements outlined in Table 2-2.
- (2) The maximum number of units permitted on a lot shall be four (4).

With the following exceptions:

- Minimum lot width=40' (shared wall, half of each duplex on one lot)
- Minimum lot area = 4000 SF
- Minimum 12' between structures

(d) **Common Areas – Management & Maintenance.** For any land and/or facilities to be used in common by residents of the development, there shall be provisions made for the establishment of a property owners association to manage and maintain such common land and/or facilities.

(e) **Site Plan Required.** A Site Plan in accordance with Chapter 4, Article 1, Division 1 shall be required for all development, except single-family and two-family, within this MD District.

Section 2.3.2.9 Residential Multiple-Family (MF) District

(a) **Purpose.** The Residential Multiple-Family (MF) District is designed to encourage the provision of conveniently located, centrally maintained rental accommodations with traditional apartment units. This district provides for a maximum of twenty-four (24) dwelling units per acre. As one of the multiple-family zoning districts provided for development in Abilene, this district is also designed to achieve the following:

- (1) Protect the residential character of the included areas by excluding most commercial and other incompatible activities, as appropriate.
- (2) Encourage a suitable environment by permitting certain appropriate institutions and facilities to be located in residential neighborhoods.

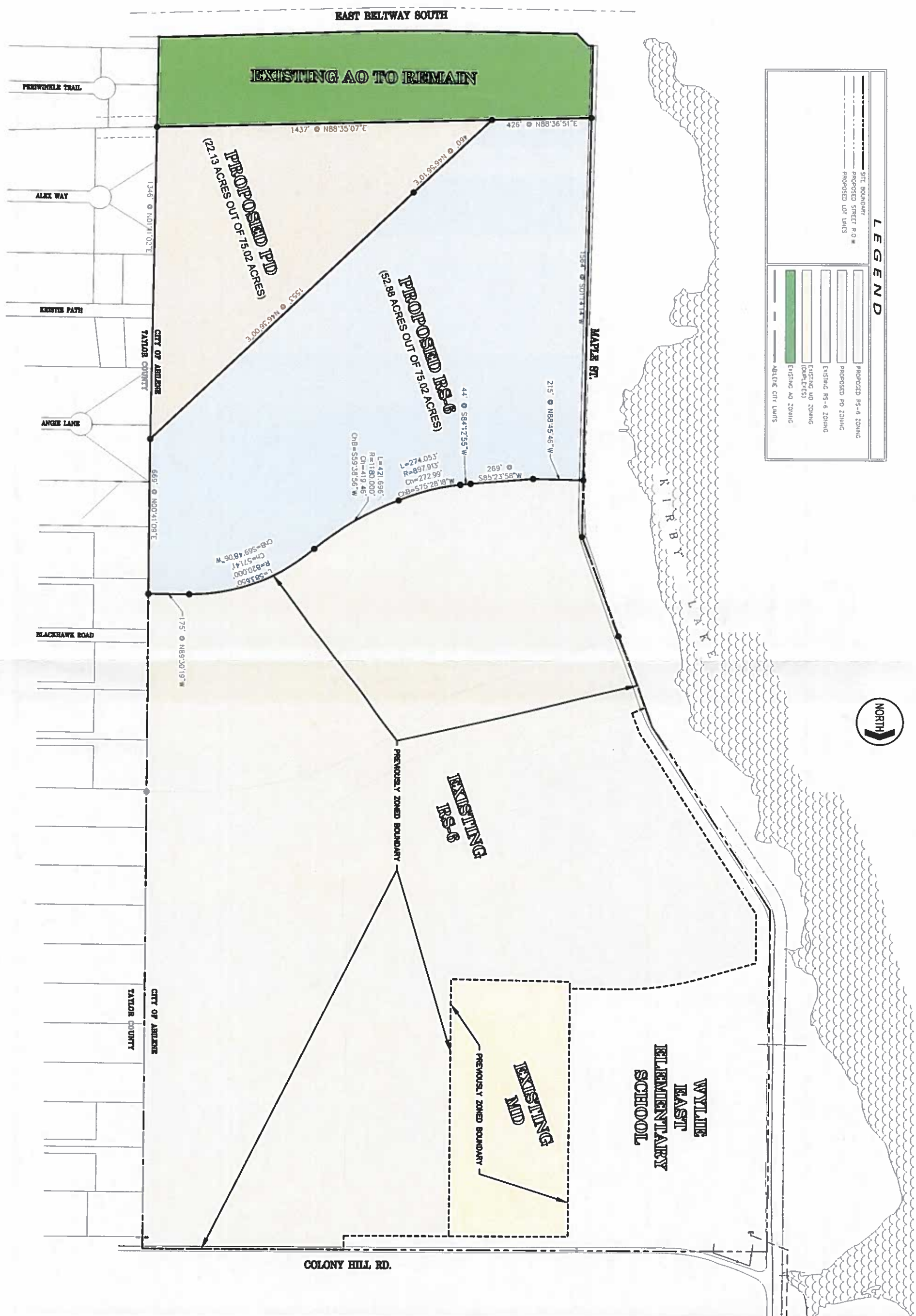
TABLE 2-2: SITE LAYOUT AND BUILDING REQUIREMENTS FOR RESIDENTIAL ZONING DISTRICTS

Zoning District	Maximum Density of Dwelling Units Per Acre	Minimum Lot Size			Minimum Building Line Setbacks							Maximum Height (ft.)	Maximum Lot Coverage (% of lot area)	Single-Family Standards
		Area (s.f.)	Width (ft) ¹	Depth (ft)	Sub-Collector or Minor Street	Collect or	Arterial or Expressway With Frontage Rd	Expressway Without Frontage Rd	Garage Setback (front facing only, not on arterials and Expressways)	Rear Yard (next to Other Lot Boundary)	Side Yard			
AO	n/a	217,800	200	500	25	25	30	40	25	40	25	None except add 1 ft setback for every 1 ft of height over 45 ft	15%	n/a
RR-5	n/a	217,800	150	400	25	25	30	40	25	50	30	35	15%	n/a
RR-1	n/a	43,560	100	200	25	25	30	40	25	50	25	35	40%	n/a
RS-12	n/a	12,000	80	100	25	25	30	40	25	30	10	35	40%	n/a
RS-8	n/a	8,000	70	100	15	20	30	40	20	25	7.5	35	50%	n/a
RS-6	n/a	6,000	60	100	15	20	30	40	20	20	6	35	50%	n/a
PH	n/a	4,500	40	100	15	20	30	40	20	20	0*	35	75%	n/a
TH	n/a	2,500 4,000	30* 40*	100	10	20	30	40	20	10	5	35	70%	RS-6 District
MID	12	6,000	60	100	15	20	30	40	25	20	6	35	70%	
MF	24	6,000	60	100	15	20	30	40	25	20	10	40; 3 stories	90%	
MH	n/a	5,000	50	100	15	20	30	40	20	15	7.5	n/a	n/a	

n/a-not applicable

¹A minimum width of 100 feet is required along arterial streets (2.6.1.1(e)(3))
*This applies to one side only. A 10 foot separation between homes is required.

* Each lot will have half of a structure, there will be a shared wall along the property line. Minimum 12' separation between structures



SHEET 1 OF 1	NO.	REVISION	DATE	SCALE 1" = 400'
				PROJECT # 20293
				DESIGNED S.M.
				DRAWN S.M.
				CHECKED C.S.F.

BAR IS ONE HALF INCH IN LENGTH ON ORIGINAL
DRAWING. CHECK SCALE & ADJUST ACCORDINGLY.

■■■■■

ABILENE TEXAS
CARRIAGE HILLS DEVELOPMENT
RE-ZONING
ZONING EXHIBIT



3465 CURRY LANE
ABILENE TX 79606
325-695-1070

1508 SANTA FE DR STE 204
WEATHERFORD TX 76086
817-594-9880

FIRM# F-2448

For the PLANNING & ZONING COMMISSION
Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2020-16

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below.
You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: SHOPS AT CARRIAGE HILLS LLC
Address: 250 E BELTWAY S

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒
Additional Comments:

I am opposed ☐

Signature: _____

NOV 2 AM 11:12

For the PLANNING & ZONING COMMISSION

Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2020-16

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: SHOPS AT CARRIAGE HILLS LLC

Address: 420 X E BELTWAY S

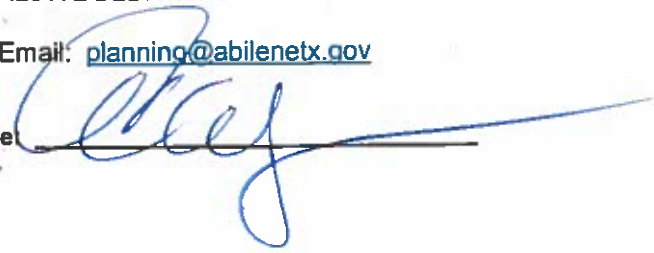
Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒
Additional Comments:

I am opposed ☐

Signature



NOV 2 AM 11:12



Smith, Jared <jared.smith@abilenetx.gov>

[Planning] Case#Z-2020-16

1 message

amdelacr@gmail.com <amdelacr@gmail.com>
To: planning@abilenetx.gov

Fri, Oct 30, 2020 at 10:19 AM

Dear Council,

My name is Aileengale Dizon and I currently live on 202 Kristi Path. I am in strong opposition to the plan of the re-zoning of the 22 acres of land between Sawgrass subdivision and Maple street. I also oppose having street access between Kristi Path and Carriage Hills. I strongly urge you to disapprove the proposed rezoning. Thank you.

Sincerely,
Aileengale Dizon

--
You received this message because you are subscribed to the Google Groups "Planning Services" group.
To unsubscribe from this group and stop receiving emails from it, send an email to planning+unsubscribe@abilenetx.gov.
To view this discussion on the web visit <https://groups.google.com/a/abilenetx.gov/d/msgid/planning/0C9A6538-E439-4739-B9FC-88F5A488F960%40gmail.com>.



Sawyers, Cheryl <cheryl.sawyers@abilenetx.gov>

[Planning] Zone Change Application Number Z-2020-16 Revised

1 message

Neese, John <jneese@hsutx.edu>

Sun, Nov 1, 2020 at 1:50 PM

To: "planning@abilenetx.gov" <planning@abilenetx.gov>

John and Melissa Neese are opposed to the request to rezone property from Agricultural Open Space to a Planned Development on 22.13 acres of vacant land.

This vacant land is at the Northeast corner of Maple and FM 707.

Thank you,

John and Melissa Neese

[218 Periwinkle Trail](#)

[Abilene, Texas 79602](#)

--

You received this message because you are subscribed to the Google Groups "Planning Services" group.

To unsubscribe from this group and stop receiving emails from it, send an email to planning+unsubscribe@abilenetx.gov.

To view this discussion on the web visit [https://groups.google.com/a/abilenetx.gov/d/msgid/planning/](https://groups.google.com/a/abilenetx.gov/d/msgid/planning/SA0PR20MB345424187DE175DFC7172B88D0130%40SA0PR20MB3454.namprd20.prod.outlook.com)

[SA0PR20MB345424187DE175DFC7172B88D0130%40SA0PR20MB3454.namprd20.prod.outlook.com](https://groups.google.com/a/abilenetx.gov/d/msgid/planning/SA0PR20MB345424187DE175DFC7172B88D0130%40SA0PR20MB3454.namprd20.prod.outlook.com).



Smith, Jared <jared.smith@abilenetx.gov>

[Planning] Zone Change Application Number Z-2020-16

1 message

Leon Giesecke <leon.giesecke@milsoft.com>
To: planning@abilenetx.gov

Thu, Oct 29, 2020 at 7:54 PM

I am Opposed to the Zoning Change AG to planned development

Additional Comments:

I am not opposed to Single Family which was the original intent of Carriage hills, duplexes near school, then smaller homes then larger ones toward 707 or at least that was the story being told. We knew about the commercial and I asked Aaron himself, he said no apartments but I guess I should have asked about duplex and quadplexes, The traffic situation with single family would be bad but adding the traffic from duplexes would increase the danger along kristi path and especially pilgrim which is currently to narrow and unsafe due to increased school traffic.

Signed,

Leon and Janet Giesecke
[225 Alex Way](#)
[Abilene, Texas 79602](#)
Leon Giesecke
leon.giesecke@milsoft.com

--

You received this message because you are subscribed to the Google Groups "Planning Services" group.
To unsubscribe from this group and stop receiving emails from it, send an email to planning+unsubscribe@abilenetx.gov.
To view this discussion on the web visit https://groups.google.com/a/abilenetx.gov/d/msgid/planning/CAJne_hx%2B9mWjCzdQOa4%3DNLXJLApMjquJAuYNM%2BW0aR5sD8sbQNg%40mail.gmail.com.



Watts, Nick <nick.watts@abilenetx.gov>

Case #Z-2020-16

1 message

gibbi42@gmail.com <gibbi42@gmail.com>
To: planning@abilenetx.gov, nick.watts@abilenetx.gov
Cc: Katie <katie0018@gmail.com>

Sun, Nov 1, 2020 at 7:44 AM

Sir or Ma'am,

My wife and I, Katie and Kyle Gibson at 225 Kristi Path Abilene TX 79602, are OPPOSED to the rezoning of southwest quarter of section 14 of Lunatic Asylum Lands. The original rezoning was for single family homes. I speak for the families in Sawgrass subdivision who did not get the rezoning letter but are as equally affected as us, that we do not want multi family units built next to our homes. One of the concerns is that our property values will decrease. Additionally, we do not want Kristi Path/our neighborhood connected to whatever does get eventually built on that land. We do not want the additional traffic and safety concerns in our neighborhood that connecting Kristi Path would bring.

Kyle and Katie Gibson



Watts, Nick <nick.watts@abilenetx.gov>

[Planning] Case #Z-2020-16

1 message

Mike Moore <vfautomotive@suddenlinkmail.com>
To: planning@abilenetx.gov

Tue, Nov 3, 2020 at 1:14 PM

I'm opposed to the planned development on the 22.13 acres due to increase traffic and decreased home values. Mike and Lacey Moore
226 Alex Way.

Sent from my iPhone

--

You received this message because you are subscribed to the Google Groups "Planning Services" group.
To unsubscribe from this group and stop receiving emails from it, send an email to planning+unsubscribe@abilenetx.gov.
To view this discussion on the web visit <https://groups.google.com/a/abilenetx.gov/d/msgid/planning/093AF64E-813C-40C2-84C4-573F2CE56423%40suddenlinkmail.com>.



Watts, Nick <nick.watts@abilenetx.gov>

[Planning] Zone change

1 message

Charity Canario <dccanario@gmail.com>
To: planning@abilenetx.gov

Wed, Nov 11, 2020 at 5:20 PM

To Whom it may concern,

I am opposed to zone change Z-2020-16.
I am opposed to zone change Z-2020-15.

Sincerely,

Daniel G. Canario
334 Pilgrim Road
Abilene, TX 79602

--

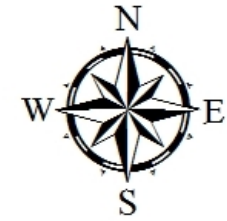
You received this message because you are subscribed to the Google Groups "Planning Services" group.
To unsubscribe from this group and stop receiving emails from it, send an email to planning+unsubscribe@abilenetx.gov.
To view this discussion on the web visit <https://groups.google.com/a/abilenetx.gov/d/msgid/planning/CAHj7b0EfzOdP044r%2BJenPFihkreQvaU7WrbBcrc2F7zdvTs-nw%40mail.gmail.com>.

Case:	Z-2020-16
Owner:	Carriage Hills Development Corporation.
Agent:	Jacob & Martin
Request:	Rezone from AO to PDD 167
Legal Description:	22.13 acres out of the Southwest quarter of Section 14, Lunatic Asylum Lands, City of Abilene, Taylor County, Texas
Notification:	2 in Favor, 5 Opposed
Planning & Zoning Recommendation:	Approval with conditions

Z-2020-16 AERIAL LOCATION MAP



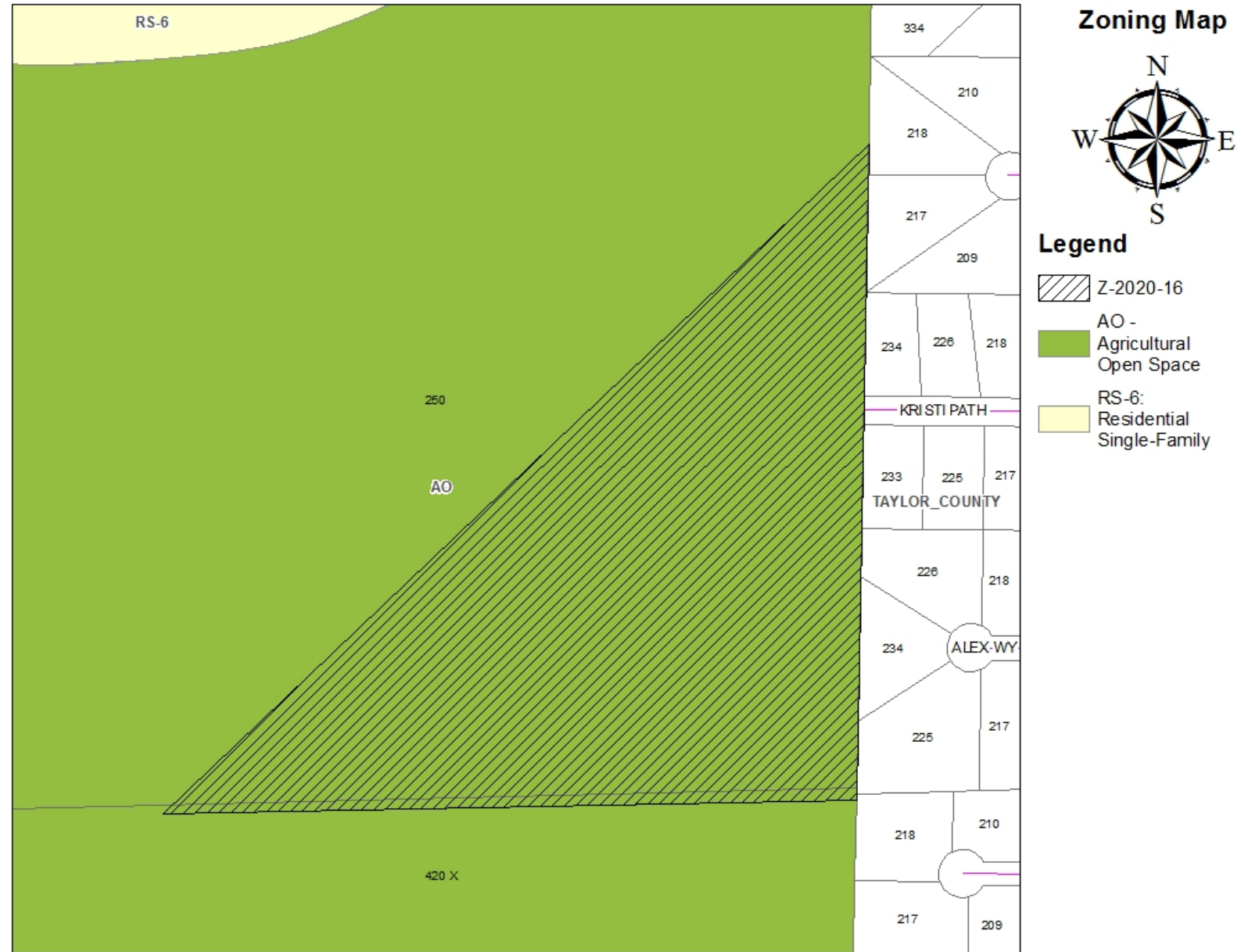
Location Map



Legend

 Z-2020-16

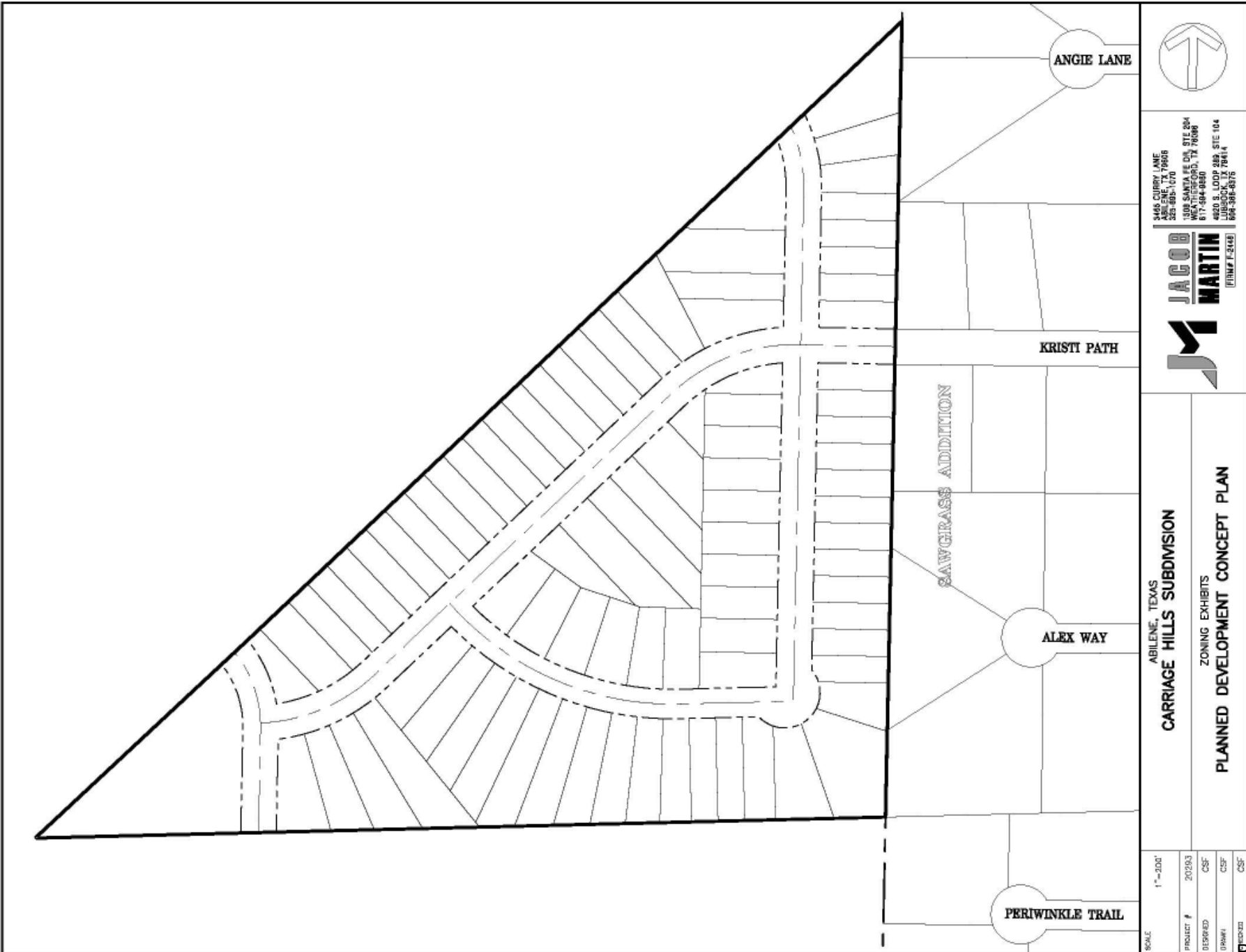
Z-2020-16 ZONING MAP



Z-2020-16
GRAPHIC
CONCEPT
PLAN



PLANNED DEVELOPMENT CONCEPT PLAN



MEDIUM DENSITY PERMITTED USES

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling – Duplex
- P Dwelling – Industrialized Housing Unit
- C Dwelling – Institutional
- P Dwelling – Multiple-Family
- P Dwelling – Single-Family Detached
- C Group Home

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P Day Care Operation – Home-Based
- TP Field Office or Construction Office (temporary)
- P Garage Sale
- P Home Occupation
- C Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recreation Equipment, Mobile (storage & parking)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- C Civic, Social, and Fraternal Organization
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- P Fire/Police Station
- C Homeless/Emergency Shelter
- C Rehabilitation Facility
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Church or Place of Worship
- C Day-Care Operation - Center-Based
- P School: Public/Private

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

P

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Section 2.4.3 of the Land Development Code)

C

Permitted as a Conditional Use Permit, Requiring Approval by City Council

TP

Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment

AGRICULTURAL OPEN SPACE (AO) DISTRICT PERMITTED USES

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling– Industrialized Housing Unit
- P Dwelling – Single-Family Detached
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P Animal Lot
- P Day Care Operation – Home-Based
- P Dwelling – Accessory
- TP Field Office or Construction Office (temporary)
- P Garage Sale
- P Home Occupation
- C Mobile Home (permanent security residence)
- C Mobile Home (temporary security residence)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)

CULTURAL AND RECREATIONAL USES:

- p Civic, Social, and Fraternal Organization
- P Fairgrounds/Rodeo
- C Motorized Racing
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Zoo

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- C Correction, Detention, or Penal Facilities
- P Fire/Police Station
- C Military and Armed Forces Reserve Center
- C Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P School: Public/Private

SERVICE

- C Kennel (with outdoor pens)
- P Kennel (without outdoor pens)
- P Veterinary Service (all size animals)

TRADE – RETAIL USES

- C Liquor Store (on premises consumption) (Defined under Liquor Store)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Airport, Heliport and Flying Field Terminals – Commercial
- C Antenna Tower – Commercial
- P Public Utility Facility
- C Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Farming, Ranching & Livestock, Hatchery
- C Mining
- C Petroleum or Gas Well

LEGEND

P

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Section 2.4.3 of the Land Development Code)

C

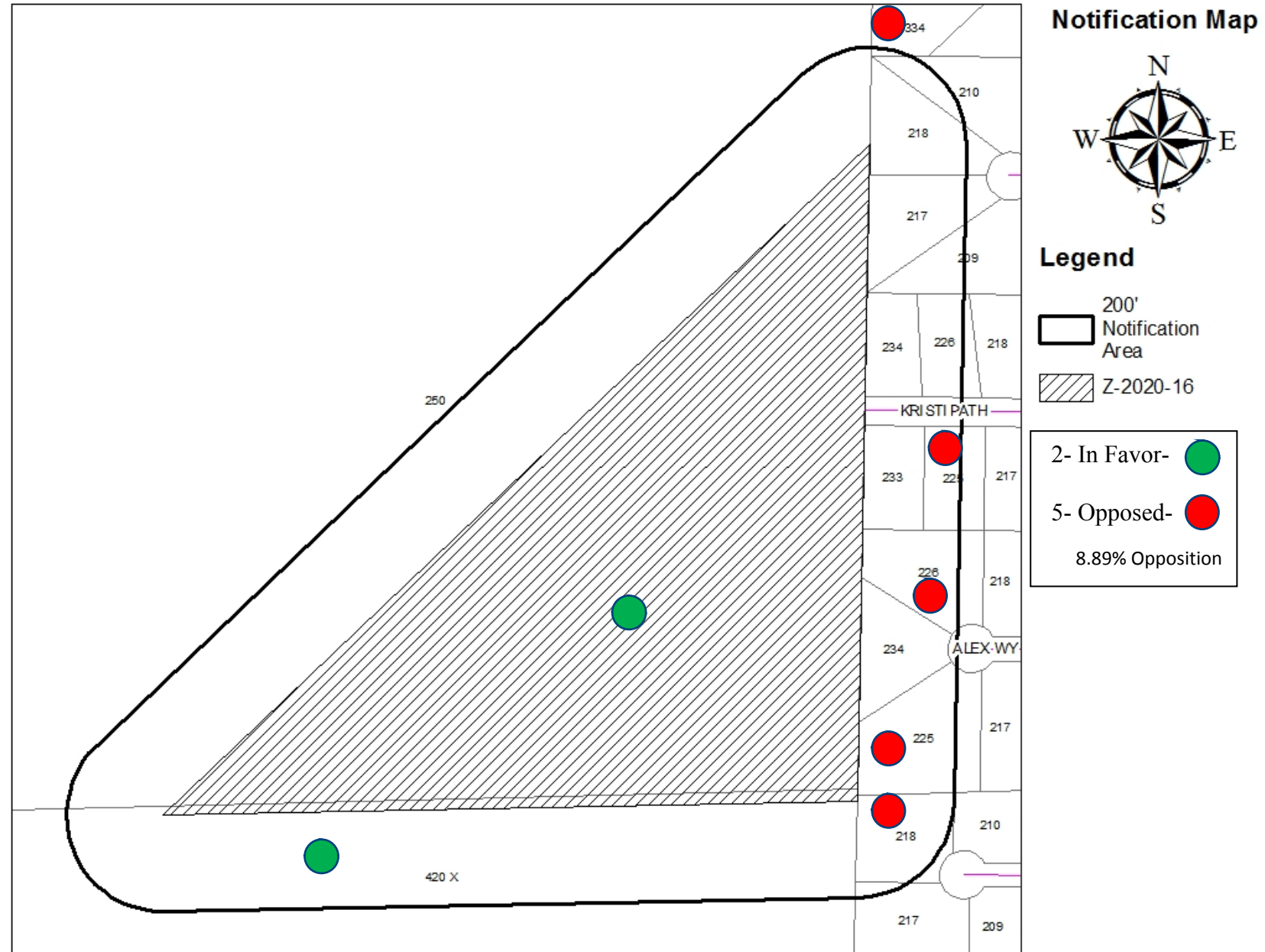
Permitted as a Conditional Use Permit, Requiring Approval by City Council

TP

Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment



Z-2020-16 NOTIFICATION AREA MAP



- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Approval without conditions
- Planning & Zoning Recommendation: Approval with conditions

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: **13. Ordinance (Final Reading) Z-2020-17: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from QT South LLC, agent Lauren Montgomery, to change the terms of Planned Development (PD) District Number PD 116 located on southeast corner of Old Anson Road and Interstate Highway 20 in northwest Abilene, specifically regarding the height and area of signs allowed there. Legal description being Lot 1 in Block 1 of the subdivision known as QT South LLC *(Mike Warrix)***

GENERAL INFORMATION

The applicant is requesting to amend the PD ordinance to allow a free standing pole sign as tall as 100-feet and as large as 700 square feet. The applicant also wishes to add a provision to permit up to eight (8) directional signs on the site, not to exceed 8' in height and 25 square feet in sign area.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends denial.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval with conditions by a vote of 6-1.

Conditions being the PD ordinance to allow a free standing pole sign as tall as 70-feet and as large as 400 square feet.

ATTACHMENTS:

1. Z-2020-17 recommended PD ordinance
2. Z-2020-17 Council Staff Report
3. Z-2020-17 Council presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE CITY CODE AND CONCERNING PD-116, A PLANNED DEVELOPMENT DISTRICT, AS WELL AS ORDINANCE NUMBERS 72-2019; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the Land Development Code of the City of Abilene is hereby amended by changing Ordinance Number 72-2019 specifically as set out in Exhibit "A" attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 19th day of November 2020.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of October, 2020, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 3rd day of December, 2020, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 3rd day of December, 2020.

ATTEST:

Shawna Atkins,
City Secretary

Anthony Williams,
Mayor

APPROVED:

Stanley Smith,
City Attorney

ORDINANCE NO. _____

Exhibit "A"
1st Amendment to Ordinance No. 72-2019

PART 7:Specific Modifications: Part 7, Section II, Paragraph D, Subsection 1

DELETE: Existing paragraph (D), subparagraph (1) which reads as:

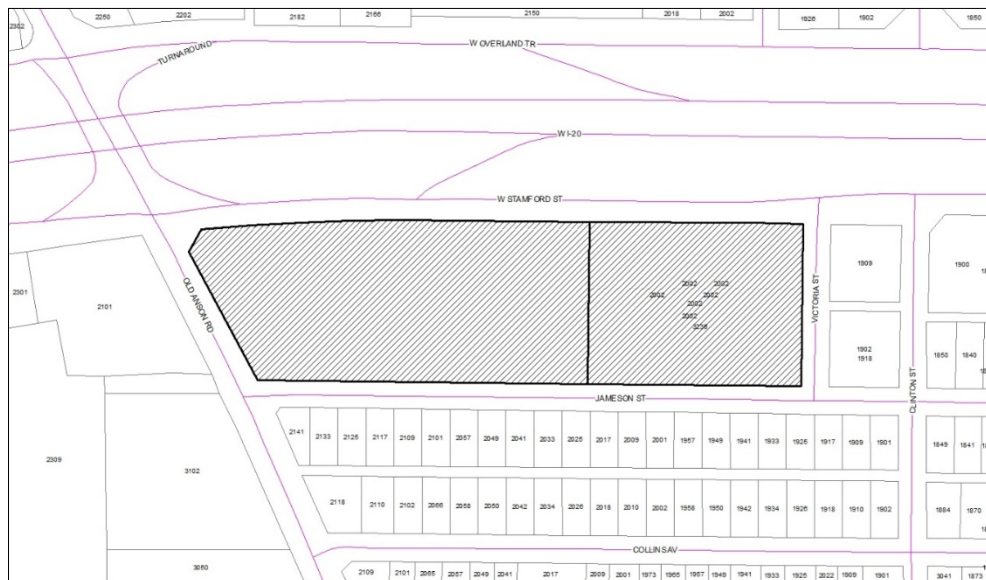
D. Signage within this Planned Development District shall generally comply with provisions and limitations of Sign Regulations adopted by the City of Abilene and which are generally applicable to General Retail zoning districts, except as modified below:

1. Freestanding signs:
 - (a) Pole signs shall only be allowed to face in the direction of West Stamford Street, the eastbound frontage road for Interstate Highway 20.
 - (b) Monument signs shall be allowed along other street frontages with a maximum height of six feet (6') and a maximum allowable area of 60 square feet.

ADD: New paragraph (D), subparagraph (1) to read as follows:

D. Signage within this Planned Development District shall generally comply with provisions and limitations of Sign Regulations adopted by the City of Abilene and which are generally applicable to General Retail zoning districts, except as modified below:

1. Freestanding signs:
 - (a) Pole signs shall only be allowed to face in the direction of West Stamford Street, the eastbound frontage road for Interstate Highway 20.
 - (b) Monument signs shall be allowed along other street frontages with a maximum height of six feet (6') and a maximum allowable area of 60 square feet.
 - (c) One on site advertising pole sign shall be permitted up to 70-feet in height and 400 square feet in area.
 - (d) Maximum of eight (8) directional signs are allowed, not to exceed 8-feet in height and 25 square feet in sign area.



ZONING CASE Z-2020-17

STAFF REPORT



REQUEST: Amend existing Planned Development District Number 116 (PD 116)

APPLICANT:

Owner: QT South, LLC

Agent: Lauren Montgomery, of JGH Consultants

HEARING DATES:

P & Z Commission: November 3, 2020

City Council 1st Reading: November 19, 2020

City Council 2nd Reading: December 3, 2020

LOCATION:

- 3217 Old Anson Rd.
- Legal description: Lot 1, Block A of QT 7904 Addition to Abilene, Taylor County, Texas.

BACKGROUND:

The Abilene Land Development Code defines a Planned Development (PD) District as a custom-made zoning classification tailored to meet the unique demands of a particular proposed development set within a specific environment.

Planned Development District 116 (PD 116) was approved in 2007 and was amended in 2013 to include a graphic concept plan which included a mixture of uses. The amendment distinctly states all development must occur as shown on the provided site plan exhibit. In 2019, this planned development district was once again amended to illustrate a new site exhibit which proposed the construction of a convenience groceries and fuel sales facility on the western most 6 acres of PD 116. In July, Abilene's Development Review Committee approved an official Site Plan for a Quick Trip at this location and a building permit was issued in August of 2020.

PROPOSAL AND REQUESTED ACTION:

The current Planned Development District ordinance which exists for this subject property limits signage to the standards which are applicable in General Retail (GR) Zoning. General Retail zoning allows free standing pole signs with a maximum height of 50-feet and square footage of 300 square feet. The applicant is requesting to amend the PD ordinance to allow a free standing pole sign as tall as 100-feet and as large as 700 square feet. The applicant also wishes to add a provision to permit up to eight (8) directional signs on the site, not to exceed 8' in height and 25 square feet in sign area.

APPLICATION REVIEW:

According to Section 1.4.1.4 (Criteria for Approval) in the City of Abilene Land Development Code, the Planning & Zoning Commission and City Council may consider the following factors in making a determination regarding requested zoning changes:

- (1) Whether the proposed zoning amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan map, as amended;**

The proposed amendment is **not** consistent with the base zoning of the Planned Development District that the subject property is embraced within. Although the future land use and development plan map illustrates this area to be a major commercial business center, the proposed amendment to allow a free standing pole sign as tall as 100-feet and 700 square feet would greatly exceed the standards which are ordinarily permitted within commercial zoning districts in the City of Abilene.

(2) Whether the proposed zoning amendment will be appropriate in the immediate area of the subject property.

Staff believes that the proposed amendment is **not** appropriate for the immediate area of the subject property. Although the property is situated along the Interstate Highway 20 frontage road, it is also adjacent to residential homes south of Jameson Street. The previous amendment which was approved by City Council allowing fuel sales on the western 6 acres of PD 116 required a strict land use buffer. This land use buffer was implemented in an effort to protect and preserve the residential character of the homes south of Jameson Street from visual and auditory nuisances which may be created by this commercial development. The proposal to allow a 100-foot pole sign as large as 700 square feet in such close proximity to the residential homes along Jameson Street may be detrimental to the preservation of the residential character of this area. Furthermore, as stated previously this proposed amendment to allow a pole sign of this size is contrary to what is ordinarily permitted within commercial zoning districts in the City of Abilene.

	Zoning	Existing Land Use
North	N/A	Expressway (I-20)
South	RS-6	Single Family Residences
East	RS-6	Single Family Residences
West	HC	Fuel Sales/Convenience Store

(3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.

The proposed amendment will not affect existing public streets, water supply, sanitary sewer and other public services and utilities in the area.

(4) Any other factors which will substantially affect the public health, safety, morals, or general welfare.

It is the opinion of the staff that there are no other factors, which substantially affect the public health, safety, morals, or general welfare of the City of Abilene.

STAFF COMMENTS:

In 2005, City Council approved an amendment to existing Planned Development District 91 (PDD 91). Ordinance #45-2005 permits freestanding signs which exceed the standard 50-foot height limitation near the north east corner of the intersection at Interstate Highway 20 (IH-20) and Texas Highway 351 (HWY-351). This ordinance amendment permits multiple 60-foot signs and one 75-foot sign. As a compromise to allowing signage which exceeds the standard sign height of commercial zoning districts the total area of the signage in this ordinance was reduced to no greater than 200 square feet in area; rather than the standard 300 square feet. The location which Quick Trip is developing is comparable to the aforementioned Planned Development District 91; in that it is also at an elevated section of IH-20 with and overpass at the Old Anson Road interchange. However, unlike the location near the intersection of IH-20 and HWY-351 this development is in close proximity to single family residences along Jameson Street. Permitting a free standing pole sign as tall

as 100-feet and as large as 700 square feet would be contrary to not only the base General Retail zoning of PD 116, but would greatly exceed all other sign standards permitted within commercial zoning districts and would effectively become the largest on-site advertising sign within the City of Abilene. Furthermore, throughout the development of this project City staff has been mindful of any adverse impacts that may be created by this fuel sales facility being in such close proximity to existing single family residences along Jameson Street. Permitting a pole sign of this magnitude may create an adverse visual nuisance to the residences south of Jameson Street.

STAFF RECOMMENDATION:

This rezoning request was reviewed pursuant to Section 1.4.1.4 (Criteria for Approval) in the Land Development Code and staff recommends denial.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning & Zoning Commission recommended approval with conditions by a vote of six (6) to one (1) on November 3, 2020.

Conditions being the PD ordinance to allow a free standing pole sign as tall as 70-feet and as large as 400 square feet.

NOTIFICATION:

The Planning Services Division sent, with certificate of mailing, public notices to the applicant and to all owners of property within a 200-foot radius of the subject property.

Owner	Situs	Response
ALLSUPS CONVENIENCE STORES INC		
ASSEMBLY OF GOD CHURCH	1902 JAMESON ST	
ASSEMBLY OF GOD CHURCH	1918 JAMESON ST	
BENGS ERIC & JOANNA	2133 JAMESON ST	
BENGS ERIC & JOANNA	2057 JAMESON ST	
BENGS ERIC D & JOANNA I	2101 JAMESON ST	
BENNETT MELISSA A	1917 JAMESON ST	
CITY OF ABILENE	1909 W STAMFORD ST	
COOPER SHIRLEY J MYERS	1957 JAMESON ST	
DAWKINS MILES A	2041 JAMESON ST	
DULANEY DEANNE J	1901 JAMESON ST	
FAIRCHILD KENT E & MARY A	2109 JAMESON ST	
GONZALES OSCAR JR & TRACIE	2141 JAMESON ST	
JGN PROPERTIES LLC SERIES B	1933 JAMESON ST	
LYALL DANIEL &	1949 JAMESON ST	
MARTIN JACKIE G JR	2033 JAMESON ST	
MARTIN PAUL G	2025 JAMESON ST	
MARTINEZ VELIA RODRIGUEZ	2049 JAMESON ST	
MC KEEVER SANDRA K	1925 JAMESON ST	
MC KEEVER SANDRA KAY	1941 JAMESON ST	
MC KINNON JOHNNY R	2009 JAMESON ST	
NATIONAL RETAIL PROPERTIES LP	2101 W STAMFORD ST	
NIETO JESSE JR	2001 JAMESON ST	
NIETO MELANIE MARIE	2017 JAMESON ST	
PAMPA INVESTMENT GROUP LP	3102 OLD ANSON RD	
SNEARLY TOM	1909 JAMESON ST	
VALERIO MARY LINDA	2125 JAMESON ST	
WEST KELLY D	2117 JAMESON ST	
	2002 JAMESON ST BLDG E	
	2002 JAMESON ST BLDG F	
	2002 JAMESON ST BLDG C	
	2002 JAMESON ST BLDG D	
	3238 VICTORIA ST	
	2002 JAMESON ST BLDG B	
	2002 JAMESON ST BLDG A	

ATTACHMENTS:

- Application
- Site Plan Exhibit
- PowerPoint



Development Application

Planning

- ☐ Conditional Use ☐ Easement Release ☐ Rezoning ☐ Other
☐ PDD ☐ Street Name Change ☐ Thoroughfare Abandonment ☒ PDD Amendment
Other: _____

Project Name: QuikTrip Number 7084

Address: 2002 Jameson Street No. of lots: 1 Acreage: 6.207

Legal Description: See attached legal description

Subdivision Name: J.B Collins Subdivision

Block: _____

Lot: _____

Current Zoning: Planned Development District 116

Proposed Zoning (if applicable): _____

OWNER AND AUTHORIZATION

Owner Name: QT South, LLC

Address: 1120 North Industrial

City, State, Zip: Eules, Texas 76039

Fax: _____

Phone: 913-593-1690

Email: mtalcott@quiktrip.com

I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) Lauren Montgomery will act as my agent before the Planning and Zoning Commission.

Agent Name: Lauren Montgomery

Address: 4447 North Central Expressway, Suite 110

City, State, Zip: Dallas, Texas 75205

Fax: _____

Phone: 214.478.5414

Email: lauren@jghconsultants.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: _____

Date: _____

FOR OFFICE USE ONLY

Received: 9/28/20

Fee: \$ \$1000

Receipt No.: 0001055779

Case No.: Z-2020-17 (PD 116 Amendment)

Reviewed By: _____



Development Application

Please answer the following question in order to assist Staff with the processing of your Zoning request.

1. Please (if necessary) provide background information for the zoning request and explain why you feel it is appropriate.

This application is submitted on behalf of QT South, LLC for an amendment to the existing planned development district to permit specific detached signage on shown on the attached site plan - a 100' tall pole sign, not to exceed 700 square feet in sign area near the southeast corner of Stamford and Old Anson Road and a maximum of eight (8) directional signs on the site not to exceed 8' in height and 25 square feet in sign area.



Development Application

RECOMMENDATIONS

The Planning & Zoning Commission (P&Z) and the City Council look to the Planning & Development Services staff to make a recommendation for the approval or disapproval of this application. We will make every effort to notify you (FAX or E-mail) of our recommendation at least one (1) week in advance of the scheduled meeting of the P&Z Commission. In the case of a rezoning, and when the public interest requires it, we may recommend a rezoning to a Planned Development District (PDD) or a classification other than the classification requested. We will notify you of our decision to propose a PDD as soon as possible after the application is filed to give you time to prepare a site plan.

PUBLIC NOTIFICATION

The public is entitled to examine this application and participate in the decision-making process. In most cases, we are required to notify all property owners within two hundred feet (200') of the boundaries of your property. To ensure the fullest possible consideration, we may also notify neighborhood groups, organizations or individuals that have a special interest in a particular issue. Except for matters that the Planning & Development Services staff have expressly agreed not to disclose (and provided the law allows us to hold the matter in confidence), then all information that we deem relevant to the review and processing of this application may become public knowledge.

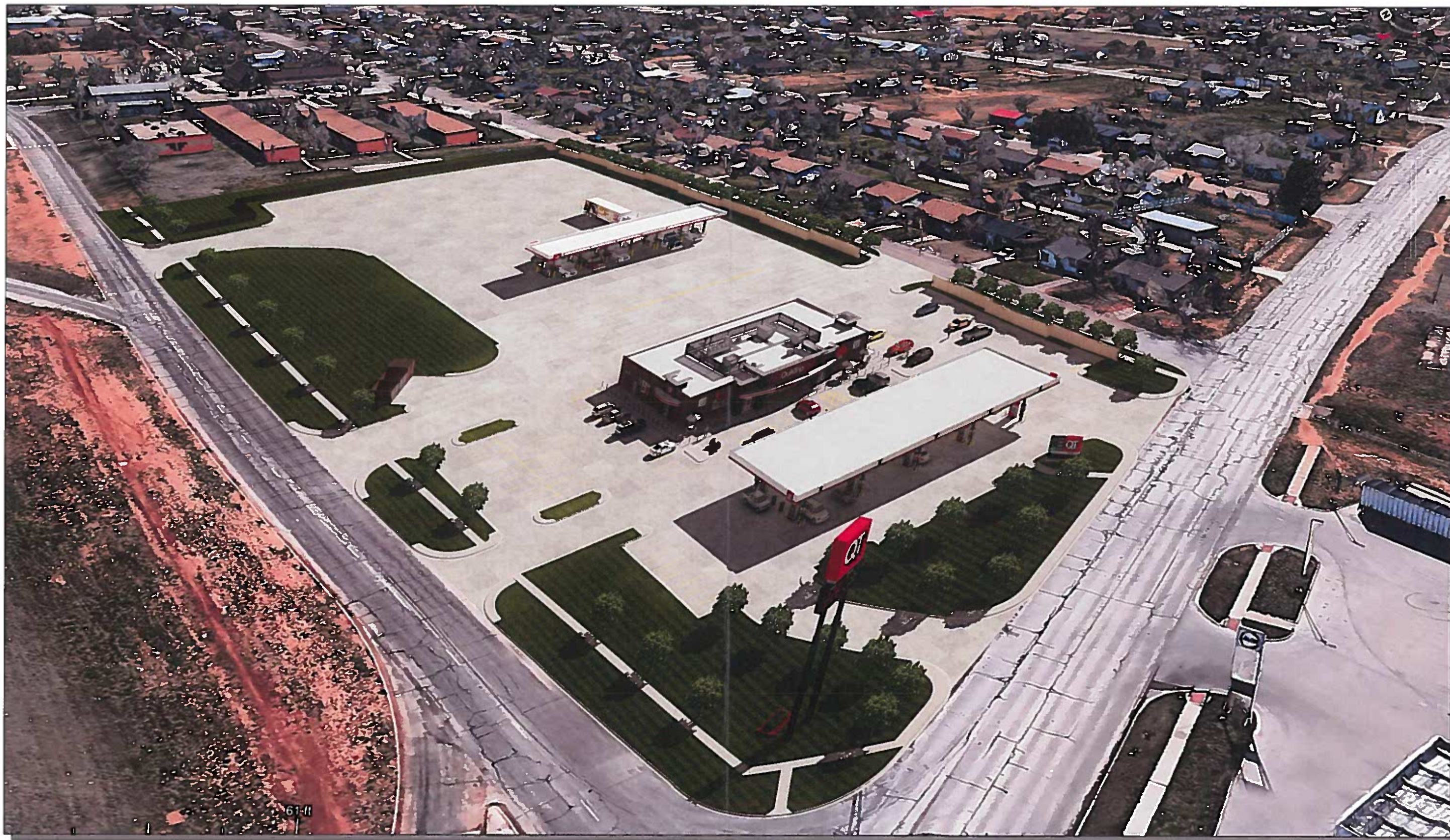
PLEASE READ BEFORE SIGNING

The undersigned has read the above application and hereby certifies that the information contained therein is complete, true and correct; and does hereby request that said application be submitted to the Planning & Zoning Commission at the earliest available meeting.

I understand and acknowledge that it is my responsibility to furnish an accurate and precise legal description of the property, and only the property, that is subject of this application, and that failure to furnish such information prior to the application deadline date will delay the processing of this application. I also understand that the City must notify affected property owners of this application. In the event that I fail to submit in a timely manner any information that the City deems necessary to transmit this application to the Planning & Zoning Commission or City Council, then in lieu of dismissal I hereby request that this application be temporarily withdrawn from further consideration until such information is submitted, and I agree to pay a resubmission fee of \$120 to reimburse the City for the expense of re-notifying affected property owners. I have been informed of the tentative date and time that the Planning & Zoning Commission and City Council will hear this application, and I understand that hearings may be continued from time to time at the discretion of the Commission or Council to allow for full consideration or when the public interest requires a continuation.

SIGNED: Michael Talcott

DATE: September 28, 2020



Store 7084
89-7084-PE00

Abilene, TX
Date: 11.15.19 By:JK



Store 7084
89-7084-PE08

Abilene, TX
Date: 11.15.19 By:JK





Store 7084
89-7084-PE09

Abilene, TX
Date: 11.15.19 By:JK

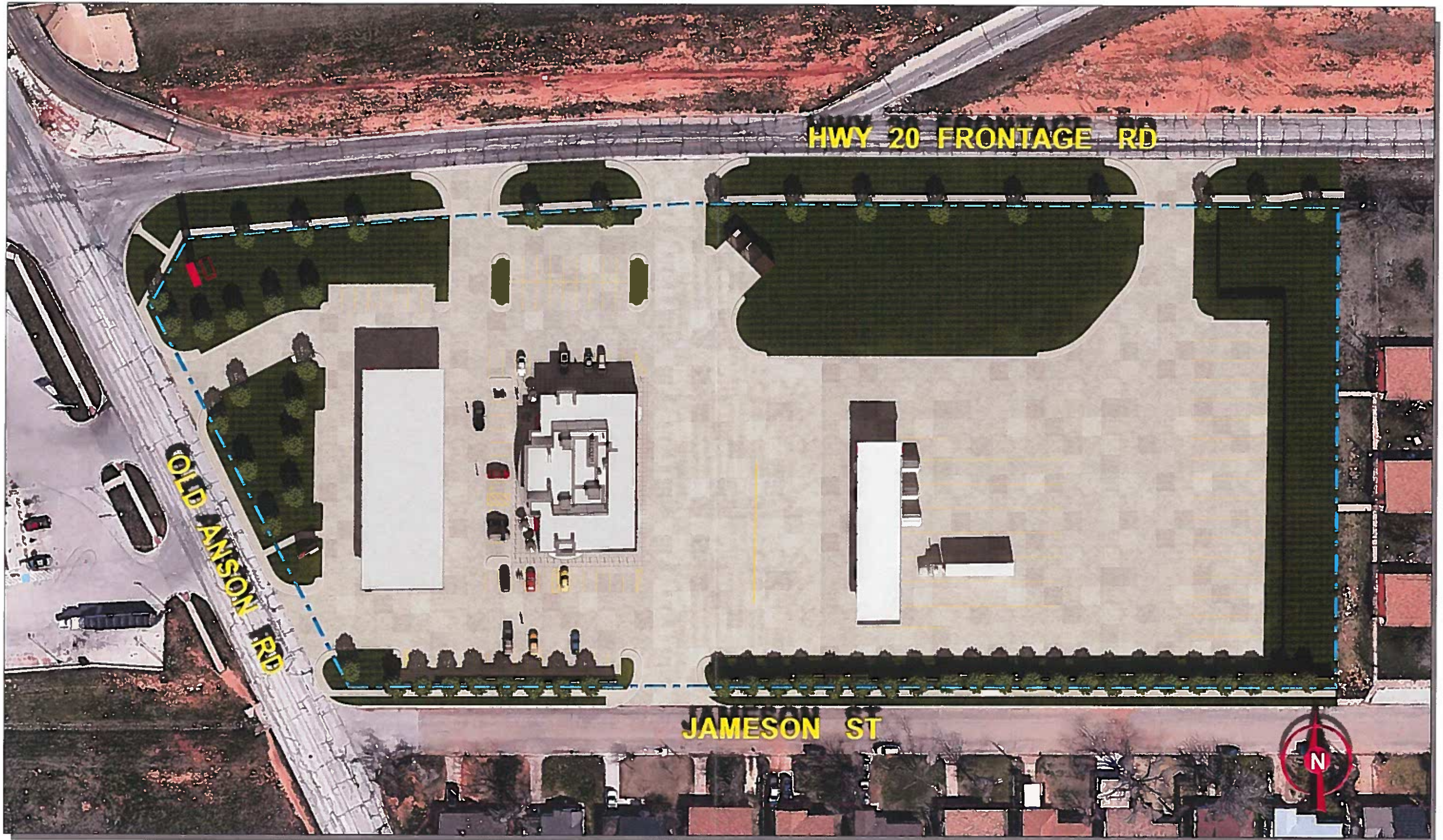




Store 7084
89-7084-PE02

Abilene, TX
Date: 11.15.19 By: JK





Store 7084
89-7084-SP01

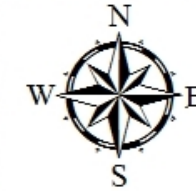
Abilene, TX
Date: 11.15.19 By:JK

Case: Z-2020-17
Owner: QT South, LLC
Agent: Lauren Montgomery, JGH Consultants
Request: Amend Existing Planned Development District
Number 116 (PD 116)
Location: 3217 Old Anson Road
Notification: 0 in Favor, 0 Opposed
Planning & Zoning Recommendation: Approval

Z-2020-17 AERIAL LOCATION MAP



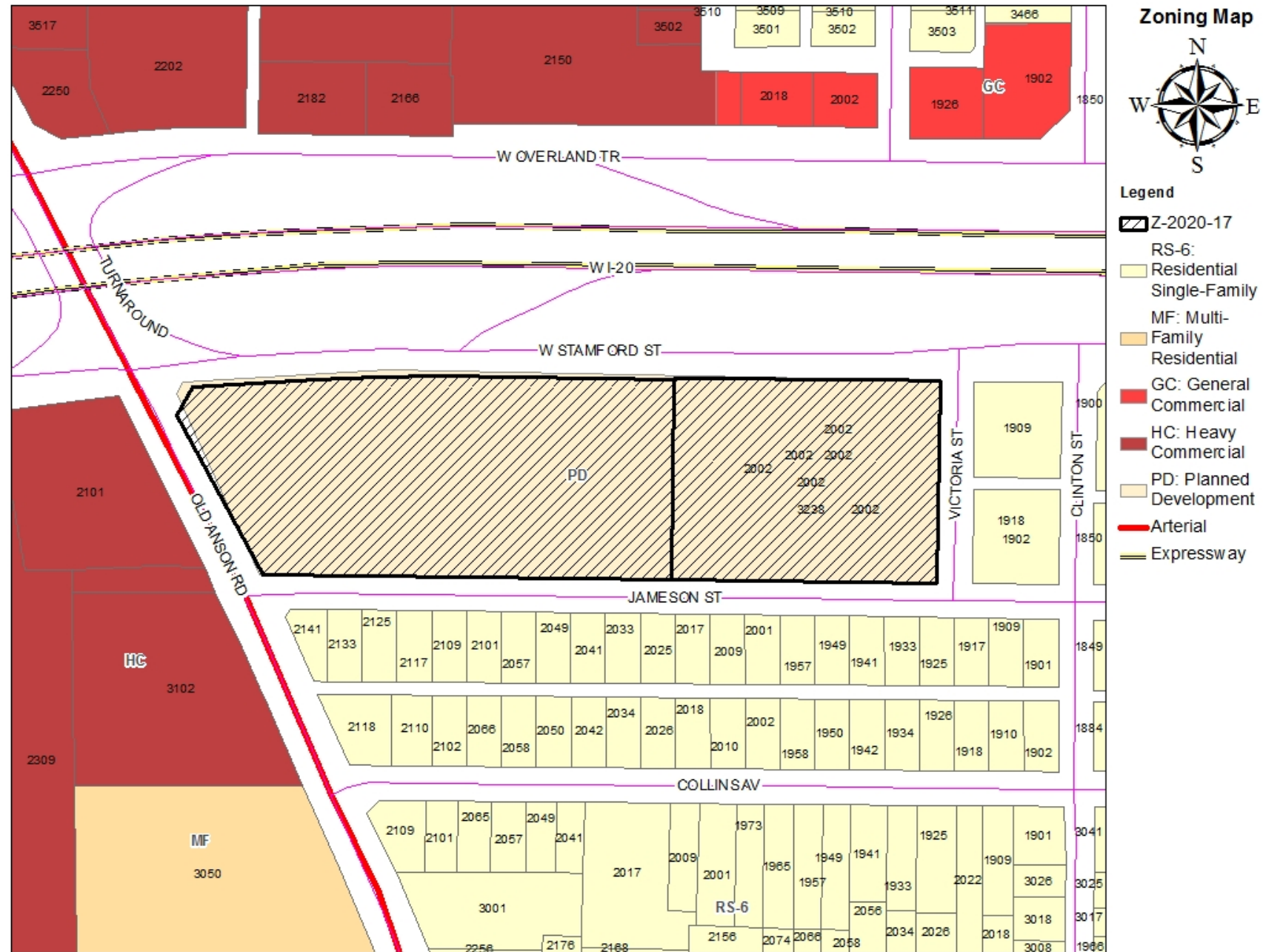
Location Map



Legend

 Z-2020-17

Z-2020-17 ZONING MAP





Store 7084
89-7084-PE00

Abilene, TX
Date: 11.15.19 By:JK









Store 7084
89-7084-SP01

Abilene, TX
Date: 11.15.19 By:JK

Z-2020-17 VIEWS OF SUBJECT PROPERTY

Subject Property



Neighboring property to the West



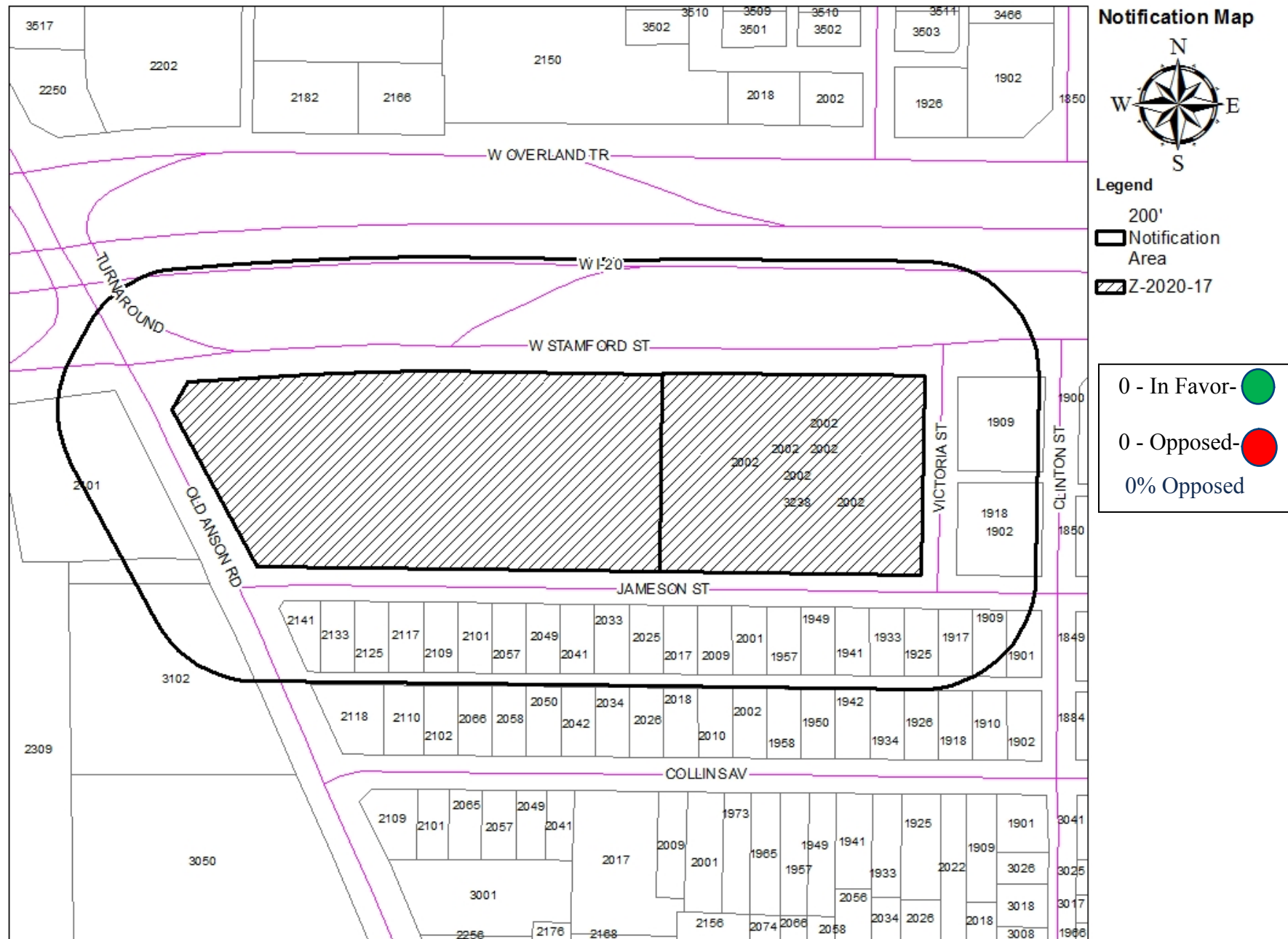
Subject property from Jameson St.



Residences South of Jameson St.



Z-2020-17 NOTIFICATION AREA MAP



- Not consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Request is not consistent with General Land Use and Zoning Character of Immediate Area (Section 2.3.3.5)
- Reviewed Pursuant to Section 1.4.3.5 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Denial, the request is non-compliant with general retail sign standards for on site advertising in the City of Abilene.
- Planning & Zoning Commission: Approval with conditions

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: 14. Ordinance (Final Reading) Z-2020-19: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Oldham Partners LP and Windmill Circle Partners LP, agent Tony Conder, to rezone approximately 3.8 acres in a General Retail (GR) District extending 300 feet north from the 900 block of Gateway Street, and approximately 4.3 acres in an adjacent Neighborhood Retail (NR) District extending 300 feet west from the 3600-3700 blocks of Oldham Lane, to a General Commercial (GC) District
(Mike Warrix)

GENERAL INFORMATION

The applicants are requesting to change the zoning of approximately 8.1 acres of vacant land, from what is now a combination of General Retail (3.8 acres) and Neighborhood Retail (4.3 acres) Districts. This acreage is planned to be combined with an adjoining 16.271 acres of vacant land already in a General Commercial District, to form a site for what is categorized as “sales and rental of trucks and other large vehicles.”

Specifically, these combined 24.371 acres are proposed to be a new location for Warren Caterpillar Sales and Rental in Abilene, now headquartered at 3601 South Treadaway Boulevard.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

City staff recommends approval

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 7-0.

ATTACHMENTS:

1. Z-2020-19 draft ordinance
2. Z-2020-19 Council staff report
3. Z-2020-19 Council Presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING the 19th day of November, 2020.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of October, 2020, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 3rd day of December, 2020, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 3rd day of December, 2020.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Change the zoning classification of all the following described tract (not already embraced within a General Commercial District) from its present General Retail (GR) and Neighborhood Retail (NR) classifications, to a General Commercial (GC) zoning district:

BEING 24.371 acres of land situated in the City of Abilene, Taylor County, Texas, and being out of the southeast quarter of Section 62, Blind Asylum Lands (Abstract No. 679) and being out of a 98.33-acre tract described in a certain Deed Without Warranty to Musgrave and Musgrave LLP, dated October 4 of 2005, and recorded on Page 821 in Volume 3151 of Official Public Records of Real Property (O.P.R.R.P.) in Taylor County, Texas, and said 24.317-acre tract being more particularly described in metes-and-bounds as follows:

BEGINNING at an "X" set in concrete at the point of intersection of the north line of right-of-way for Oldham Lane (a.k.a Farm-to-Market Highway 1750) which said right-of-way line is the east line of said 98.33-acre tract, and said POINT OF BEGINNING being the northeast corner of Section 1, Tuscan Village Addition to said City of Abilene as shown per plat recorded on Slide 351-A in Cabinet 2 of Plat Records for said Taylor County, Texas;

THENCE in a westerly direction along said north line of right-of-way for Gateway Street according to the following calls:

North 89° 42' 12" West along said north right-of-way line, at 10.00 feet passed a found $\frac{3}{4}$ -inch aluminum rod with 2-inch aluminum Jacob & Martin cap, henceforth call a standard monument, and continuing a total distance of 76.30 feet to a standard monument found for a corner;

South 88° 20' 54" West for a distance of 120.00 feet to a standard monument found for a corner;

North 89° 41' 48" West for a distance of 597.79 feet to a standard monument found for a corner at the beginning of a curve to the right which is concave to the east-northeast and having a radius of 485.00 feet, a delta angle of 23° 08' 58" and being subtended by a chord bearing North 78° 11' 30" West and 194.63 feet in length;

Along said curve for a distance of 195.96 feet to a standard monument found for a corner;

North 66° 34' 03" West for a distance of 413.09 feet to a standard monument found for a corner;

North 64° 39' 19" West for a distance of 120.04 feet to a standard monument found for a corner;

North 66° 37' 21" West for a distance of 66.34 feet to a standard monument found for a corner in the westerly line of said 98.33-acre tract, same being the easterly right-of-way line of Texas Highway Loop 322;

THENCE North 23° 28' 45" East along the westerly line of said 98.33-acre tract and the easterly line of right-of-way for Texas Highway Loop 322, for a distance of 314.48 feet to a found standard monument at the beginning of a curve to the right which is concave to the southeast and which has a radius of 2714.54 feet, a delta angle of 12° 56' 29" and being subtended by a chord bearing North 30° 08' 17" East being 611.84 feet in length;

THENCE along said easterly right-of-way line and said westerly tract line and said curve to the right a distance of 613.14 feet to a found 5/8-inch rebar rod with a cap stamped “J&M BOUNDARY” for the most northerly southwest corner of the Grocery Retail Addition #2220-00 to the City of Abilene as shown on the plat of record of said addition recorded on Slide 180 in Cabinet 4 of Plat Records for Taylor County, Texas;

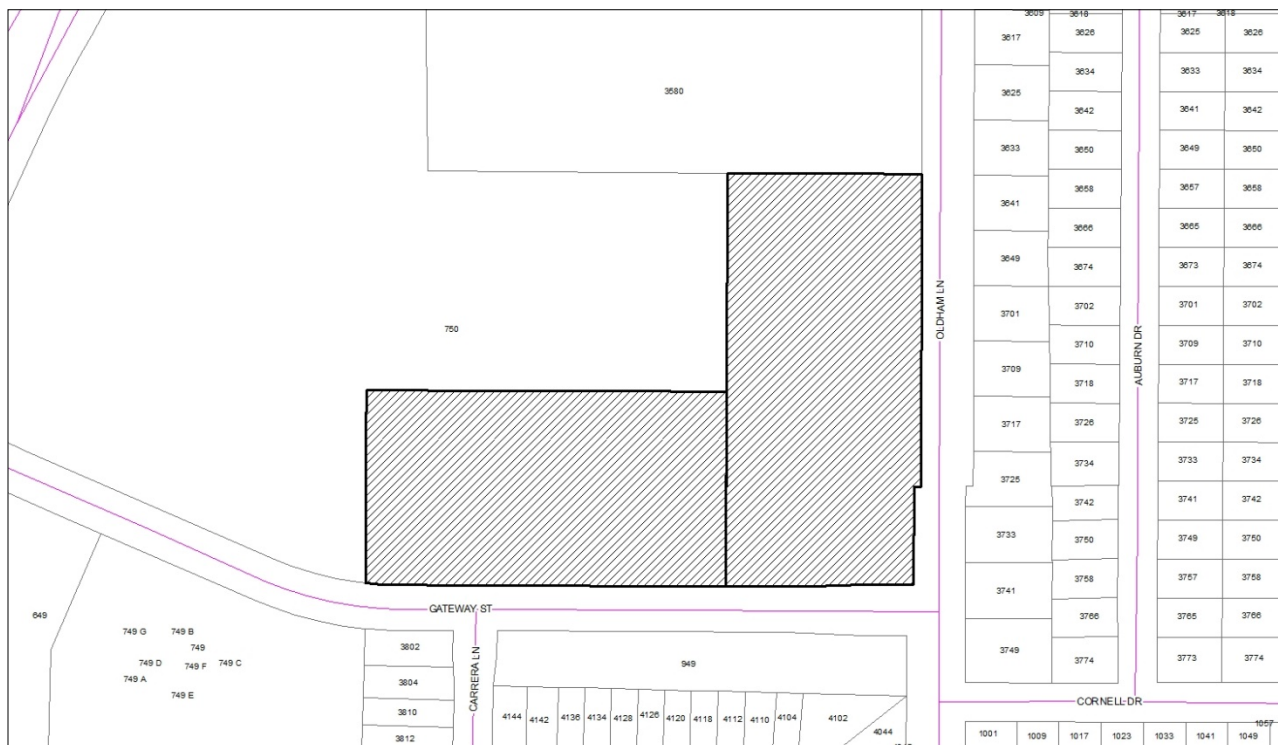
THENCE South 54° 38’ 38” East along a southerly line of said Grocery Retail Addition #2220-00 for a distance of 78.47 feet to a found 5/8-inch rebar rod with cap for a corner;

THENCE South 89° 43’ 36” East along a southerly line of said Grocery Retail Addition #2220-00 for a distance of 289.86 feet to a found 5/8-inch rebar rod with cap for a corner;

THENCE South 00° 16’ 24” West along the most southerly west line of said Grocery Retail Addition #2220-00 for a distance of 436.04 feet to a found 5/8-inch rebar rod with cap for a corner;

THENCE South 89° 43’ 36” East along the most easterly south line of said Grocery Retail Addition #2220-00 for a distance of 751.61 feet to a found 5/8-inch rebar rod with cap for the southeast corner of said Grocery Retail Addition #2220-00 and the northeast corner of this tract and being located in the west line of right-of-way for Oldham Lane (a.k.a. Farm-to-Market Highway 1750) and the east line of said 98.33-acre tract;

THENCE South 00° 16’ 24” West along the west line of right-of-way for Oldham Lane (a.k.a. Farm-to-Market Highway 1750) and the east line of said 98.33-acre tract, for a distance of 613.07 feet to the POINT OF BEGINNING and containing 24.371 acres of land, more or less.



location: approximately 3.8 acres extending 300 feet north from 900 block of Gateway Street in an existing General Retail (GR) District, and approximately 4.3 acres extending 300 feet west from 3600-3700 blocks of Oldham Lane in an existing Neighborhood Retail (NR) District

-END-

ZONING CASE Z-2020-19

STAFF REPORT



REQUEST: Rezone approximately 3.8 acres in a General Retail (GR) District and approximately 4.3 acres in an adjacent Neighborhood Retail (NR) District, to a General Commercial (GC) District.

APPLICANT:

Owners: Oldham Partners, LP and Windmill Circle Partners, LP

Agent: Tony Conder

HEARING DATES:

P & Z Commission: November 3, 2020

City Council 1st Reading: November 19, 2020

City Council 2nd Reading: December 3, 2020

LOCATION:

- Approximately 3.8 acres out of southeast quarter of Blind Asylum Lands Section 62 extending 300 feet north from 900 block of Gateway Street in an existing General Retail (GR) District
- Approximately 4.3 acres out of southeast quarter of Blind Asylum Lands Section 62 extending 300 feet west from 3600-3700 blocks of Oldham Lane in an existing Neighborhood Retail (NR) District

PROPOSAL AND REQUESTED ACTION:

The applicants are requesting to change the zoning of approximately 8.1 acres of vacant land, from what is now a combination of General Retail (3.8 acres) and Neighborhood Retail (4.3 acres) Districts. This acreage is planned to be combined with an adjoining 16.271 acres of vacant land already in a General Commercial District, to form a site for what is categorized as “sales and rental of trucks and other large vehicles.” Specifically, these combined 24.371 acres are proposed to be a new location for Warren Caterpillar Sales and Rental in Abilene, now headquartered at 3601 South Treadaway Boulevard.

BACKGROUND:

The subject property was annexed to the City limits of Abilene in 1968, with the initial construction of Loop 322.

Until 2013, this subject property, the entire triangular block bounded by Loop 322, Oldham Lane and Gateway Street was zoned Agricultural Open Space (AO). During 2013, this entire block was rezoned to its present arrangement of General Commercial (GC), General Retail (GR) and Neighborhood Retail (NR) Districts.* This triangular block was vacant then (in 2013) and remains vacant today.

EXISTING AND PROPOSED ZONING:

These 2013 zone changes included creation of:

- an approximately 3.8-acre General Retail District extending 300 north from Gateway Street, across from a residential development known as the Tuscany Village Addition; and
- an approximately 4.3-acre Neighborhood Retail District extending 300 feet west from Oldham Lane, across from eight single-family homes at 3541 thru 3741 Oldham Lane.

* See Zone Change Case No. Z-2020-13 and City Council Ordinance No. 50-2013.

As mentioned above, these two zoning districts (a GR District and an NR District) are both proposed to be changed to a General Commercial zoning district with the intent to accommodate planned future development of a site for sales and rental of trucks and other large vehicles with an approved Conditional Use Permit.

APPLICATION REVIEW:

Section 1.4.1.4 of Abilene’s Land Development Code concerns criteria for approval of zoning changes. This Section stipulates that, in making a recommendation regarding a requested zone change, the Planning and Zoning Commission and the City Council should consider the following factors:

- (1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan map, as amended.**

The Future Land Use and Development component of Abilene’s Comprehensive Plan suggests the entire triangular block bounded by Loop 322, Oldham Lane and Gateway Street to be part of a Major Commercial/Business Center. It was on this basis that the present arrangement of commercial zoning (inc. GC, GR and NR Districts) was applied during 2013.

- (2) Whether the uses permitted by the proposed change in zoning classification (and the standards applicable to such uses) will be appropriate in the immediate area of the land to be reclassified.**

Both General Retail (GR) and Neighborhood Retail (NR) zoning classifications are intended for closer compatibility with nearby residences than is General Commercial (GC) zoning. GC zoning also allows the opportunity to seek approval of a Conditional Use Permit (CUP) allowing sales and rental of trucks and other large vehicles. This particular opportunity for CUP approval is not available in GR and NR Districts.

Zoning		Existing Land Use
North	GC, GR	vacant land
South	MD	townhomes, duplexes (across Gateway Street)
East	RS-6	single-family homes (across Oldham Lane)
West	GC	vacant land

- (3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.**

The proposed change from a combination of GR and NR zoning, to GC zoning, should have no significant impact on public services for water distribution, sewage collection, schools or other such public facilities.

- (4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.**

It is the opinion of staff that the requested change may affect the general welfare of the adjacent neighborhoods due to the variety of uses allowed in GC zoning. However, screening requirements and landscape buffers can be addressed during the platting and site plan processes.

STAFF RECOMMENDATION:

City staff recommends approval

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval by a vote of seven (7) to zero (0) on November 3, 2020.

NOTIFICATION:

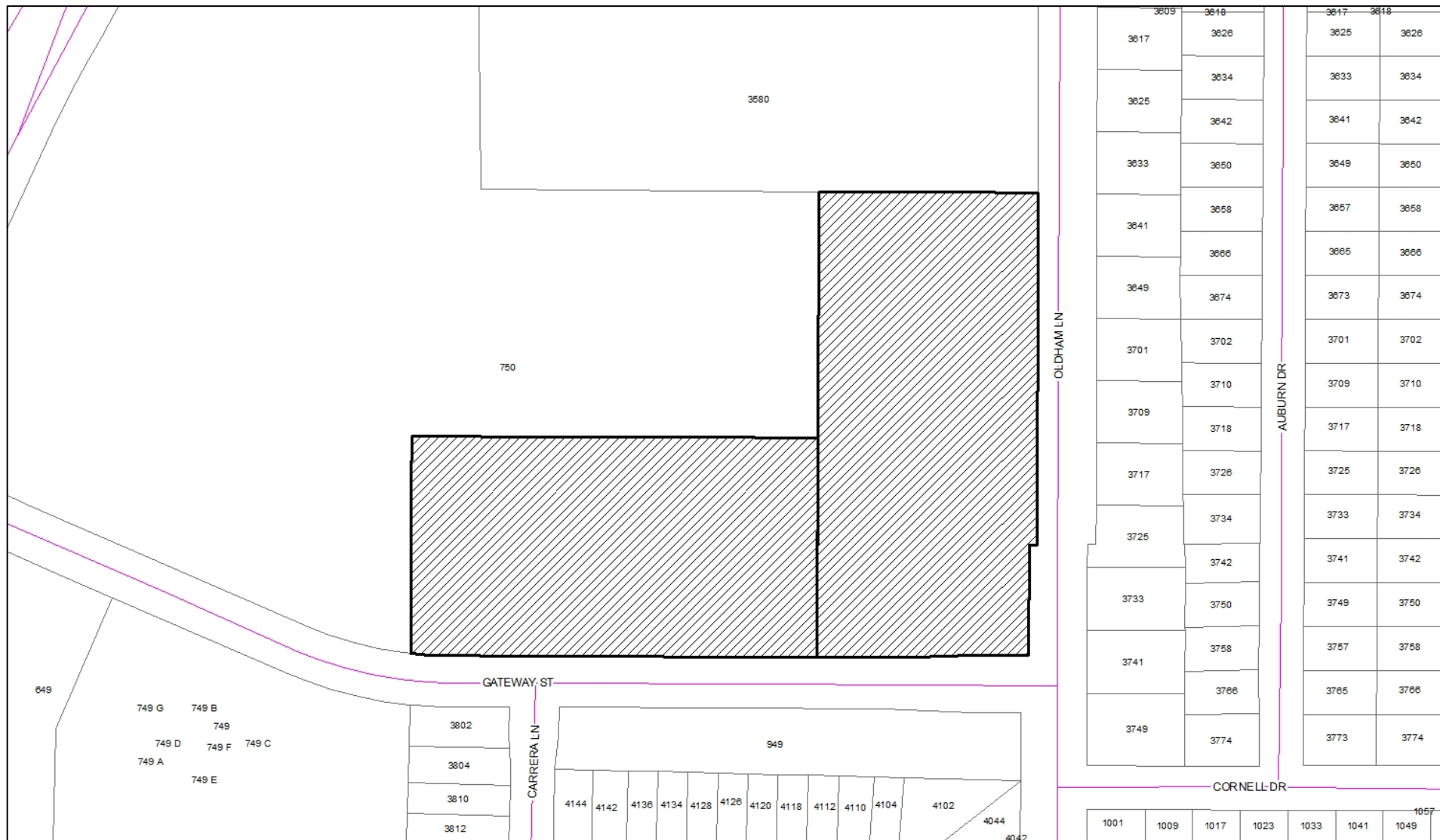
The Planning Services Division sent, with a certificate of mailing, public notices to the applicant and to owners of property within a 200-foot radius of this subject property;

Owner	Situs	Response
ABILENE TUSCANY LLC	749 GATEWAY ST	
ABILENE TUSCANY LLC	749 G GATEWAY ST	
ABILENE TUSCANY LLC	749 A GATEWAY ST	
ABILENE TUSCANY LLC	749 B GATEWAY ST	
ABILENE TUSCANY LLC	749 C GATEWAY ST	
ABILENE TUSCANY LLC	749 D GATEWAY ST	
ABILENE TUSCANY LLC	749 E GATEWAY ST	
ABILENE TUSCANY LLC	749 F GATEWAY ST	
ALLEN ROBERT G	3649 OLDHAM LN	
BARNES JUSTIN & HANNAH MARIE	3617 OLDHAM LN	
BENAVIDES MIGUEL & ASHLEY N	3718 AUBURN DR	
COX BURL C	3725 OLDHAM LN	
FESTEJO CHARLEMAGNE F & MIRIAM E	3658 AUBURN DR	
HALL BRANDON C ET AL	4136 CARRERA LN	
HAMILTON WALTER J II	3709 OLDHAM LN	
JONES MICHAEL L & PATRICIA A	3734 AUBURN DR	Opposed
JSALINAS PROPERTIES LLC	4112 CARRERA LN	
JSALINAS PROPERTIES LLC	4110 CARRERA LN	
LIGHT BOY PROPERTIES	3710 AUBURN DR	
MARTIN GRADY LYNN	3701 OLDHAM LN	
MATTHEW WILLIAM M & NANCY A	3650 AUBURN DR	
MC DONALD ASSETS INC	4120 CARRERA LN	
MC DONALD ASSETS INC	4118 CARRERA LN	
MCDONALD ASSETS INC	4044 CARRERA LN	
MUSGRAVE & MUSGRAVE LLP	949 GATEWAY ST	
NOBLES ROBERT R & CYNTHIA G	4142 CARRERA LN	
NOBLES ROBERT R & CYNTHIA G	4144 CARRERA LN	
NOBLES ROBERT R II &	3802 CARRERA LN	
NOBLES ROBERT R II &	3804 CARRERA LN	
NOBLES ROBERT R II &	3810 CARRERA LN	
RAINY CREEK MANAGEMENT INC	3633 OLDHAM LN	
REYNA EDUARDO & SOLEDAD	3625 OLDHAM LN	
SNOW MICHAEL	3741 OLDHAM LN	
STITTS JERRY & JUDY	4134 CARRERA LN	
STREET MICHAEL E JR	3717 OLDHAM LN	
SWANSON KENNETH W &	3641 OLDHAM LN	
VAUGHN CHRIS L &	3666 AUBURN DR	
WADE LANTHA A	3733 OLDHAM LN	
WALKER COLBY & RHONDA LYNN	3674 AUBURN DR	
WALMART REAL ESTATE	3580 OLDHAM LN	
WEST JARROD & RACHEL	4104 CARRERA LN	
WEST JARROD & RACHEL	4102 CARRERA LN	
WICHNER JUSTIN ANDREW & TIMEA	4128 CARRERA LN	
WICHNER JUSTIN ANDREW & TIMEA	4126 CARRERA LN	
WILKINSON CLYDE C &	3702 AUBURN DR	Opposed In Favor
WINDMILL CIRCLE PARTNERS LP &	750 GATEWAY ST	
WYATT JESSE A & TINA L	3749 OLDHAM LN	
ZHANG XIANGLING	3726 AUBURN DR	

ATTACHMENTS:

- Application
- PowerPoint

Case # Z-2020-19
October 23, 2020





Development Application

Planning

☒ Conditional Use ☐ Easement Release ☐ Rezoning ☐ Other
☐ PDD ☐ Street Name Change ☐ Thoroughfare Abandonment ☐ PDD Amendment
 Other: _____

Project Name: Warren Caterpillar

Address: Loop 322 access rd./Gateway Blvd. No. of lots: 1 Acreage: 24.371

Legal Description: see attached

Subdivision Name: Southeast Quarter of Section 62 of the Blind Asylum Lands, Abstract No. 679

Block: _____ Lot: _____

Current Zoning: GR/NR

Proposed Zoning (if applicable): GC

OWNER AND AUTHORIZATION

Owner Name: Oldham Partners, LP and Windmill Circle Partners, LP

Address: 4150 Southwest Dr., Ste. 210

City, State, Zip: Abilene, TX 79606

Fax: _____

Phone: 325.692.9141

Email: tconder@condercompany.com

I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) Tony Conder and/or Don Whitehead will act as my agent before the Planning and Zoning Commission.

Agent Name: Tony Conder

Address: 4150 Southwest Dr., Ste. 210

City, State, Zip: Abilene, TX 79606

Fax: _____

Phone: 325.692.9141

Email: tconder@condercompany.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: _____

Date: 10/5/2020

FOR OFFICE USE ONLY

Received: 10/05/2020

Fees: \$ 1500

Receipt No.: 0001055776 & 0001055775

Case No.: Z-2020-19

Reviewed By: Brad Stone

AND
CUP-2020-08



Development Application

Please answer the following question in order to assist Staff with the processing of your Zoning request.

1. Please (if necessary) provide background information for the zoning request and explain why you feel it is appropriate.

The subject property was zoned in anticipation of a Wal-Mart development a number of years ago. Wal-Mart subsequently decided to not develop the site. Consequently the nature of development has transitioned to vehicle and machinery sales as evidenced by the adjacent development of a new John Deere power equipment facility. The proposed use is consistent with recent zoning changes and more accurately reflects the long term use and viability of this parcel of land along loop 322.

This application for conditional use is to provide Warren Equipment the eligible zoning for a new sales and service center similar to the John Deere facility

EXHIBIT A

BEING 24.371 acres of land situated in the City of Abilene, Taylor County, Texas, and being out of the Southeast Quarter of Section 62 of the Blind Asylum Lands, Abstract No. 679, and being out of a 98.33 acre tract described in a certain Deed Without Warranty to Musgrave and Musgrave, LLP dated October 4, 2005, and recorded in Volume 3151, Page 821, Official Public Records, Taylor County, Texas, and said 24.371 acre tract being more particularly described in metes and bounds as follows:

BEGINNING at an "X" set in concrete at the point of intersection of the North right-of-way line of Gateway Street and the West right-of-way line of Oldham Lane, a.k.a. Farm to Market Road 1750 (said right-of-way line is the East line of said 98.33 tract), with said point of beginning being the Northeast corner of Section 1, Tuscany Village Addition to said City of Abilene as shown per plat recorded in Cabinet 2, Slide 351-A of the Plat Records of said Taylor County, Texas;

THENCE in a Westerly direction along said North right-of-way line of Gateway Street the following calls:

North 89°42'12" West along said North right-of-way line, at 10.00 feet passed a found 3/4 inch aluminum rod with 2 inch aluminum, Jacob & Martin cap, henceforth called a standard monument, and continuing a total distance of 76.30 feet to a standard monument found for corner;

South 88°20'54" West 120.00 feet to a standard monument found for corner;

North 89°41'48" West 597.79 feet to a standard monument found for corner at the beginning of a curve to the right which is concave to the East-Northeast and having a radius of 485.00 feet, a delta angle of 23°08'58" and being subtended by a chord having a bearing of North 78°11'30" West and a length of 194.63 feet;

Along said curve a distance of 195.96 feet to a standard monument found for corner;

North 66°34'03" West 413.09 feet to a standard monument found for corner;

North 64°39'19" West 120.04 feet to a standard monument found for corner;

North 66°37'21" West 66.34 feet to a standard monument found for corner in the Westerly line of said 98.33 acre tract, same being the Easterly right-of-way line of Loop 322;

THENCE North 23°28'45" East along said Westerly line of said 98.33 acre tract and said Easterly right-of-way line of Loop 322 a distance of 314.48 feet to a found standard monument for the beginning of a curve to the right which is concave to the Southeast and having a radius of 2714.54 feet, delta angle of 12°56'29" and being subtended by a chord having a bearing of North 30°08'17" East, and a length of 611.84 feet;

THENCE along said Easterly right-of-way line and said Westerly tract line and said curve to the right a distance of 613.14 feet to a found 5/8 inch rebar rod with a cap stamped "J&M BOUNDARY" for the most Northerly Southwest corner of the Grocery Retail Addition #2220-00 to the City of Abilene as shown in the plat of record of said addition recorded in Cabinet 4, Slide 180, Plat Records, Taylor County, Texas;

THENCE South 54°38'38" East along a Southerly line of said Grocery Retail Addition #2220-00 a distance of 78.47 feet to a found 5/8 inch rebar rod with cap for corner;

THENCE South 89°43'36" East along a Southerly line of said Grocery Retail Addition #2220-00 a distance of 289.86 feet to a found 5/8 inch rebar rod with cap for corner;

THENCE South 00°16'24" West along the most Southerly West line of said Grocery Retail Addition #2220-00 a distance of 436.04 feet to a found 5/8 inch rebar rod with cap for corner;

THENCE South 89°43'36" East along the most Easterly South line of said Grocery Retail Addition #2220-00 a distance of 751.61 feet to a found 5/8 inch rebar rod with cap for the Southeast corner of said Grocery Retail Addition #2220-00 and the Northeast corner of this tract and being located in said West right-of-way line of Oldham Lane and said East line of said 98.33 acre tract;

THENCE South 00°16'24" West along said East line of said 98.33 acre tract and said right-of-way line a distance of 613.07 feet to the POINT OF BEGINNING and containing 24.371 acres of land, more or less.

For the PLANNING & ZONING COMMISSION

Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2020-19

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: WILKINSON CLYDE C &

Address: 3702 AUBURN DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐

I am opposed ☒

Additional Comments:

Signature: Clyde C Wilkinson

NOV 3 AM 10:49

CASE #: Z-2020-19

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: JONES MICHAEL L & PATRICIA A
Address: 3734 AUBURN DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐

I am opposed ☒

Additional Comments:

Signature: Michael Jones Patricia A Jones

For the PLANNING & ZONING COMMISSION

Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2020-19

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: WINDMILL CIRCLE PARTNERS LP &
Address: 750 GATEWAY ST

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒

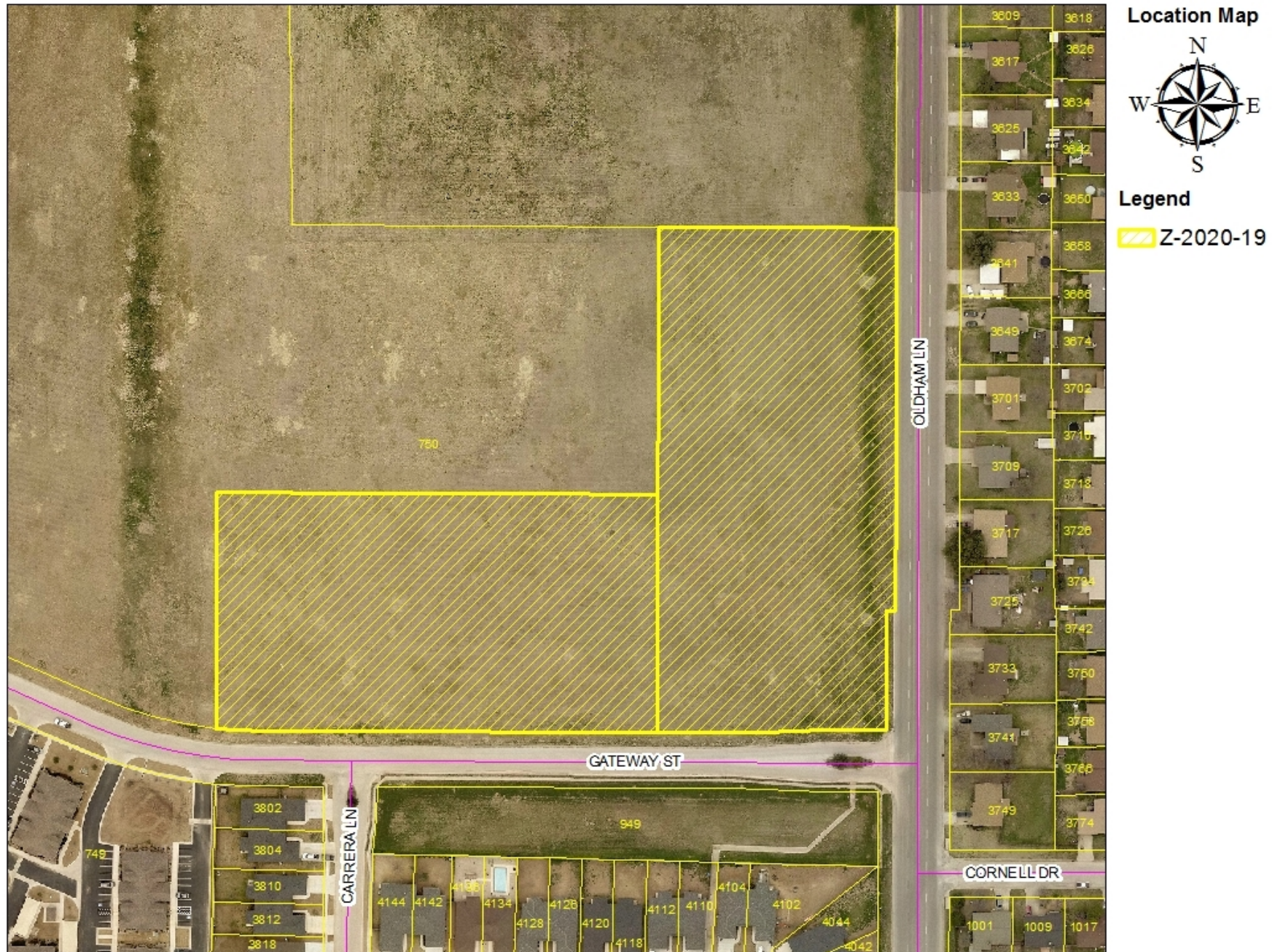
I am opposed ☐

Additional Comments:

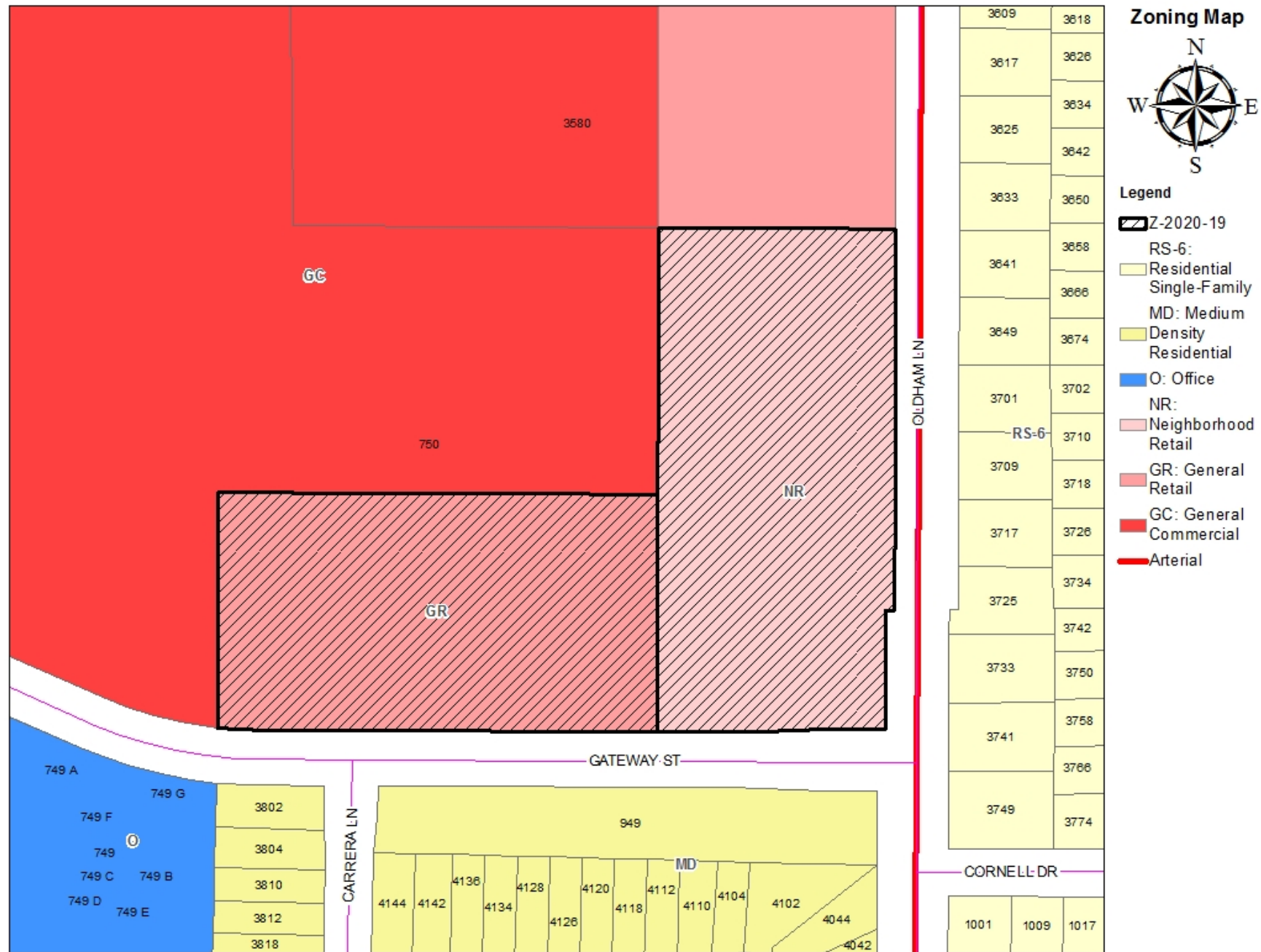
Signature: 

Case:	Z-2020-19
Owner:	Oldham Partners, LP & Windmill Circle Partners, LP
Agent:	Tony Conder
Request:	Rezone approximately 3.8 acres in GR and 4.3 acres in NR to GC
Location:	3.8 acres out of southeast quarter of Blind Asylum Lands Section 62 extending 300 feet north from 900 block of Gateway Street in an existing General Retail (GR) District and 4.3 acres out of southeast quarter of Blind Asylum Lands Section 62 extending 300 feet west from 3600-3700 blocks of Oldham Lane in an existing Neighborhood Retail (NR) District
Notification:	1 in Favor, 2 Opposed
Planning & Zoning Recommendation:	Approval

Z-2020-19 AERIAL LOCATION MAP



Z-2020-19 ZONING MAP



USES IN GENERAL RETAIL (GR)

RESIDENTIAL USES:

- P Bed & Breakfast
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Institutional
- P Dwelling – Multiple-Family
- P Dwelling – Single Family Detached
- P Hotel/Motel

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Day Care Operation – Home Based
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- P Garage Sales
- P Home Occupation
- TP Itinerant Business
- P Manufacturing (incidental)
- TP Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recreation Equipment, Mobile (storage and parking)
- P Recycling Collection Point
- P Subdivision Sales Office (temporary)
- P Swimming Pools, Private (accessory to residential use)
- P Tennis Courts, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment - Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- C Ambulance Service
- P Fire/Police Station
- P Medical/Dental Laboratory
- P Post Office
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- C Trade/Business School
- P University/College

SERVICE

- P/C Automobile Wash
- C Funeral Home/ Mortuary/Morgue
- P Kennel (Without Outdoor Pens)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- C Printing, Copying, Reproduction, Publishing
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Tattoo Parlor
- P Veterinary Service (small animals)

TRADE – RETAIL USES

- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
- P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (indoor)
- C Retail Sales/Rental (outdoors, non-vehicle)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Antenna Tower- Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden¹¹

USES IN NEIGHBORHOOD RETAIL (NR)

RESIDENTIAL USES:

- P Bed & Breakfast
- P Dwelling - Duplex
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Institutional
- P Dwelling – Multiple-Family
- P Dwelling – Single Family Detached
- C Hotel/Motel

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Day Care Operation – Home Based
- C Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Fuel Sales
- P Garage Sales
- P Home Occupation
- C Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recreation Equipment, Mobile (storage and parking)
- C Recycling Collection Point
- P Subdivision Sales Office (temporary)
- P Swimming Pools, Private (accessory to residential use)
- P Tennis Courts, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- C Cultural Facilities
- P Recreation – Outdoors (passive)
- C Recreation and Commercial Entertainment - Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Fire/Police Station
- C Medical/Dental Laboratory
- P Post Office
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P School: Public/Private

SERVICE

- C Automobile Wash
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- C Printing, Copying, Reproduction, Publishing
- P Repair and Maintenance Services (indoor)
- C Tattoo Parlor
- P Veterinary Service (small animals)

TRADE – RETAIL USES

- P ATM's, Self-Serve Kiosks, and Similar Facilities
- C Fuel Sales
- P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
- C Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (indoor)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Broadcast Studio
- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well

USES IN GENERAL COMMERCIAL (GC)

RESIDENTIAL USES:

- P Hotel/Motel
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- TP Itinerant Business
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- C Mobile Home or Temporary Building (office for sales and service)
- P Recycling Collection Point
- C Travel Trailers (accessory to hospitals)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- P Drive-in Theater
- P Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment – Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Ambulance Service
- P Fire/Police Station
- C Homeless/Emergency Shelter
- P Hospital
- P Medical/Dental Laboratory
- P Post Office
- C Rehabilitation Facility
- P Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- P Trade/Business School
- P University/College

SERVICE

- P/C Automobile Wash
- C Contractor Services
- P Funeral Home/ Mortuary/Morgue
- C Kennel (With Outdoor Pens)
- P Kennel (Without Outdoor Pens)
- P Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- P Printing, Copying, Reproduction, Publishing
- C Recycling Collection and Processing Center
- P Repair and Maintenance Services - Automobile/Small Truck (major)
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Repair and Maintenance Services (outdoors)
- P Storage - Self-Service Units
- P Tattoo Parlor
- P Taxidermist
- P Veterinary Service (small animals)

TRADE – RETAIL USES

- C Aircraft and Accessories
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
- P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (automobile/small truck)
- P Retail Sales/Rental (indoor)
- P Retail Sales/Rental (outdoors, non-vehicle)
- C Retail Sales/Rental (trucks and other large vehicles and equipment)**

TRADE – WHOLESALE USES

- C Wholesaling and Storage (indoor)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

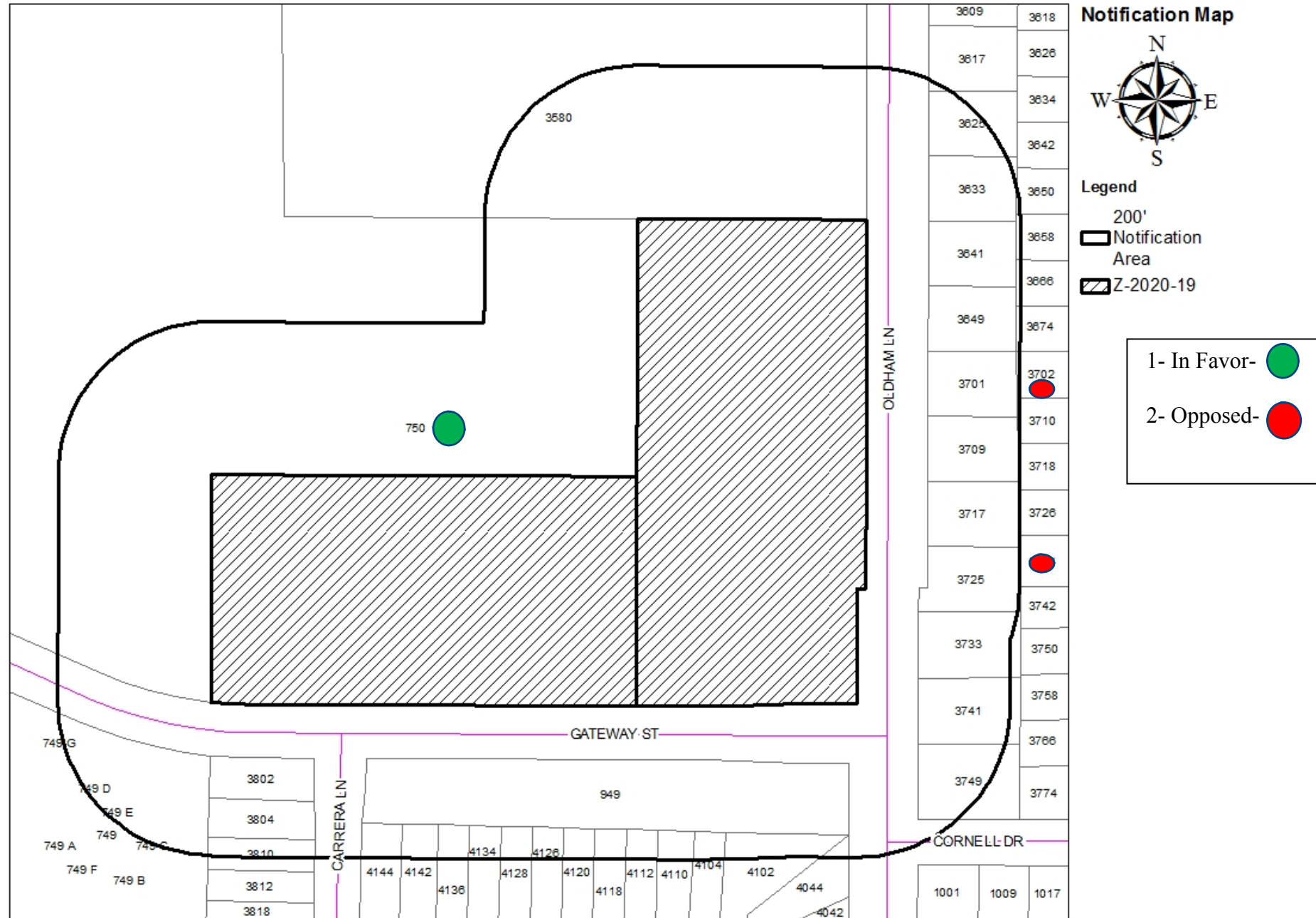
- C Antenna Tower - Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Passenger Ground Transportation Terminal
- P Pressure Control Station
- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden



Z-2020-19 NOTIFICATION AREA MAP



- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Approval
- Planning & Zoning Recommendation: Approval

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: **15. Ordinance (Final Reading) Z-2020-20: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Albert Houle, agents Chris Barnett and Dale Scoggins, to rezone approximately 8.14 acres at 7602 thru 7734 Hwy. 83-84 and situated at or near the southwest corner of Waldrop Drive and U.S. Hwys. 83-84, from an Agricultural Open Space (AO) District to a General Commercial (GC) District (Mike Warrix)**

GENERAL INFORMATION

The applicant is requesting to rezone from Agricultural Open (AO) to General Commercial (GC) in order to promote development of a wide range of commercial activities.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 7-0.

ATTACHMENTS:

1. Z-2020-20 draft ordinance
2. Z-2020-20 Council Staff Report
3. Z-2020-20 Council presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING the 19th day of November, 2020.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of October, 2020, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 3rd day of December, 2020, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 3rd day of December, 2020.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Change the zoning classification of the following described tract(s), from Agricultural Open Space (AO) District to a General Commercial (GC) District:

TRACT 1

Being 3.380 acres of land containing a 2.0 acre tract and two 1.0 acre tracts, recorded in Volume 1595, Page 691, Deed Records, Taylor County, Texas, Save and Except a 0.615 acre tract deeded to the State of Texas for right-of-way and recorded in Volume 2580, Page 310, Official Public Records, Taylor County, Texas. Said 3.380 acre tract being more particularly described as follows.

Beginning at a found brass cap highway right-of-way monument on the West line of Highway 83-84, Highway Sta. 22+331.687, the South line of Waldrop Road and the North line of the 1.0 acre tract (Tract 2) recorded in Volume 1595, Page 691, for the Northerly Northeast corner of this tract and the Northwest corner of said 0.615 acre tract, whence the Northeast corner of said Section 23 is record to bear N89°28'E 206.26' and N0°05'W 22.0';

THENCE S43°30'48"E, with the West line of said Highway, 42.25' to a found brass cap right-of-way monument, at Highway Sta. 22+340.900, for the Southerly Northeast corner of this tract;

THENCE S00°49'28"W, with the West line of said Highway, 287.49' to a point whence the center of a 2.5" pipe fence corner post bears S61°05'22"E 0.14'. Said point being on the South line of said 2.0 acre tract and the North line of a 3.73 acre tract recorded in Volume 1948, Page 568, Official Public Records, Taylor County, Texas, for the Southwest corner of this tract, whence a found brass cap highway right-of-way monument bears S00°49'28"W 1054.31';

THENCE N89°37'42"W 465.54' to a found ½" metal rebar at the Southwest corner of said 2.0 acre tract and the Northwest corner of said 3.73 acre tract, for the Southeast corner of this tract;

THENCE N00°57'13"E 316.98' to a found 3/8" metal rebar on the South line of said Waldrop Road, at the Northwest corner of said 1.0 acre tract (Tract 3) recorded in Volume 1595, Page 691, for the Northwest corner of this tract;

THENCE S89°45'21"E, with the South line of said Waldrop Road, 435.31' to the point of beginning and containing 3.380 acres of land.

Bearing Basis – right-of-way markers on the West line of Highway 83-84. Records S00°49'28"W.

TRACT 2

BEING 3.14 acres of land out of Section 23, Lunatic Asylum Lands, Taylor County, Texas and being all of that same tract recorded as 3.73 acres in Volume 1948, Page 568, Official Public Records, Taylor County, Texas less a 0.586 acre tract deeded to the State of Texas in Volume 2580, Page 863, Official Public Records, Taylor County, Texas, said 3.14 acres being more particularly described as follows:

BEGINNING at an existing aluminum highway monument on the WBL of South U. S. Highway 83 – 84 at the Southeast corner of a 3.380 acre tract recorded in Volume 2971, Page 435, Official Public Records, Taylor County, Texas for the Northeast corner of this tract;

THENCE S0°10'40"W 293.81 feet along the WBL of said South U. S. Highway 83 – 84 and the WBL of said 0.586 acre tract to an existing aluminum highway monument at the Northeast corner of a 1.000 acre tract recorded in Clerk File No. 2012-6530, Official public Records, Taylor County, Texas for the Southeast corner of this tract;

THENCE S89°42'19"W 465.07 feet to the Southwest corner of said 3.73 acre tract and the Northwest corner of a 5.55 acre tract recorded as Tract 2 in Clerk File No. 2010-6979, Official Public Records, Taylor County, Texas for the Southwest corner of this tract, from whence an existing 4" pipe fence corner post bears North 0.8 feet and East 0.3 feet;

THENCE N0°02'34"W 293.80 feet to a 1/2" rebar found at the Southwest corner of said 3.380 acre tract for the Northwest corner of this tract;

THENCE N89°42'19"E 465.76 feet along the NBL of said 3.73 acre tract and the SBL of said 3.380 acre tract to the place of beginning and containing 3.14 acres of land.

TRACT 3

Being 1.000 acre out of a 10.100 acre tract recorded in Volume 3139, Page 821, Official Public Records, Taylor County, Texas, containing an 11.98 acre tract recorded in Volume 1185, Page 551, Deed Records, Taylor County, Texas, Save and Except a 1.883 acre (0.762 hectare) tract dedicated to the State of Texas for right-of-way, recorded in Volume 2580, Page 305, Official Public Records, Taylor County, Texas. Said 10.100 acre tract being out of the Northeast ¼ of Section 23, Lunatic Asylum Lands, Taylor County, Texas and said 1.000 acre tract being more particularly described as follows.

Beginning at a set ½" metal rebar on the North line of said 10.100 acre tract and the South line of a 3.73 acre tract recorded in Volume 1948, Page 568, Official Public Records, Taylor County, Texas, for the Northwest corner of this tract, whence a found 60D nail on the East line of Steve Roth Addition to the City of Abilene, Taylor County, Texas, recorded in Plat Cabinet 3, Slide 392, Plat Records, Taylor County, Texas, at the Southwest corner of said 3.73 acre tract, the Northwest corner of said 11.98 acre tract and the Northwest corner of said 10.100 acre tract bears N89°30'59"W 112.06', from said found 60D nail a found 3/8" metal rebar at the Northeast corner of said Steve Roth Addition bears N00°50'30"E 609.96' and from said 60D nail the Northwest corner of the Northeast ¼ of said Section 23 is record to bear North 620.1' and S89°57'W 2043.9' per Volume 1185, Page 551, Deed Records, Taylor County, Texas;

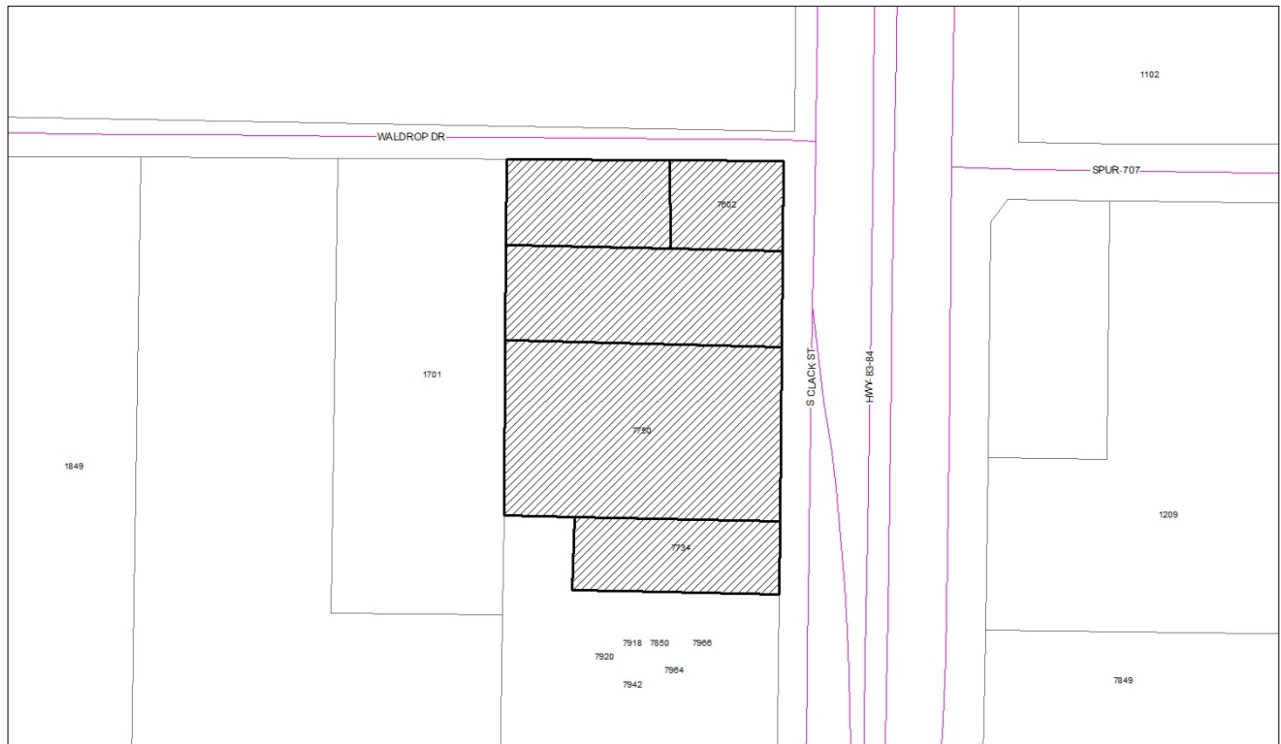
THENCE S89°30'59"E, with the North line of said 10.100 acre tract and the south line of said 3.73 acre tract, 352.95' to found ½" metal rebar with cap marked "TxDot" on the West line of U.S. Highway 83-84 (200' right-of-way) at the Northeast corner of said 10.100 acre tract, for the Northeast corner of this tract, whence a found ½" metal rebar with cap marked "TxDot" on the North line of said 3.73 acre tract bears N00°49'40"E 293.81';

THENCE S00°49'28"W with the West line of said Highway 83-84 123.42' to a set ½" metal rebar for the Southeast corner of this tract, whence a found brass cap highway monument bears S00°49'28"W 349.54' and from said monument a found ½" metal rebar with cap marked "TxDot" at the Southeast corner of said 10.100 acre tract bears S00°49'28"W 472.98';

THENCE N89°30'59"W 352.95' to a set ½" metal rebar for the Southwest corner of this tract;

THENCE N00°49'28"E 123.42' to the point of beginning and containing 1.000 acre of land.

Bearing basis – West line of U.S. Highway 83-84. S00°49'28"W



location: 7600-7800 blocks (west side) of South Clack Street

ZONING CASE Z-2020-20

STAFF REPORT



REQUEST: Rezoning

APPLICANT:

Owner: Albert Houle

Agent: Chris Barnett and Dale Scoggins

HEARING DATES:

P & Z Commission: November 3, 2020

City Council 1st Reading: November 19, 2020

City Council 2nd Reading: December 3, 2020

LOCATION:

- 7602, 7750 and 7734 HWY 83-84
- Legal description(s): 8.15 acres out of the northeast quarter of Lunatic Asylum Lands Section Number 23 in Taylor County, TX

BACKGROUND:

The subject properties were annexed into the City limits of Abilene in 1980, at which time they were zoned Agricultural Open Space (AO). The subject properties are currently occupied by single family residences which pre-date the annexation of the tracts of land into the City of Abilene.

PROPOSAL AND REQUESTED ACTION:

The applicant is requesting to rezone from Agricultural Open Space (AO) to General Commercial (GC) in order to promote development of a wide range of commercial activities.

APPLICATION REVIEW:

According to Section 1.4.1.4, Criteria for Approval, of the City of Abilene Land Development Code, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

- (1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan map, as amended;**

The Future Land Use and Development Plan Map of the Comprehensive Plan designates this general area as a mixed use gateway. Specifically, the Comprehensive Plan states the importance of this gateways proximity to the Special Activity Center which has developed around Abilene Regional Medical Center. This mixed use gateway should build on the supporting land uses of this activity center. General Commercial (GC) Zoning will continue to promote the goal of further supporting the land uses which have developed around the Abilene Regional Medical Center as well as Kirby Lake by providing a wide range of retail/office activities, personal and business services, and other commercial opportunities in close proximity to the regional activity center.

(2) Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.

The retail and commercial uses permitted by the proposed zone change would be appropriate in the immediate area. Rezoning this property will provide an opportunity for a wide range of commercial and retail activities, which will encourage the Comprehensive Plan's objective of creating a mixed use gateway.

The subject lots have been Agricultural Open Space (AO) since 1980. West of these lots is a single family residence within AO zoning. East of the subject properties is HWY 83-84. North of the subject properties is vacant acreage which is currently zoned Agricultural Open Space. South of the subject properties is a Planned Development District (PD 150), this planned development was created to promote general retail development as well as serve as the office and service yard for a public utility agency.

	Zoning	Existing Land Use
North	AO	Vacant Acreage
South	PD-150	Utility Company Office/Service Yard
East	N/A	HWY 83-84
West	AO	Single Family Residence

(3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.

The subject properties have access to existing water mains and sewer mains. Therefore water and sewer capacity should not be a limiting factor to the development of these properties. As it stands today, Waldrop Drive is an under improved collector road; the developer will be responsible for improving their share of Waldrop in accordance with the City of Abilene's collector road standards at the time of subdividing. Such improvements will include widening and providing curb/gutter along the subject property lines adjacent to Waldrop.

According to the Land Development Code good automobile accessibility within General Commercial (GC) districts is essential. The subject property is located near the intersection of HWY 83-84 and Waldrop Dr. Traditional planning considers intersections of freeways and collector roads such as this, to be customarily appropriate for commercial purposes.

(4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.

It is the opinion of the staff that there are no other factors, which substantially affect the public health, safety, morals, or general welfare of the City of Abilene.

STAFF COMMENTS:

The subject properties have been zoned AO since at least 1980, when the properties were annexed by the City of Abilene. The AO district is typically used as a "holding zone", until an applicant requests and the City considers a more intensive zoning district of the land. Properties near these tracts of land have undergone rezoning and development that is consistent with the Future Land Use and Development Plan Maps goal of creating a mixed use gateway; specifically along Highway 83-84 in between Antilley Road and Beltway South (FM707). According to the Comprehensive Plan, this gateway should provide a mixture of mutually supportive land uses which support the special activity center that has developed around Abilene Regional

Medical Center. Rezoning the subject properties to GC will allow a wide range of land uses that will further promote a mixed use gateway south of the special activity center surrounding Abilene Regional Medical Center.

STAFF RECOMMENDATION:

This rezoning request was reviewed pursuant to Section 1.4.1.4 (Criteria for Approval) in the Land Development Code and staff recommends approval.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval by a vote of seven (7) to zero (0) on November 3, 2020.

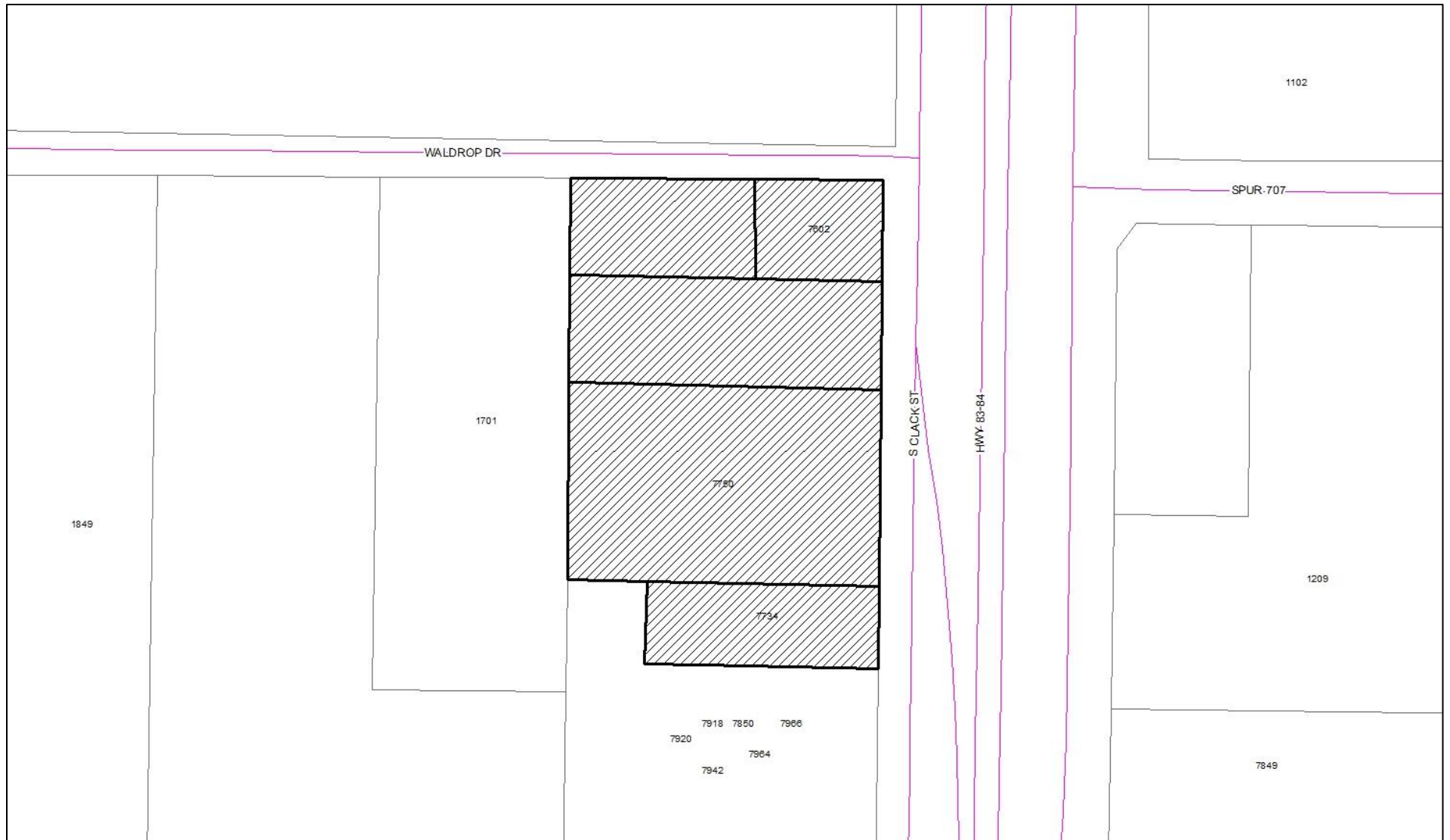
NOTIFICATION:

The Planning Services Division sent, with a certificate of mailing, public notices to the applicant and property owners within a 200-foot radius.

Owner	Situs	Response
ENSOR JOSH & PATTI		
HOULE ALBERT	7750 HWY 83-84	
HOULE ALBERT L	7734 HWY 83-84	
HOULE ALBERT L		
HOULE ALBERT L	7602 HWY 83-84	
HOULE ALBERT L		
SCHAFER VICTORIA L	1701 WALDROP DR	
TAYLOR ELECTRIC COOP INC	7964 HWY 83-84	
TAYLOR ELECTRIC COOP INC	7850 HWY 83-84	
TAYLOR ELECTRIC COOP INC	7918 HWY 83-84	
TAYLOR ELECTRIC COOP INC	7942 S CLACK ST	
TAYLOR ELECTRIC COOP INC	7920 S CLACK ST	
TAYLOR ELECTRIC COOP INC	7966 HWY 83-84	
WEST TEXAS UTILITIES CO		

ATTACHMENTS:

- Application
- PowerPoint





Development Application

Planning

☐ Conditional Use

☐ Easement Release

☒ Rezoning

☐ Other

☐ PDD

☐ Street Name Change

☐ Thoroughfare Abandonment

☐ PDD Amendment

Other: _____

Project Name: HIGHWAY 83/84 COMMERCIAL DEVELOPMENT

Address: 7602, 7750, 7734 HWY 83-84 No. of lots: 5 Acreage: 8.14

Legal Description: A0980 SUR 23 L A L NE/4 ACRES 8.14

Subdivision Name: CORONADO, EL DORADO TRAILS E Block: _____ Lot: _____

Current Zoning: A0 Proposed Zoning (if applicable): GC

OWNER AND AUTHORIZATION

Owner Name: ALBERT HOULE

Address: 7602 VS HWY. 83

City, State, Zip: ABILENE, TX 79602 Fax: _____

Phone: 325/665-1233 Email: _____

I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) CHRIS BARNETT will act as my agent before the Planning and Zoning Commission. DALE SCOGGINS

Agent Name: CHRIS BARNETT (RREC) / Dale Scoggins

Address: 2438 INDUSTRIAL BLVD, 136

City, State, Zip: ABILENE, TX. 79605 (PH) 325/201-7679

Phone: _____ Email: CBARNETT@RRECTEXAS.COM

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: Albert Houle

Date: 10/5/2020

FOR OFFICE USE ONLY

Received: _____

Fee: \$ 1500

Receipt No.: 0001055774

Case No.: 2-2020-20

Reviewed By: _____



Development Application

Please answer the following question in order to assist Staff with the processing of your Zoning request.

1. Please (if necessary) provide background information for the zoning request and explain why you feel it is appropriate.

THE PROPERTY FRONTS ON HWY 83/84 APPROX 1/4 MILE NORTH OF FM 707 WHICH MAKES IT SUITABLE FOR COMMERCIAL ZONING PER STAFF RECOMENDATION, AND IS CONSISTENT WITH THE FUTURE LAND USE DEVELOPMENT PLAN.

THE TAYLOR ELECTRIC SERVICE YARD IS DIRECTLY SOUTH OF THIS PROPERTY WITH WALDROP DR. TO THE NORTH. THE PROPERTY HAS APPROX. TWICE AS MUCH FRONTAGE ON 83/84 AS IT DOES DEPTH AND IS ACCESSED BY THE ON AND OFF RAMPAS FROM HWY 83/84.



Development Application

RECOMMENDATIONS

The Planning & Zoning Commission (P&Z) and the City Council look to the Planning & Development Services staff to make a recommendation for the approval or disapproval of this application. We will make every effort to notify you (FAX or E-mail) of our recommendation at least one (1) week in advance of the scheduled meeting of the P&Z Commission. In the case of a rezoning, and when the public interest requires it, we may recommend a rezoning to a Planned Development District (PDD) or a classification other than the classification requested. We will notify you of our decision to propose a PDD as soon as possible after the application is filed to give you time to prepare a site plan.

PUBLIC NOTIFICATION

The public is entitled to examine this application and participate in the decision-making process. In most cases, we are required to notify all property owners within two hundred feet (200') of the boundaries of your property. To ensure the fullest possible consideration, we may also notify neighborhood groups, organizations or individuals that have a special interest in a particular issue. Except for matters that the Planning & Development Services staff have expressly agreed not to disclose (and provided the law allows us to hold the matter in confidence), then all information that we deem relevant to the review and processing of this application may become public knowledge.

PLEASE READ BEFORE SIGNING

The undersigned has read the above application and hereby certifies that the information contained therein is complete, true and correct; and does hereby request that said application be submitted to the Planning & Zoning Commission at the earliest available meeting.

I understand and acknowledge that it is my responsibility to furnish an accurate and precise legal description of the property, and only the property, that is subject of this application, and that failure to furnish such information prior to the application deadline date will delay the processing of this application. I also understand that the City must notify affected property owners of this application. In the event that I fail to submit in a timely manner any information that the City deems necessary to transmit this application to the Planning & Zoning Commission or City Council, then in lieu of dismissal I hereby request that this application be temporarily withdrawn from further consideration until such information is submitted, and I agree to pay a resubmission fee of \$120 to reimburse the City for the expense of re-notifying affected property owners. I have been informed of the tentative date and time that the Planning & Zoning Commission and City Council will hear this application, and I understand that hearings may be continued from time to time at the discretion of the Commission or Council to allow for full consideration or when the public interest requires a continuation.

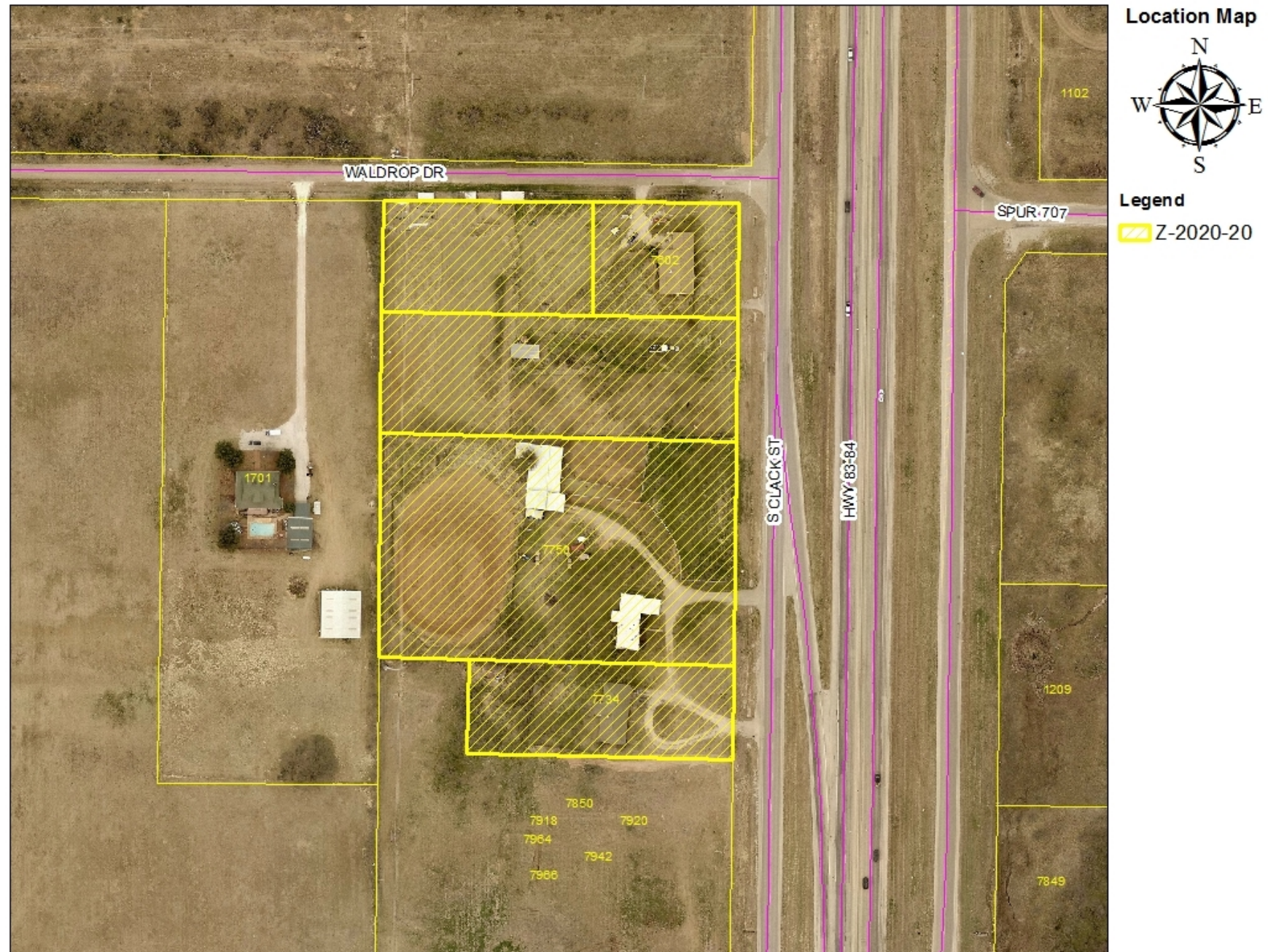
SIGNED: _____

DATE: _____

10/5/20

Case:	Z-2020-20
Owner:	Albert Houle
Agent:	Chris Barnett & Dale Scoggins
Request:	Rezone from AO to GC
Legal Description:	8.15 acres out of the northwest quarter of Lunatic Aslum Lands Section number 23 Abilene, Taylor County, Texas
Notification:	0 in Favor, 0 Opposed
Planning & Zoning Recommendation:	Approval

Z-2020-20 LOCATION MAP



Z-2020-20 ZONING MAP



USES IN GENERAL COMMERCIAL (GC)

RESIDENTIAL USES:

- P Hotel/Motel
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- TP Itinerant Business
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- C Mobile Home or Temporary Building (office for sales and service)
- P Recycling Collection Point
- C Travel Trailers (accessory to hospitals)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- P Drive-in Theater
- P Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment – Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Ambulance Service
- P Fire/Police Station
- C Homeless/Emergency Shelter
- P Hospital
- P Medical/Dental Laboratory
- P Post Office
- C Rehabilitation Facility
- P Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- P Trade/Business School
- P University/College

SERVICE

- P/C Automobile Wash
- C Contractor Services
- P Funeral Home/ Mortuary/Morgue
- C Kennel (With Outdoor Pens)
- P Kennel (Without Outdoor Pens)
- P Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- P Printing, Copying, Reproduction, Publishing
- C Recycling Collection and Processing Center
- P Repair and Maintenance Services - Automobile/Small Truck (major)
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Repair and Maintenance Services (outdoors)
- P Storage - Self-Service Units
- P Tattoo Parlor
- P Taxidermist
- P Veterinary Service (small animals)

TRADE – RETAIL USES

- C Aircraft and Accessories
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
- P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (automobile/small truck)
- P Retail Sales/Rental (indoor)
- P Retail Sales/Rental (outdoors, non-vehicle)
- C Retail Sales/Rental (trucks and other large vehicles and equipment)

TRADE – WHOLESALE USES

- C Wholesaling and Storage (indoor)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Antenna Tower - Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Passenger Ground Transportation Terminal
- P Pressure Control Station
- P Public Utility Facility

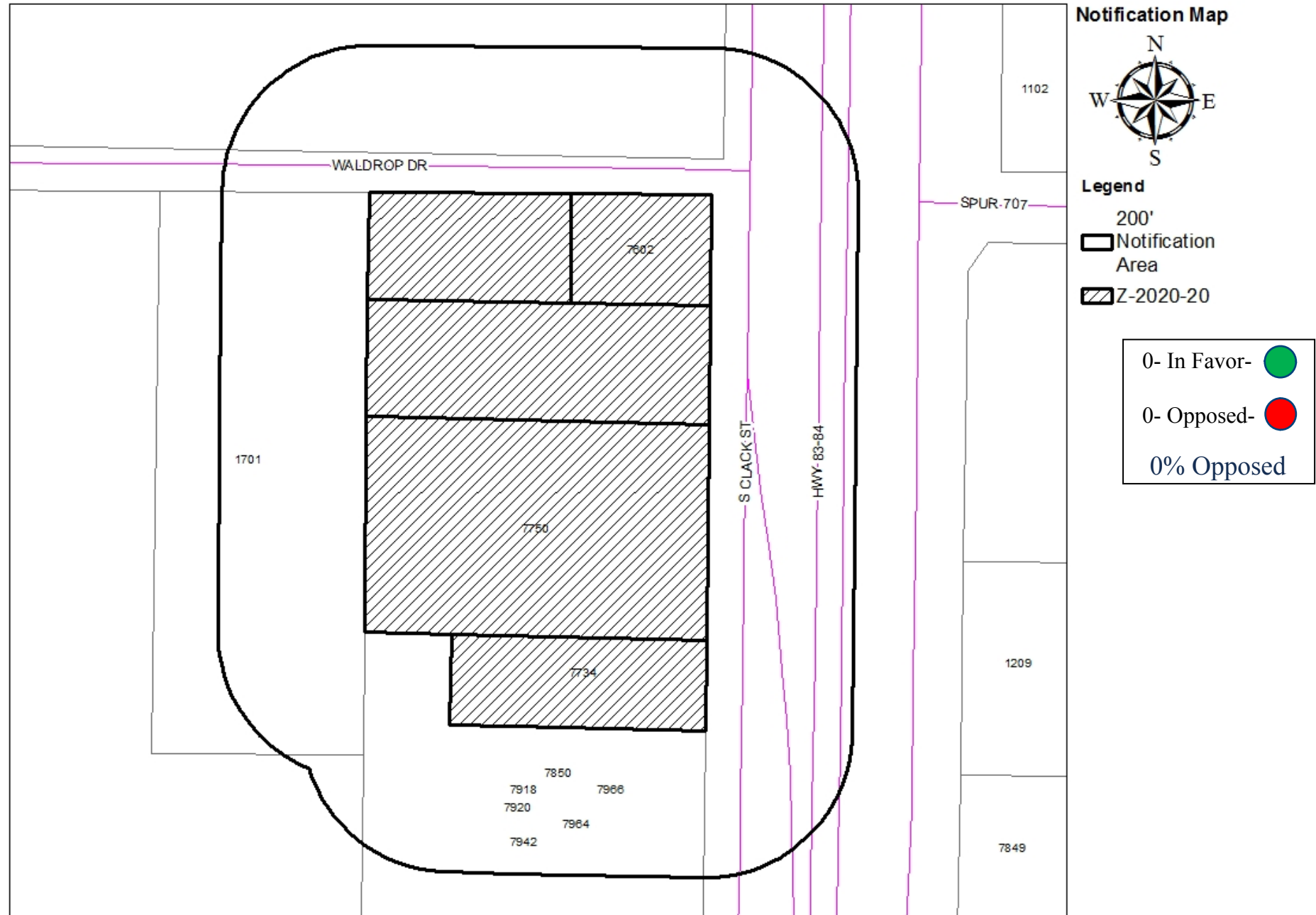
RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

Z-2020-20 VIEWS OF SUBJECT PROPERTY



Z-2020-20 NOTIFICATION AREA MAP



- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Approval
- Planning & Zoning Recommendation: Approval

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: **16. Ordinance (Final Reading) Z-2020-21:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Vinson Higginbotham, agent Jack Zanger of Triangle Engineering, to rezone approximately 4.04 acres on the 4900-5000 blocks (southwest side) of South Clack Street, from an Agricultural Open Space (AO) to a General Commercial (GC) District *(Mike Warrix)*

GENERAL INFORMATION

The applicant is requesting to rezone the subject property from Agricultural Open Space (AO) to a General Commercial (GC) District. The northern half of this 4.04-acre tract is planned for immediate development as a site for automotive body repair. No planned use of the remaining southern half has been identified.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 7-0.

ATTACHMENTS:

1. Z-2020-21 draft ordinance
2. Z-2020-21 staff report
3. Z-2020-21 Council presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING the 19th day of November, 2020.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of October, 2020, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 3rd day of December, 2020, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 3rd day of December, 2020.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Change the zoning classification of the following described tract, from an Agricultural Open Space (AO) District to a General Commercial (GC) District:

4.019 acres of land being a part of Lot 6, Alfred and Mary Fausshauer Subdivision of Section 65, Blind Asylum Lands in the City of Abilene, Taylor County, Texas, according to the plat thereof recorded on Page 274 in Volume 1 of Plat Records for Taylor County, Texas and being more particularly described as follows:

BEGINNING at a ½-inch iron rod with a yellow plastic cap stamped “RPLS 5310” set for a corner in the present west line of South Clack Street (southbound frontage road for U.S. Highway 83-84) and at the northeast corner of a tract of land described in deed to Perry Sayles, as recorded on Page 243 in Volume 435 of Deed Records for Taylor County, Texas;

THENCE South 84° 36’ 31” West for a distance of 458.76 feet to a ½-inch iron rod found in the north line of said Sayles tract and at the southeast corner of a tract of land described as Tract 1 in a deed to the City of Abilene, as recorded on Page 252 in Volume 3173 of Official Public Records of Real Property (O.P.R.R.P.) in Taylor County, Texas;

THENCE North 08°56’ 50” East for a distance of 673.77 feet to a ½-inch iron rod with a yellow plastic cap stamped “RPLS 5310” set for corner at the southeast corner of a tract of land described as Tract 2 in a deed to the City of Abilene, as recorded on Page 531 in Volume 3175 of Official Public Records of Real Property (O.P.R.R.P.) in Taylor County, Texas, and at the southwest corner of a tract of land described as Tract 1 in a deed to the City of Abilene, as recorded on Page 531 in Volume 3175 of Official Public Records of Real Property (O.P.R.R.P.) in Taylor County, Texas;

THENCE South 89° 21’ 03” East for a distance of 81.92 feet to a ½-inch iron rod found in said west line of South Clack Street (southbound frontage road for U.S. Highway 83-84) and at the southeast corner of said City of Abilene Tract 1 described in deed recorded on Page 531 in Volume 3175 of Official Public Records of Real Property (O.P.R.R.P.) in Taylor County, Texas;

THENCE South 23° 28’ 58” East along said west line of South Clack Street, for a distance of 677.66 feet to the PLACE OF BEGINNING and containing 175,066 square feet or 4.019 acres of land.

ZONING CASE Z-2020-21

STAFF REPORT



REQUEST: Rezone a 4.04-acre tract of vacant land, from Agricultural Open Space (AO) to General Commercial (GC) District

APPLICANT:

Owner: Carlynn Enterprise (Vinson Higginbotham)

Agent: Triangle Engineering, represented by Jack Zanger

HEARING DATES:

P & Z Commission: November 3, 2020

City Council 1st Reading: November 19, 2020

City Council 2nd Reading: December 3, 2020

LOCATION:

- 4900-5000 blocks (west side) of South Clack Street, and east of Canyon Rock Lake
- Legal description: approximately 4.04 acres out of Lot 6 in the Alfred and Mary Fasshauer Subdivision of Blind Asylum Lands Section 65 in Abilene, Taylor County, Texas

PROPOSAL AND REQUESTED ACTION:

The applicant is requesting to rezone the subject property from Agricultural Open Space (AO) to a General Commercial (GC) District. The northern half of this 4.04-acre tract is planned for immediate development as a site for automotive body repair. No planned use of the remaining southern half has been identified.

BACKGROUND:

This site was annexed to the City limits of Abilene during the late 1950's. This was approximately the same period of time as the initial construction of Winters Freeway (Hwy. 83-84). The subject property is believed to have been vacant during these 60+ years, although possibly used for excavation of fill material.

Winters Freeway and its southbound frontage road (South Clack Street) borders the subject property's entire eastern boundary, over a distance of 670+ feet. Since 2012, this adjoining segment of South Clack Street has been a one-way frontage road.

The west side of this subject property is bordered by a 100-foot-wide strip of land which long served as the route of Abilene & Southern Railroad. During the 1980's, this railway was abandoned and the tracks removed. This 100-foot-wide strip of vacant land is now owned by the City of Abilene.

Land located farther west of this 100-foot-wide strip is developed as a subdivision of single-family homes, more specifically known as Canyon Rock Lake Addition.

EXISTING AND PROPOSED ZONING:

The subject property has been within an Agricultural Open Space (AO) zoning district since the current zoning map was initially approved during 1974. Although sometimes applied to actual farm and ranch land with scattered single-family homes, the AO zoning classification is most often used as a "holding" zone until some more intensive use of that land is deemed appropriate and zoning for such is approved. The current owners of this subject property now seek a change in zoning to a General Commercial (GC) District.

APPLICATION REVIEW:

Section 1.4.1.4 of Abilene's Land Development Code concerns criteria for approval of zoning changes. This Section stipulates that, in making a recommendation regarding a requested zoning change, the Planning and Zoning Commission and the City Council should consider the following factors:

(1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan map, as amended.

The Future Land Use and Development component of Abilene's Comprehensive Plan suggests the entire vicinity wedged between U.S. Hwy. 83-84 and the former Abilene & Southern Railroad* to be a Special Activity Center. This triangular-shaped area encompasses approximately 280 acres within which a variety of commercial (but not industrial) uses are encouraged. For the subject property and its immediate surroundings north and south, the practical choice of potential commercial zoning seems limited to either General Commercial (GC) or General Retail (GR) classifications. Both forms of commercial zoning are identical in many ways with the following meaningful distinctions:

1. The following uses are automatically allowed in GC Districts, but not in GR Districts, whatsoever:
 - a. sales of automobiles and small trucks;
 - b. major automotive repair.
2. The following uses are allowed in GC Districts with approval of a Conditional Use Permit (CUP) but are not allowed in GR Districts, whatsoever:
 - a. sales of trucks and other large vehicles;
 - b. contractor services;
 - c. wholesale trade (indoor storage only).

In both GC and GR Districts, outdoor storage of materials not displayed for sale is not allowed.

In both GC and GR Districts, outdoor display of merchandise available for sale is allowed, but subject to the same limiting conditions.

(2) Whether the uses permitted by the proposed change in zoning classification (and the standards applicable to such uses) will be appropriate in the immediate area of the land to be reclassified.

General Retail (GR) zoning is most appropriate for consumer-oriented retail trade and services requiring maximum access by passing motorists, often at or near the intersection of arterial streets. General Commercial (GC) zoning will accommodate all the same consumer-oriented retail activities as GR zoning, but GC zoning also allows opportunities for some commercial activities not necessarily relying on heavy traffic passing by. These "destination-dependent" businesses are those to which customers may be obliged to travel occasionally, but not routinely. These businesses include automotive repair, automobile sales and even wholesale trade, all of which are at least potentially allowable in GC Districts but not in GR Districts.

The only existing roadway adjacent to this subject property is South Clack Street, which is one-way. The subject property also lies a long way from any existing cross street suitable for commercial traffic. As a result, opportunities for some "destination-dependent" businesses may need to be made available in order to make any effective use of this subject property. General Commercial (GC) zoning may achieve this, in a way which General Retail (GR) zoning does not.

* north from a line located ¼-mile south of Antilley Road

	Zoning	Existing Land Use
North	AO	vacant tract; Winters Freeway
South	AO	vacant tracts; petroleum pipeline
East	AO	Winters Freeway (Highway 83-84)
West	AO	100-foot-wide strip of vacant land

(3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.

As mentioned above, this subject property has a border over 670 feet along on a fully-improved frontage road for Winters Freeway (Hwy. 83-84). The subject property also has direct access to a 10-inch-wide water main and an 18-inch-wide sewer main. All the basic infrastructure necessary for commercial use of this subject property is already in place. No additional demand on public schools or other such public facilities may reasonably be expected to emerge from commercial use of this property.

(4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.

Only a 100-foot-wide strip of land separates the rear of this subject property from the rear of existing single-family home sites in the Canyon Rock Lake Addition. This 100-foot separation may represent enough of a separation to minimize any ill effects that commercial use may have on the value and comfort of nearby homes.

STAFF RECOMMENDATION:

City staff recommends approving the request for General Commercial (GC) zoning on this subject property. GC zoning represents an appropriate “balance” between allowable nonresidential use and this property’s proximity to nearby residences. Unsightly industrial-like uses and unmitigated outdoor storage will be prohibited altogether, while a 100-foot-wide vacant strip separates any allowed commercial use from the rear of nearby residences.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval by a vote of seven (7) to zero (0) on November 3, 2020.

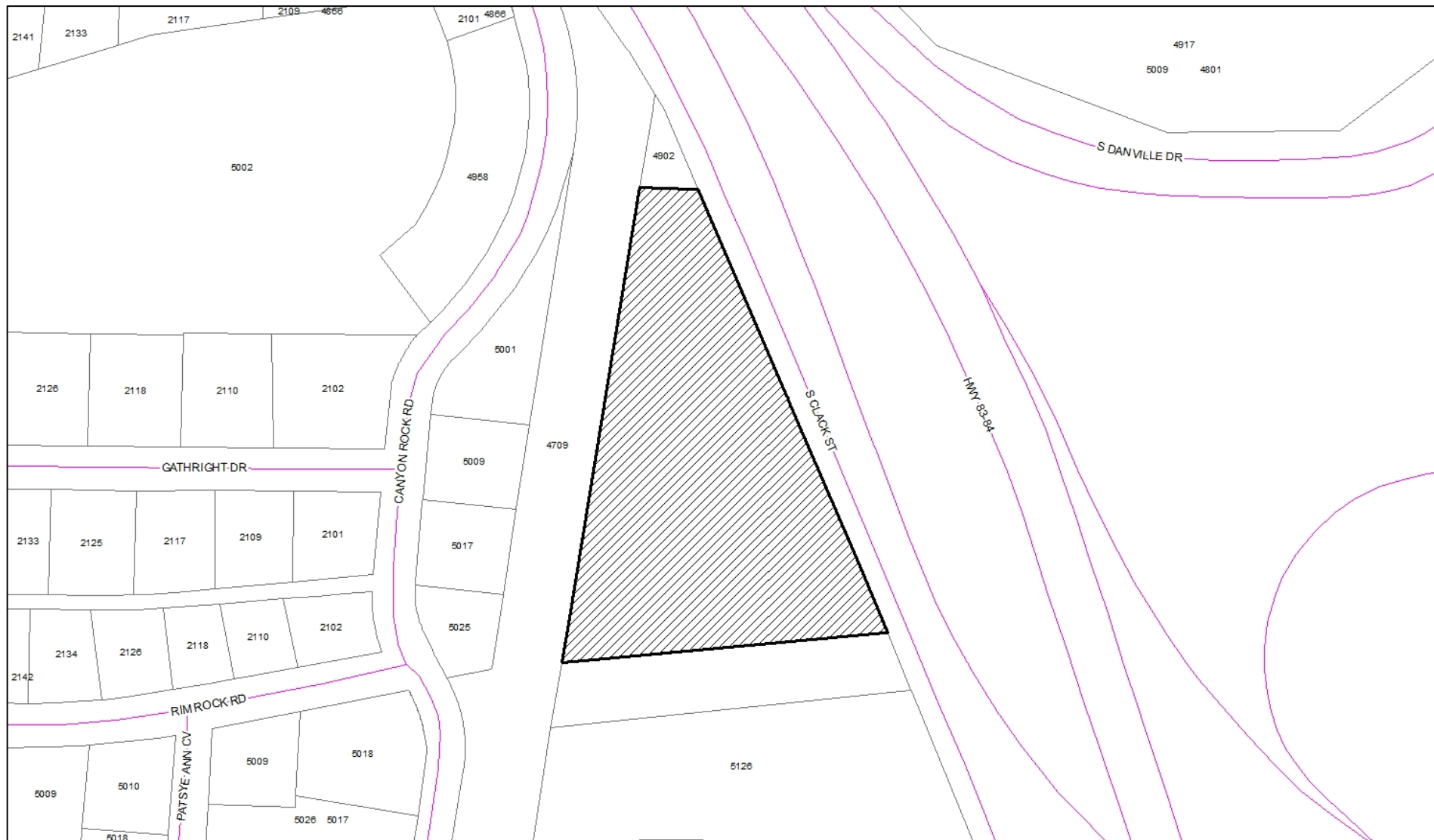
NOTIFICATION:

The Planning Services Division sent, with a certificate of mailing, public notices to the applicant and to owners of property within a 200-foot radius of this subject property;

Owner	Situs	Response
CARLYNN ENTERPRISE	5126 S CLACK ST	In favor
CARLYNN ENTERPRISE		In favor
CITY OF ABILENE	4902 S CLACK ST	
CITY OF ABILENE	4709 S DANVILLE DR	
FAIN CECIL	4958 CANYON ROCK RD	
HARRUFF DOUGLAS KIRK &	5009 CANYON ROCK RD	
LAWSON CHARLES L & DEON	5025 CANYON ROCK RD	
MAR DANIEL K JR & TERESA A	5017 CANYON ROCK RD	
WEST TEXAS GULF PIPE LINE CO		
WILCOX STEVEN M & SARA S	5001 CANYON ROCK RD	

ATTACHMENTS:

- Application
- PowerPoint





Development Application

Planning

- ☐ Conditional Use ☐ Easement Release ☒ Rezoning ☐ Other
☐ PDD ☐ Street Name Change ☐ Thoroughfare Abandonment ☐ PDD Amendment
Other: _____

Project Name: Caliber Collision

Address: UnAddressed No. of lots: N/A Acreage: 4.04

Legal Description: A0946 SUR 65 B A L SE/4, TRACT 6 FASSHAUER 4.04 ACRE

Subdivision Name: N/A Block: N/A Lot: N/A

Current Zoning: (AO) Agricultural Open Space Proposed Zoning (if applicable): (GC) General Commercial

OWNER AND AUTHORIZATION

Owner Name: Vinson Higginbotham

Address: 4001 South 1st Street

City, State, Zip: Abilene, Texas, 79605 Fax: _____

Phone: _____ Email: vinsonh@arrowford.com

I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) Jack Zanger will act as my agent before the Planning and Zoning Commission.

Agent Name: Jack Zanger, Project Manager, Triangle Engineering

Address: 1784 West McDermott Dr. Suite 110

City, State, Zip: Allen, Texas, 75013 Fax: _____

Phone: 469.331.8566 Ext. 113 Email: jzanger@triangle-engr.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: Vinson Higginbotham Date: 9-10-2020

FOR OFFICE USE ONLY

Received: _____ Fee: \$ 1,500 Receipt No.: 0001055777

Case No.: Z-2020-21 Reviewed By: _____



1. Please (if necessary) provide background information for the zoning request and explain why you feel it is appropriate.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



Development Application

RECOMMENDATIONS

The Planning & Zoning Commission (P&Z) and the City Council look to the Planning & Development Services staff to make a recommendation for the approval or disapproval of this application. We will make every effort to notify you (FAX or E-mail) of our recommendation at least one (1) week in advance of the scheduled meeting of the P&Z Commission. In the case of a rezoning, and when the public interest requires it, we may recommend a rezoning to a Planned Development District (PDD) or a classification other than the classification requested. We will notify you of our decision to propose a PDD as soon as possible after the application is filed to give you time to prepare a site plan.

PUBLIC NOTIFICATION

The public is entitled to examine this application and participate in the decision-making process. In most cases, we are required to notify all property owners within two hundred feet (200') of the boundaries of your property. To ensure the fullest possible consideration, we may also notify neighborhood groups, organizations or individuals that have a special interest in a particular issue. Except for matters that the Planning & Development Services staff have expressly agreed not to disclose (and provided the law allows us to hold the matter in confidence), then all information that we deem relevant to the review and processing of this application may become public knowledge.

PLEASE READ BEFORE SIGNING

The undersigned has read the above application and hereby certifies that the information contained therein is complete, true and correct; and does hereby request that said application be submitted to the Planning & Zoning Commission at the earliest available meeting.

I understand and acknowledge that it is my responsibility to furnish an accurate and precise legal description of the property, and only the property, that is subject of this application, and that failure to furnish such information prior to the application deadline date will delay the processing of this application. I also understand that the City must notify affected property owners of this application. In the event that I fail to submit in a timely manner any information that the City deems necessary to transmit this application to the Planning & Zoning Commission or City Council, then in lieu of dismissal I hereby request that this application be temporarily withdrawn from further consideration until such information is submitted, and I agree to pay a resubmission fee of \$120 to reimburse the City for the expense of re-notifying affected property owners. I have been informed of the tentative date and time that the Planning & Zoning Commission and City Council will hear this application, and I understand that hearings may be continued from time to time at the discretion of the Commission or Council to allow for full consideration or when the public interest requires a continuation.

SIGNED: _____

A handwritten signature in black ink, appearing to be "V. [unclear]".

DATE: 9-11-20

RECEIVED
OCT 30 2020
PLANNING

For the PLANNING & ZONING COMMISSION
Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2020-21

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: CARLYNN ENTERPRISE

Address:

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒
Additional Comments:

I am opposed ☐

Signature: Vinson Higginbotham

OCT 30 AM 10:08

For the PLANNING & ZONING COMMISSION
Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2020-21

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: CARLYNN ENTERPRISE

Address: 5126 S CLACK ST

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒
Additional Comments:

I am opposed ☐

Signature: Vinson Higginbotham

OCT 30 AM 10:08

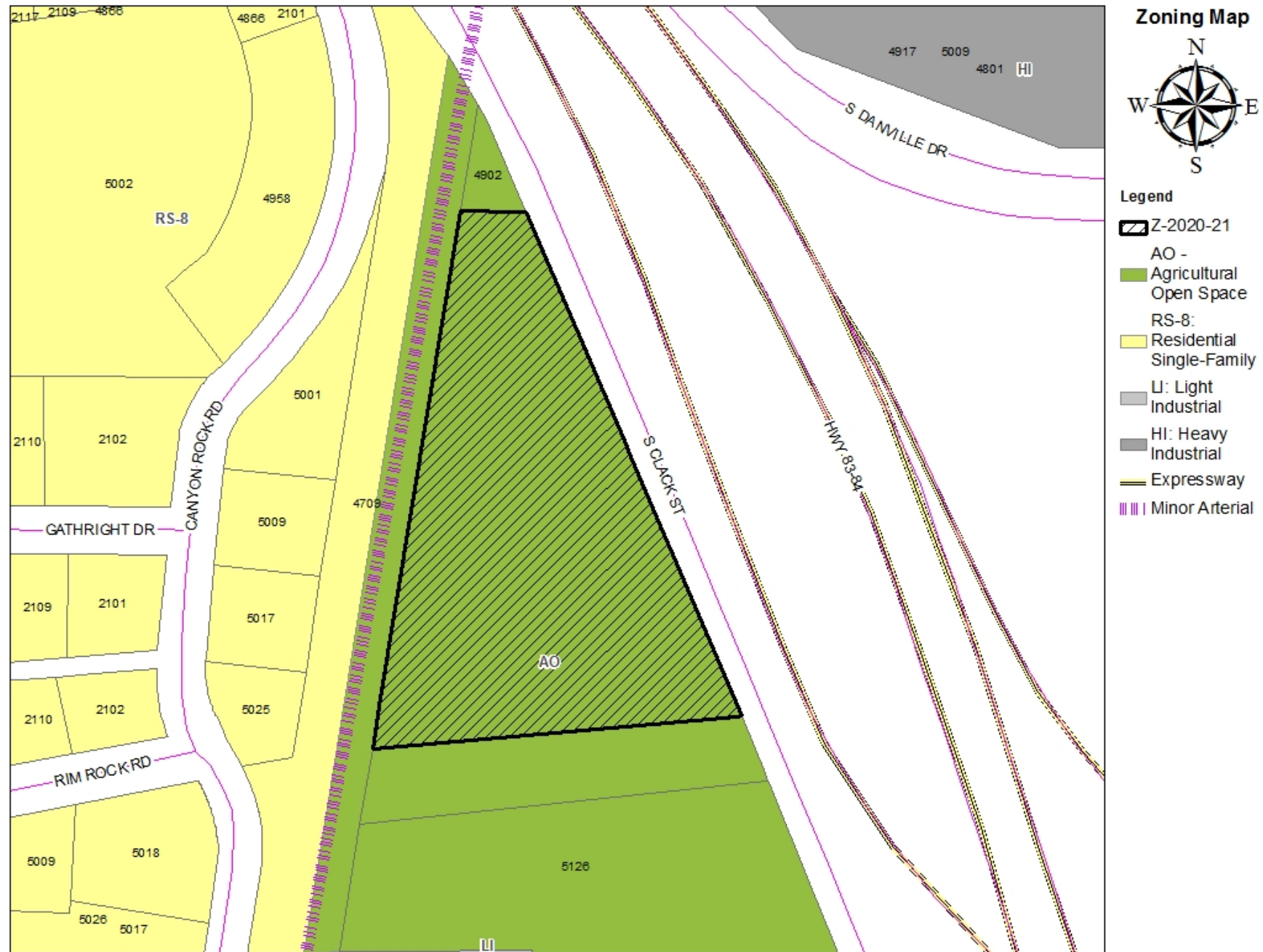
RECEIVED
OCT 30 2020
PLANNING

Case:	Z-2020-21
Owner:	Carlynn Enterprise
Agent:	Jack Zanger, Triangle Engineering
Request:	Rezone from AO to GC
Legal Description:	4.04 acres out of Lot 6 in the Alfred and Mary Fasshauer Subdivision of Blind Asylum Lands Section 65 in Abilene, Taylor County, Texas
Notification:	2 in Favor, 0 Opposed
Planning & Zoning Recommendation:	Approval

Z-2020-21 LOCATION MAP



Z-2020-21 ZONING MAP



USES IN GENERAL COMMERCIAL (GC)

RESIDENTIAL USES:

- P Hotel/Motel
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- TP Itinerant Business
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- C Mobile Home or Temporary Building (office for sales and service)
- P Recycling Collection Point
- C Travel Trailers (accessory to hospitals)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- P Drive-in Theater
- P Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment – Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Ambulance Service
- P Fire/Police Station
- C Homeless/Emergency Shelter
- P Hospital
- P Medical/Dental Laboratory
- P Post Office
- C Rehabilitation Facility
- P Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- P Trade/Business School
- P University/College

SERVICE

- P/C Automobile Wash
- C Contractor Services
- P Funeral Home/ Mortuary/Morgue
- C Kennel (With Outdoor Pens)
- P Kennel (Without Outdoor Pens)
- P Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- P Printing, Copying, Reproduction, Publishing
- C Recycling Collection and Processing Center
- P Repair and Maintenance Services - Automobile/Small Truck (major)
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Repair and Maintenance Services (outdoors)
- P Storage - Self-Service Units
- P Tattoo Parlor
- P Taxidermist
- P Veterinary Service (small animals)

TRADE – RETAIL USES

- C Aircraft and Accessories
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
- P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (automobile/small truck)
- P Retail Sales/Rental (indoor)
- P Retail Sales/Rental (outdoors, non-vehicle)
- C Retail Sales/Rental (trucks and other large vehicles and equipment)

TRADE – WHOLESALE USES

- C Wholesaling and Storage (indoor)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Antenna Tower - Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Passenger Ground Transportation Terminal
- P Pressure Control Station
- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

Memorial Drive



View of Subject Property South



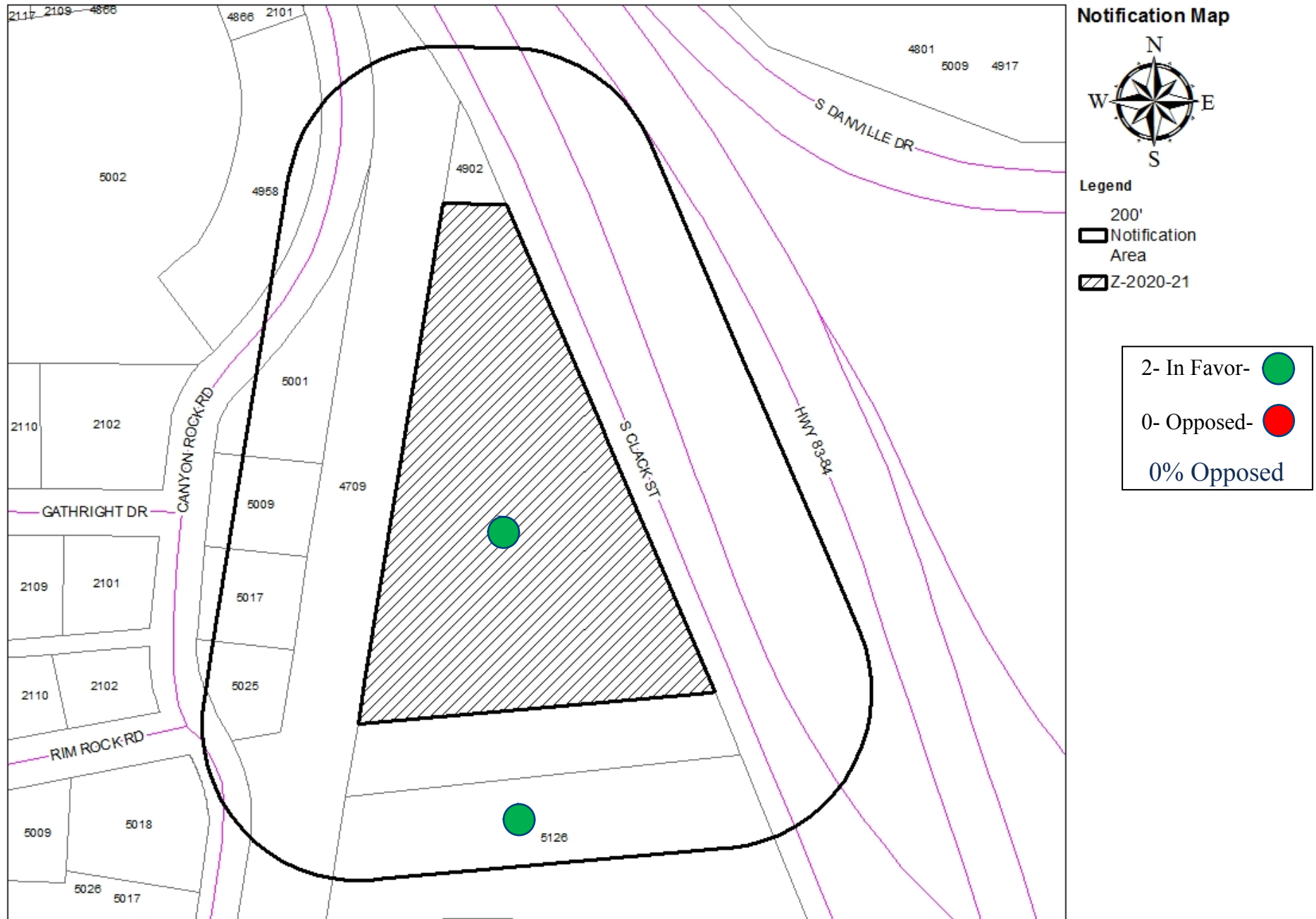
Clack Street view north



Clack Street view south



Z-2020-21 NOTIFICATION AREA MAP



- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Approval
- Planning & Zoning Recommendation: Approval

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: **17. Ordinance (Final Reading) CUP-2020-08:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Oldham Partner LP and Windmill Circle Partners LP, agent Tony Conder, for approval of a Conditional Use Permit allowing retail sales and rental of trucks and other large vehicles and equipment on 24.371 acres in a General Commercial (GC) District at 750 Gateway Street and the 3600-3700 blocks (east side) of Loop 322 *(Mike Warrix)*

GENERAL INFORMATION

Conditional Use Permit allowing retail sale and rental of trucks or other large vehicles in a General Commercial (GC) zoning district.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

City staff recommends approving this requested Conditional Use Permit allowing sales and rental of trucks or other large vehicles, but only on the western portion of this subject property which is presently in a General Commercial (GC) District.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval with conditions by a vote of 6-0.

Conditions being that the CUP ordinance allows sales and rental of trucks or other large vehicles, but only up to 50-feet before the property line on the sections currently zoned NR and GR, in the event they are rezoned to GC.

Shall provide screening by means of an opaque wall or fence from less intensive zoning districts. Outside storage of trucks or other large vehicles shall conform with that allowed by General Commercial (GC) districts. Save and except for when adjacent to residential properties. For the purpose of this CUP adjacent includes properties separated by street rights-of-way.

ATTACHMENTS:

1. CUP-2020-08 draft ordinance
2. CUP-2020-08 Council staff report
3. CUP-2020-08 Council Presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY APPROVING A CONDITIONAL USE PERMIT (CUP) AFFECTING CERTAIN PROPERTY; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by approving a Conditional Use Permit (CUP) as set out in Exhibits A and B, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be and is hereby authorized and directed to change the official Zoning Map of the City of Abilene, to correctly reflect the amendments thereto.

PASSED ON FIRST READING the 19th day of November, 2020.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of October, 2020, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 3rd day of December, 2020, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 3rd day of December, 2020.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Conditional Use Permit (CUP) to allow sales and rental of trucks or other large vehicles and equipment on the property described in attached EXHIBIT B (LEGAL DESCRIPTION) and subject to the following conditions:

1. Storage and/or display of trucks or other large vehicles and equipment shall be prohibited within the following two areas of this subject property described on attached EXHIBIT B (LEGAL DESCRIPTION):
 - a. an area extending 50 feet north from the south boundary of this subject property, which coincides with the north line of right-of-way for Gateway Street, and projecting a distance 855 feet west from the west line of right-of-way for Oldham Lane (a.k.a. Farm-to-Market Highway 1750); and
 - b. an area extending 50 feet west from the east boundary of this subject property, which coincides with the west line of right-of-way for Oldham Lane (a.k.a. Farm-to-Market Highway 1750) and projecting a distance 613 feet north from the north line of right-of-way for Gateway Street.
2. Storage and/or display of trucks or other large vehicles and equipment shall be effectively screened (by a solidly opaque wall or fence at least 6 feet high) from land in adjacent residential zoning districts, and, for the purpose of this ordinance, the term adjacent includes any residential zoning district separated from the subject property by a street right-of-way.
3. Use of the subject property shall comply with all other ordinary site development standards of Abilene's Land Development Code and applicable to General Commercial zoning districts, including but not limited to standards for landscaping, driveway access and exterior illumination, as well as outside storage and display.

ORDINANCE NO. _____

EXHIBIT B
(LEGAL DESCRIPTION)

BEING 24.371 acres of land situated in the City of Abilene, Taylor County, Texas, and being out of the southeast quarter of Section 62, Blind Asylum Lands (Abstract No. 679) and being out of a 98.33-acre tract described in a certain Deed Without Warranty to Musgrave and Musgrave LLP, dated October 4 of 2005, and recorded on Page 821 in Volume 3151 of Official Public Records of Real Property (O.P.R.R.P.) in Taylor County, Texas, and said 24.317-acre tract being more particularly described in metes-and-bounds as follows:

BEGINNING at an "X" set in concrete at the point of intersection of the north line of right-of-way for Oldham Lane (a.k.a Farm-to-Market Highway 1750) which said right-of-way line is the east line of said 98.33-acre tract, and said POINT OF BEGINNING being the northeast corner of Section 1, Tuscany Village Addition to said City of Abilene as shown per plat recorded on Slide 351-A in Cabinet 2 of Plat Records for said Taylor County, Texas;

THENCE in a westerly direction along said north line of right-of-way for Gateway Street according to the following calls:

North 89° 42' 12" West along said north right-of-way line, at 10.00 feet passed a found $\frac{3}{4}$ -inch aluminum rod with 2-inch aluminum Jacob & Martin cap, henceforth call a standard monument, and continuing a total distance of 76.30 feet to a standard monument found for a corner;

South 88° 20' 54" West for a distance of 120.00 feet to a standard monument found for a corner;

North 89° 41' 48" West for a distance of 597.79 feet to a standard monument found for a corner at the beginning of a curve to the right which is concave to the east-northeast and having a radius of 485.00 feet, a delta angle of 23° 08' 58" and being subtended by a chord bearing North 78° 11' 30" West and 194.63 feet in length;

Along said curve for a distance of 195.96 feet to a standard monument found for a corner;

North 66° 34' 03" West for a distance of 413.09 feet to a standard monument found for a corner;

North 64° 39' 19" West for a distance of 120.04 feet to a standard monument found for a corner;

North 66° 37' 21" West for a distance of 66.34 feet to a standard monument found for a corner in the westerly line of said 98.33-acre tract, same being the easterly right-of-way line of Texas Highway Loop 322;

THENCE North 23° 28' 45" East along the westerly line of said 98.33-acre tract and the easterly line of right-of-way for Texas Highway Loop 322, for a distance of 314.48 feet to a found standard monument at the beginning of a curve to the right which is concave to the southeast and which has a radius of 2714.54 feet, a delta angle of 12° 56' 29" and being subtended by a chord bearing North 30° 08' 17" East being 611.84 feet in length;

THENCE along said easterly right-of-way line and said westerly tract line and said curve to the right a distance of 613.14 feet to a found 5/8-inch rebar rod with a cap stamped "J&M BOUNDARY" for the most northerly southwest corner of the Grocery Retail Addition #2220-00 to the City of Abilene as

shown on the plat of record of said addition recorded on Slide 180 in Cabinet 4 of Plat Records for Taylor County, Texas;

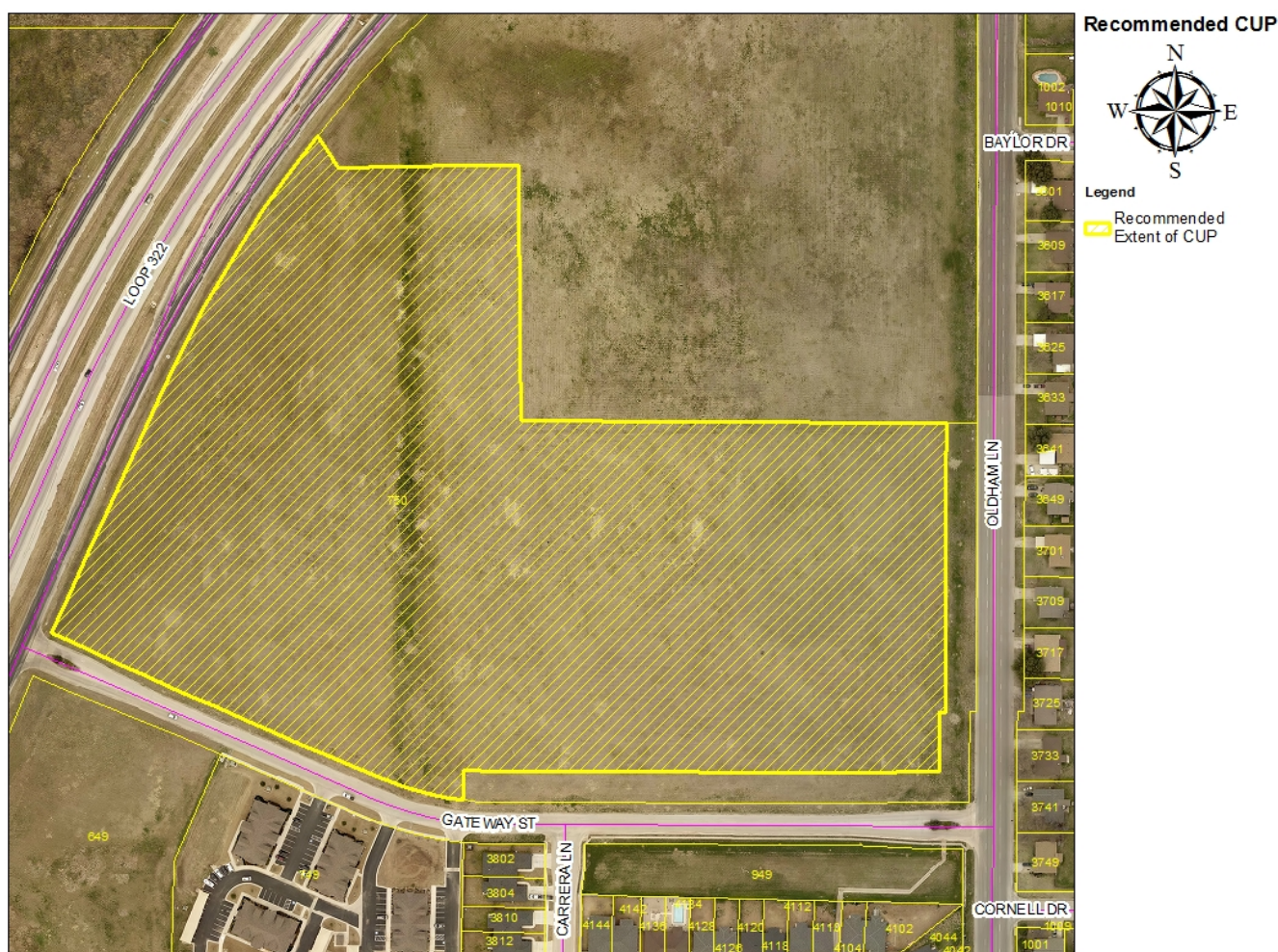
THENCE South $54^{\circ} 38' 38''$ East along a southerly line of said Grocery Retail Addition #2220-00 for a distance of 78.47 feet to a found 5/8-inch rebar rod with cap for a corner;

THENCE South $89^{\circ} 43' 36''$ East along a southerly line of said Grocery Retail Addition #2220-00 for a distance of 289.86 feet to a found 5/8-inch rebar rod with cap for a corner;

THENCE South $00^{\circ} 16' 24''$ West along the most southerly west line of said Grocery Retail Addition #2220-00 for a distance of 436.04 feet to a found 5/8-inch rebar rod with cap for a corner;

THENCE South $89^{\circ} 43' 36''$ East along the most easterly south line of said Grocery Retail Addition #2220-00 for a distance of 751.61 feet to a found 5/8-inch rebar rod with cap for the southeast corner of said Grocery Retail Addition #2220-00 and the northeast corner of this tract and being located in the west line of right-of-way for Oldham Lane (a.k.a. Farm-to-Market Highway 1750) and the east line of said 98.33-acre tract;

THENCE South $00^{\circ} 16' 24''$ West along the west line of right-of-way for Oldham Lane (a.k.a. Farm-to-Market Highway 1750) and the east line of said 98.33-acre tract, for a distance of 613.07 feet to the POINT OF BEGINNING and containing 24.371 acres of land, more or less.



Location: 24.371 acres bordering the entire north side of Gateway Street, between Loop 322 (on the west) and Oldham Lane (on the east)

-END-

ZONING CASE CUP-2020-08

STAFF REPORT



REQUEST: Conditional Use Permit allowing retail sale and rental of trucks or other large vehicles in a General Commercial (GC) zoning district.*

APPLICANT:

Owners: Oldham Partners, LP and Windmill Circle Partners, LP

Agent: Tony Conder

HEARING DATES:

P & Z Commission: November 3, 2020

City Council 1st Reading: November 19, 2020

City Council 2nd Reading: December 3, 2020

LOCATION:

- The subject property includes 24.371 acres bordering the entire north side of Gateway Street, between Loop 322 (on the west) and Oldham Lane (on the east).
- All this acreage lies in the southeast quarter of Blind Asylum Lands Section 62 inside the City limits of Abilene.

BACKGROUND:

The proponents own 24.371 acres comprising the approximate south half of a large triangular block bounded by Loop 322, Oldham Lane and Gateway Street. The proponents' 24.371 acres are presently included within a combination of three zoning districts:

- General Commercial (GC) District on approximately 16.271 acres;
- General Retail (GR) District on approximately 3.8 acres;
- Neighborhood Retail (NR) District on approximately 4.1 acres.

The proponents are simultaneously seeking to change the zoning of these GR and NR Districts, to GC zoning. That application for GC zoning is planned to be heard on the same meeting agenda as the requested Conditional Use Permit. The opportunity to seek approval of a Conditional Use Permit (CUP) allowing sales and rental of trucks or other large vehicles is available in General Commercial (GC) zoning but not in GR or NR Districts.†

The proponents' 24.371-acre tract is planned to be a new location for Warren Caterpillar Sales and Rental in Abilene, now headquartered at 3601 South Treadaway Boulevard.

* Approximately 8.1 acres of this 24.371-acre request are presently in General Retail (GR) or Neighborhood Retail (NR) zoning districts. The proponents have, however, submitted a concurrent request for rezoning these particular 8.1 acres of land, to a GC District.

† Sales and rental of trucks and other large vehicles are ordinarily allowed (by right) only in Heavy Commercial and Light Industrial zoning districts.

ANALYSIS:

Section 1.4.3.5 of Abilene's Land Development Code concerns criteria for approving Conditional Use Permits. This Section stipulates that, in making a recommendation regarding approval of a Conditional Use Permit, the Planning & Zoning Commission should consider the following factors:

1. The proposed use at the specified location is consistent with policies embodied in the adopted Comprehensive Plan.

The Future Land Use and Development component of Abilene's Comprehensive Plan suggests the entire triangular block bounded by Loop 322, Oldham Lane and Gateway Street to be part of a Major Commercial/Business Center. Furthermore, much of southeastern Abilene located on or near Loop 322[‡] is viewed as suitable for light industrial use. Sales and rental of heavy equipment may conform to this long-emerging pattern, alongside Loop 322.

2. The proposed use is consistent with the general purpose and intent of applicable zoning district regulations.

General Commercial (GC) zoning allows a wide variety of consumer-oriented retail trade and services requiring maximum access by passing motorists. GC zoning also permits opportunity for certain commercial activities to which customers may be obliged to travel occasionally, but not routinely. Such businesses include automotive sales and major automotive repair. Such businesses may also even include sales and rental of trucks or other large vehicles, but only where appropriate in the context of nearby use.

3. The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements (either on-site or within public rights-of-way) to mitigate development-related adverse impacts such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods.

If sales and rental of trucks or other large vehicles are allowed to encroach into existing General Retail (GR) and Neighborhood Retail (NR) Districts, then threats to the character and integrity of nearby residences are likely. With no such encroachment, then future use and development of these GR and NR Districts can provide a useful and effective transition between heavy equipment sales and nearby residences. These existing GR and NR Districts (embraced by the proponents' acreage) are 300 feet in depth from streets across from which residential development is located. A buffer of 50-feet from the property lines of the less intense zones are recommended along with additional requirements for landscaping and opaque fencing.

Location	Zoning	Existing Land Use
North	GC, GR	vacant land
South	GC, O, MD	vacant land, offices, residences (across Gateway)
East	RS-6	single-family homes (across Oldham Lane)
West	PD 107	vacant land, offices (across Loop 322)

[‡] south and west from Oldham Lane; north and east from Treadaway Boulevard

- 4. The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with existing and anticipated traffic in the neighborhood.**

Overall traffic generated by this particular proposed use (sales and rental of trucks or other large vehicles) will not be more than that generated by most other uses allowed in GC, GR and NR zoning districts.

- 5. The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.**

Western portions of the proponents' 24.371 acres lie adjacent to:

- Loop 322 and its northbound frontage road, and
- Gateway Street which is a fully-improved subcollector with a 36-foot width of pavement as well as curb-and-gutter.

- 6. The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties.**

Development of this property for the proposed use will be subject to ordinary site improvement standards of Abilene's Land Development Code. These include but are not limited to standards for landscaping, driveway access and exterior illumination, as well as limitations on outdoor storage and display. However, applications of these standards alone are not expected to mitigate any potential threat to the character and integrity of nearby residences so additional screening should be discussed.

STAFF RECOMMENDATION:

City staff recommends approving this requested Conditional Use Permit with the following conditions:

1. Allowing sales and rental of trucks or other large vehicles, but only up to 50-feet before the property line on the sections currently zoned NR and GR, in the event they are rezoned to GC.
2. Shall provide screening by means of an opaque wall or fence from less intensive zoning districts. Outside storage of trucks or other large vehicles shall conform with that allowed by General Commercial (GC) districts. Save and except for when adjacent to residential properties. For the purpose of this CUP adjacent includes properties separated by street rights-of-way.
3. Adhere to any improvement standards in the Land Development Code to include but not limited to landscaping, driveway access, exterior illumination, outdoor storage and display.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval of the requested Conditional Use Permit by a vote of six (6) to zero (0) on November 3, 2020.

NOTIFICATION:

The Planning Services Division sent public notices, with a certificate of mailing, to the applicant and to owners of property within a 200-foot radius of this subject property:

Owner	Situs	Response
ABILENE TUSCANY LLC	749 GATEWAY ST	
ABILENE TUSCANY LLC	749 G GATEWAY ST	
ABILENE TUSCANY LLC	749 A GATEWAY ST	
ABILENE TUSCANY LLC	749 B GATEWAY ST	
ABILENE TUSCANY LLC	749 C GATEWAY ST	
ABILENE TUSCANY LLC	749 D GATEWAY ST	
ABILENE TUSCANY LLC	749 E GATEWAY ST	
ABILENE TUSCANY LLC	749 F GATEWAY ST	
ALLEN ROBERT G	3649 OLDHAM LN	
BARNES JUSTIN & HANNAH MARIE	3617 OLDHAM LN	
BENAVIDES MIGUEL & ASHLEY N	3718 AUBURN DR	
COX BURL C	3725 OLDHAM LN	
FESTEJO CHARLEMAGNE F & MIRIAM E	3658 AUBURN DR	
HALL BRANDON C ET AL	4136 CARRERA LN	
HAMILTON WALTER J II	3709 OLDHAM LN	
JONES MICHAEL L & PATRICIA A	3734 AUBURN DR	Opposed
JSALINAS PROPERTIES LLC	4112 CARRERA LN	
JSALINAS PROPERTIES LLC	4110 CARRERA LN	
LIGHT BOY PROPERTIES	3710 AUBURN DR	
MARTIN GRADY LYNN	3701 OLDHAM LN	
MATTHEW WILLIAM M & NANCY A	3650 AUBURN DR	
MC DONALD ASSETS INC	4120 CARRERA LN	
MC DONALD ASSETS INC	4118 CARRERA LN	
MCDONALD ASSETS INC	4044 CARRERA LN	
MUSGRAVE & MUSGRAVE LLP	949 GATEWAY ST	
NOBLES ROBERT R & CYNTHIA G	4142 CARRERA LN	
NOBLES ROBERT R & CYNTHIA G	4144 CARRERA LN	
NOBLES ROBERT R II &	3802 CARRERA LN	
NOBLES ROBERT R II &	3804 CARRERA LN	
NOBLES ROBERT R II &	3810 CARRERA LN	
RAINY CREEK MANAGEMENT INC	3633 OLDHAM LN	
REYNA EDUARDO & SOLEDAD	3625 OLDHAM LN	
SNOW MICHAEL	3741 OLDHAM LN	
STITTS JERRY & JUDY	4134 CARRERA LN	
STREET MICHAEL E JR	3717 OLDHAM LN	
SWANSON KENNETH W &	3641 OLDHAM LN	
VAUGHN CHRIS L &	3666 AUBURN DR	
WADE LANTHA A	3733 OLDHAM LN	
WALKER COLBY & RHONDA LYNN	3674 AUBURN DR	
WALMART REAL ESTATE	3580 OLDHAM LN	
WEST JARROD & RACHEL	4104 CARRERA LN	
WEST JARROD & RACHEL	4102 CARRERA LN	
WICHNER JUSTIN ANDREW & TIMEA	4128 CARRERA LN	
WICHNER JUSTIN ANDREW & TIMEA	4126 CARRERA LN	
WILKINSON CLYDE C &	3702 AUBURN DR	Opposed
WINDMILL CIRCLE PARTNERS LP &	750 GATEWAY ST	
WINDMILL CIRCLE PARTNERS LP &	649 GATEWAY ST	In favor
WYATT JESSE A & TINA L	3749 OLDHAM LN	
ZHANG XIANGLING	3726 AUBURN DR	





PRELIMINARY SITE PLAN



WARREN CAT
ABILENE, TX

SEPT. 30, 2020

PRESENTATION
SITE PLAN

1 20' 40' 80'

ARCHITECTURAL RENDERING



SAVIEN - ROBERT
& ASSOCIATES



The Conder

C o m p a n y

Real Estate Management ■ Development ■ Investments

4150 Southwest Drive

Suite 202

Abilene, TX 79606

Michael G. Rice, P.E.
Assistant City Manager
555 Walnut St.
Abilene, TX 79601

Re: Zoning request – 24 +/- acres along Loop 322, Oldham Ln., and Gateway St.

Via email: Michael.rice@abilenetx.gov

Mr. Rice,

Relative to our conversation this morning, it is the request of Oldham Partners, LP and Windmill Circle Partners, LP, collectively the owner(s) of the above referenced property, I am presenting the elements of the conditional use permit requested.

- A. The owner is requesting that all of the owned tract be granted General Commercial (GC) zoning.
- B. The owner is requesting that a maximum of fifty feet in depth from the property line be set as a buffer zone along Oldham Ln (FM 1750) and Gateway Street only to the extent that the property is adjacent to residential uses. The attached site graphic will detail that further as shown in the hatch marked area.
 - i. The buffer zone may not be used for Heavy Equipment Storage.
 - ii. The buffer zone may be used for non Heavy Equipment Storage.
 - iii. The buffer zone may be used for landscaping and screening.
- C. Opaque fencing may be required fifty feet from the property line and along the buffer zone only.

Thank you for your assistance and attention in this matter. Feel free to call me with any questions.

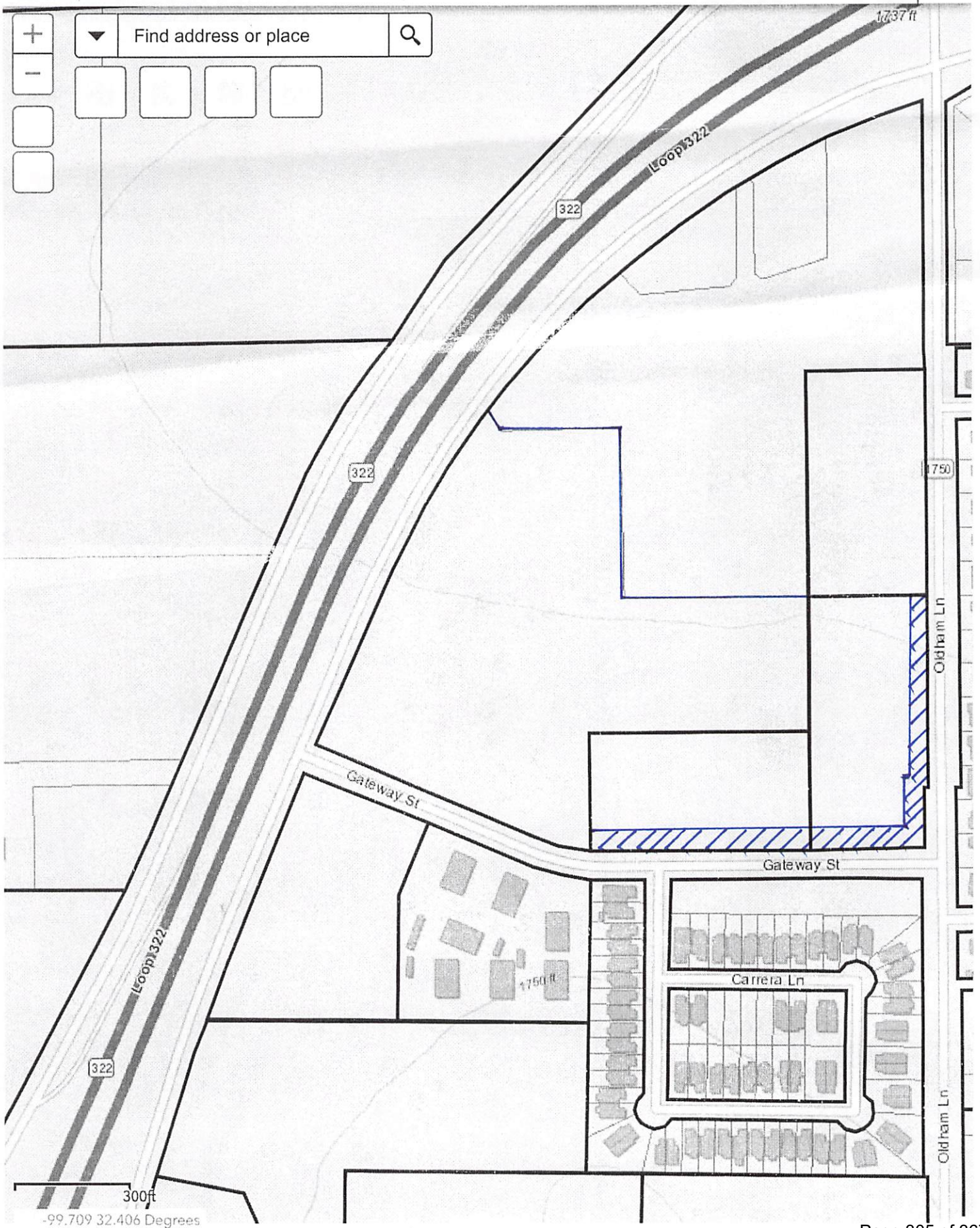
Best regards,

Tony Conder



Parcel Information

Taylor County Appraisal District City of Abilene





Development Application

Planning

☒ Conditional Use
 ☐ Easement Release
 ☐ Rezoning
 ☐ Other
☐ PDD
 ☐ Street Name Change
 ☐ Thoroughfare Abandonment
 ☐ PDD Amendment
 Other: _____

Project Name: Warren Caterpillar

Address: Loop 322 access rd./Gateway Blvd. No. of lots: 1 Acreage: 24.371

Legal Description: see attached

Subdivision Name: Southeast Quarter of Section 62 of the Blind Asylum Lands, Abstract No. 679 Block: _____ Lot: _____

Current Zoning: GC/GR/NR Proposed Zoning (if applicable): conditional use overlay

OWNER AND AUTHORIZATION

Owner Name: Oldham Partners, LP and Windmill Circle Partners, LP

Address: 4150 Southwest Dr., Ste. 210

City, State, Zip: Abilene, TX 79606 Fax: _____

Phone: 325.692.9141 Email: tconder@condercompany.com

I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) Tony Conder and/or Don Whitehead will act as my agent before the Planning and Zoning Commission.

Agent Name: Tony Conder

Address: 4150 Southwest Dr., Ste. 210

City, State, Zip: Abilene, TX 79606 Fax: _____

Phone: 325.692.9141 Email: tconder@condercompany.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: [Signature] Date: 10/5/2020

FOR OFFICE USE ONLY

Received: 10/05/2020 Fee: \$ 1500 Receipt No.: 0001055776 & 0001056775
 Case No.: Z-2020-19 Reviewed By: [Signature]

AND
CUP-2020-08



Development Application

Please answer the following question in order to assist Staff with the processing of your Zoning request.

1. Please (if necessary) provide background information for the zoning request and explain why you feel it is appropriate.

The subject property was zoned in anticipation of a Wal-Mart development a number of years ago. Wal-Mart subsequently decided to not develop the site. Consequently the nature of development has transitioned to vehicle and machinery sales as evidenced by the adjacent development of a new John Deere power equipment facility. The proposed use is consistent with recent zoning changes and more accurately reflects the long term use and viability of this parcel of land along loop 322.

This application for conditional use is to provide Warren Equipment the eligible zoning for a new sales and service center similar to the John Deere facility.

EXHIBIT A

BEING 24.371 acres of land situated in the City of Abilene, Taylor County, Texas, and being out of the Southeast Quarter of Section 62 of the Blind Asylum Lands, Abstract No. 679, and being out of a 98.33 acre tract described in a certain Deed Without Warranty to Musgrave and Musgrave, LLP dated October 4, 2005, and recorded in Volume 3151, Page 821, Official Public Records, Taylor County, Texas, and said 24.371 acre tract being more particularly described in metes and bounds as follows:

BEGINNING at an "X" set in concrete at the point of intersection of the North right-of-way line of Gateway Street and the West right-of-way line of Oldham Lane, a.k.a. Farm to Market Road 1750 (said right-of-way line is the East line of said 98.33 tract), with said point of beginning being the Northeast corner of Section 1, Tuscany Village Addition to said City of Abilene as shown per plat recorded in Cabinet 2, Slide 351-A of the Plat Records of said Taylor County, Texas;

THENCE in a Westerly direction along said North right-of-way line of Gateway Street the following calls:

North 89°42'12" West along said North right-of-way line, at 10.00 feet passed a found 3/4 inch aluminum rod with 2 inch aluminum, Jacob & Martin cap, henceforth called a standard monument, and continuing a total distance of 76.30 feet to a standard monument found for corner;

South 88°20'54" West 120.00 feet to a standard monument found for corner;

North 89°41'48" West 597.79 feet to a standard monument found for corner at the beginning of a curve to the right which is concave to the East-Northeast and having a radius of 485.00 feet, a delta angle of 23°08'58" and being subtended by a chord having a bearing of North 78°11'30" West and a length of 194.63 feet;

Along said curve a distance of 195.96 feet to a standard monument found for corner;

North 66°34'03" West 413.09 feet to a standard monument found for corner;

North 64°39'19" West 120.04 feet to a standard monument found for corner;

North $66^{\circ}37'21''$ West 66.34 feet to a standard monument found for corner in the Westerly line of said 98.33 acre tract, same being the Easterly right-of-way line of Loop 322;

THENCE North $23^{\circ}28'45''$ East along said Westerly line of said 98.33 acre tract and said Easterly right-of-way line of Loop 322 a distance of 314.48 feet to a found standard monument for the beginning of a curve to the right which is concave to the Southeast and having a radius of 2714.54 feet, delta angle of $12^{\circ}56'29''$ and being subtended by a chord having a bearing of North $30^{\circ}08'17''$ East, and a length of 611.84 feet;

THENCE along said Easterly right-of-way line and said Westerly tract line and said curve to the right a distance of 613.14 feet to a found 5/8 inch rebar rod with a cap stamped "J&M BOUNDARY" for the most Northerly Southwest corner of the Grocery Retail Addition #2220-00 to the City of Abilene as shown in the plat of record of said addition recorded in Cabinet 4, Slide 180, Plat Records, Taylor County, Texas;

THENCE South $54^{\circ}38'38''$ East along a Southerly line of said Grocery Retail Addition #2220-00 a distance of 78.47 feet to a found 5/8 inch rebar rod with cap for corner;

THENCE South $89^{\circ}43'36''$ East along a Southerly line of said Grocery Retail Addition #2220-00 a distance of 289.86 feet to a found 5/8 inch rebar rod with cap for corner;

THENCE South $00^{\circ}16'24''$ West along the most Southerly West line of said Grocery Retail Addition #2220-00 a distance of 436.04 feet to a found 5/8 inch rebar rod with cap for corner;

THENCE South $89^{\circ}43'36''$ East along the most Easterly South line of said Grocery Retail Addition #2220-00 a distance of 751.61 feet to a found 5/8 inch rebar rod with cap for the Southeast corner of said Grocery Retail Addition #2220-00 and the Northeast corner of this tract and being located in said West right-of-way line of Oldham Lane and said East line of said 98.33 acre tract;

THENCE South $00^{\circ}16'24''$ West along said East line of said 98.33 acre tract and said right-of-way line a distance of 613.07 feet to the POINT OF BEGINNING and containing 24.371 acres of land, more or less.

Case: CUP-2020-08

Owner: Oldham Partners, LP & Windmill Circle Partners, LP

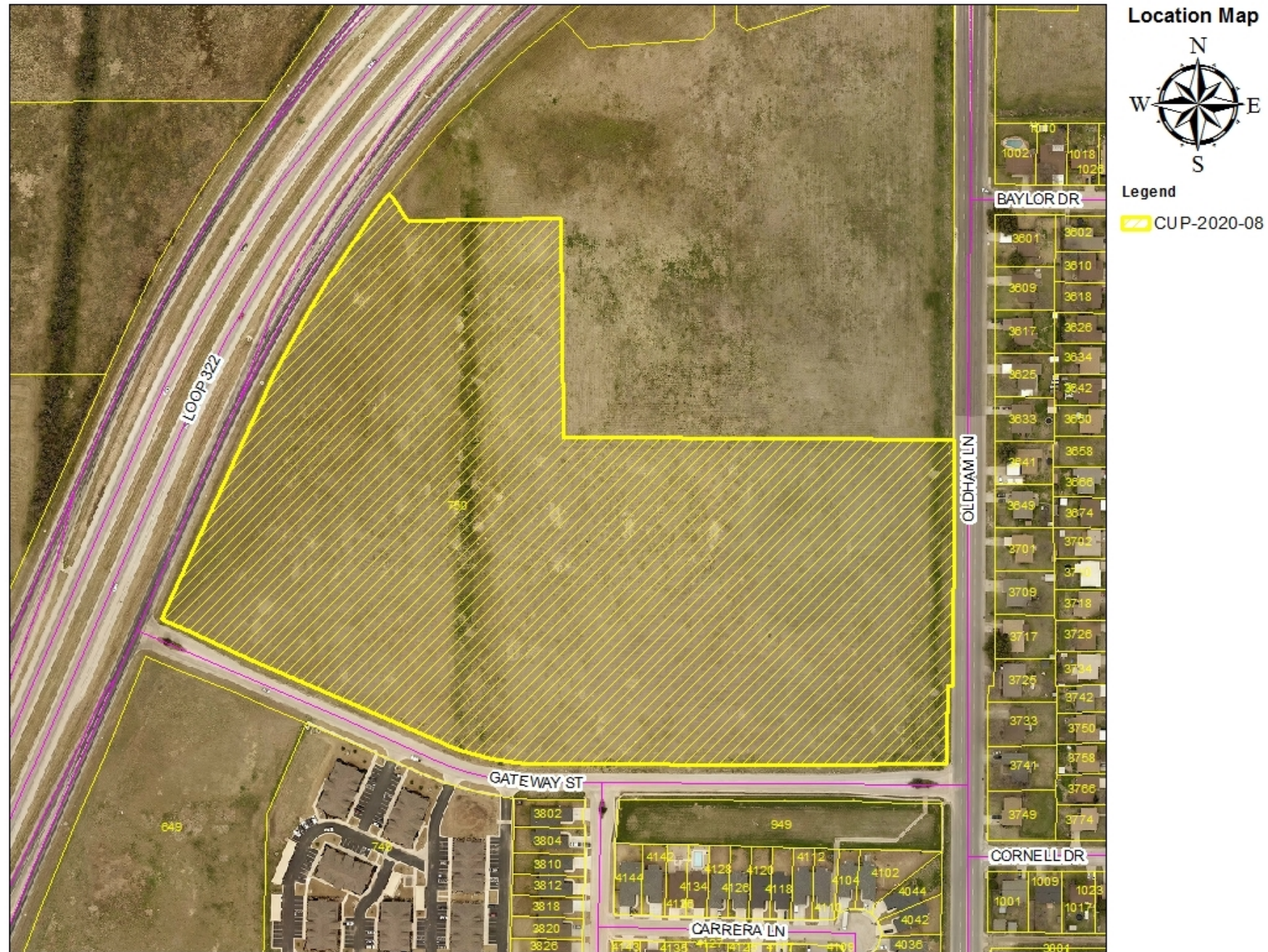
Agent: Tony Conder

Request: Conditional Use Permit to allow retail sale and rental of trucks or other large vehicles in GC

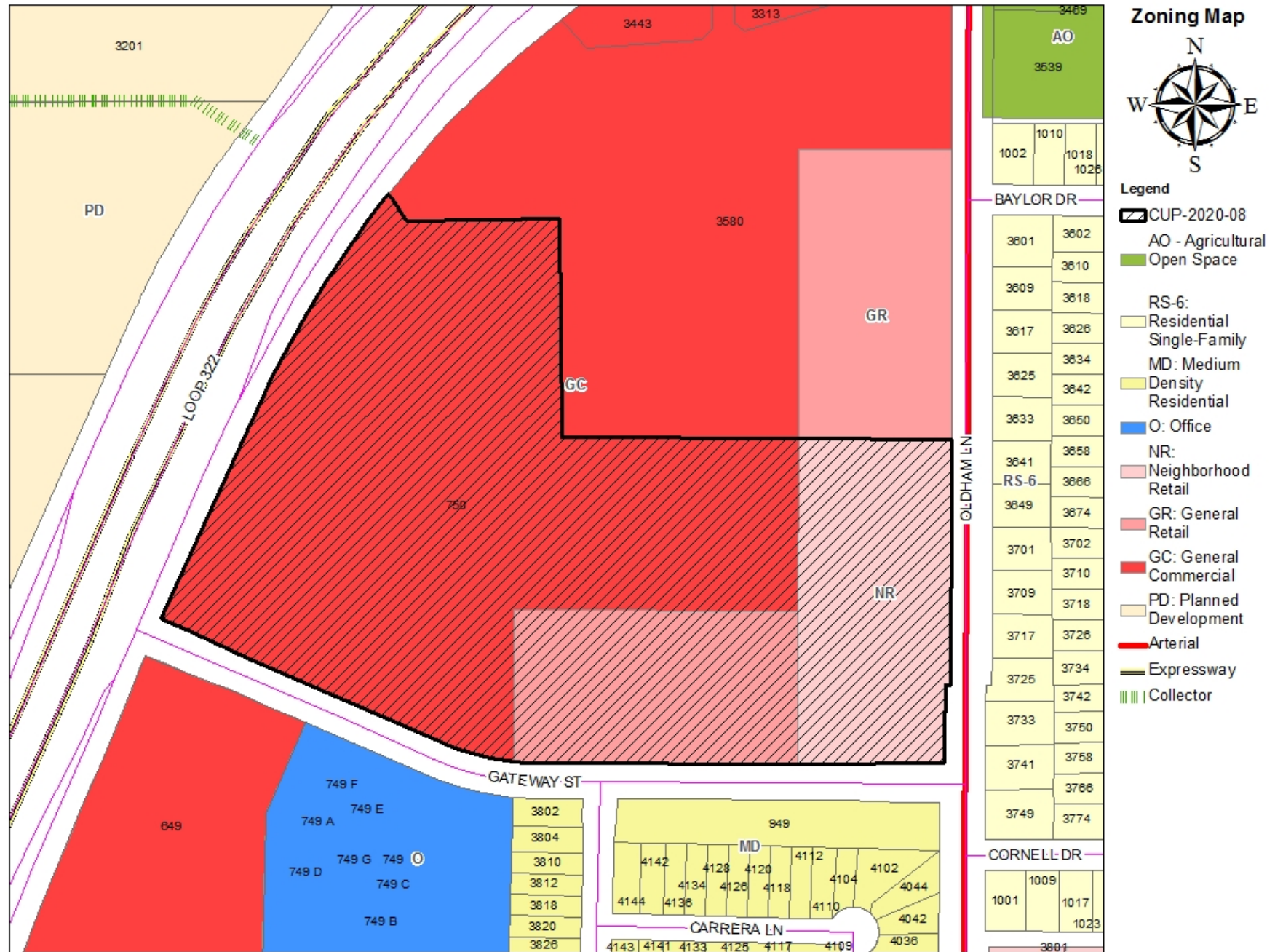
Location: 24.371 acres bordering Gateway St. between LP322 and Oldham Lane

Notification: 2 in Favor, 2 Opposed

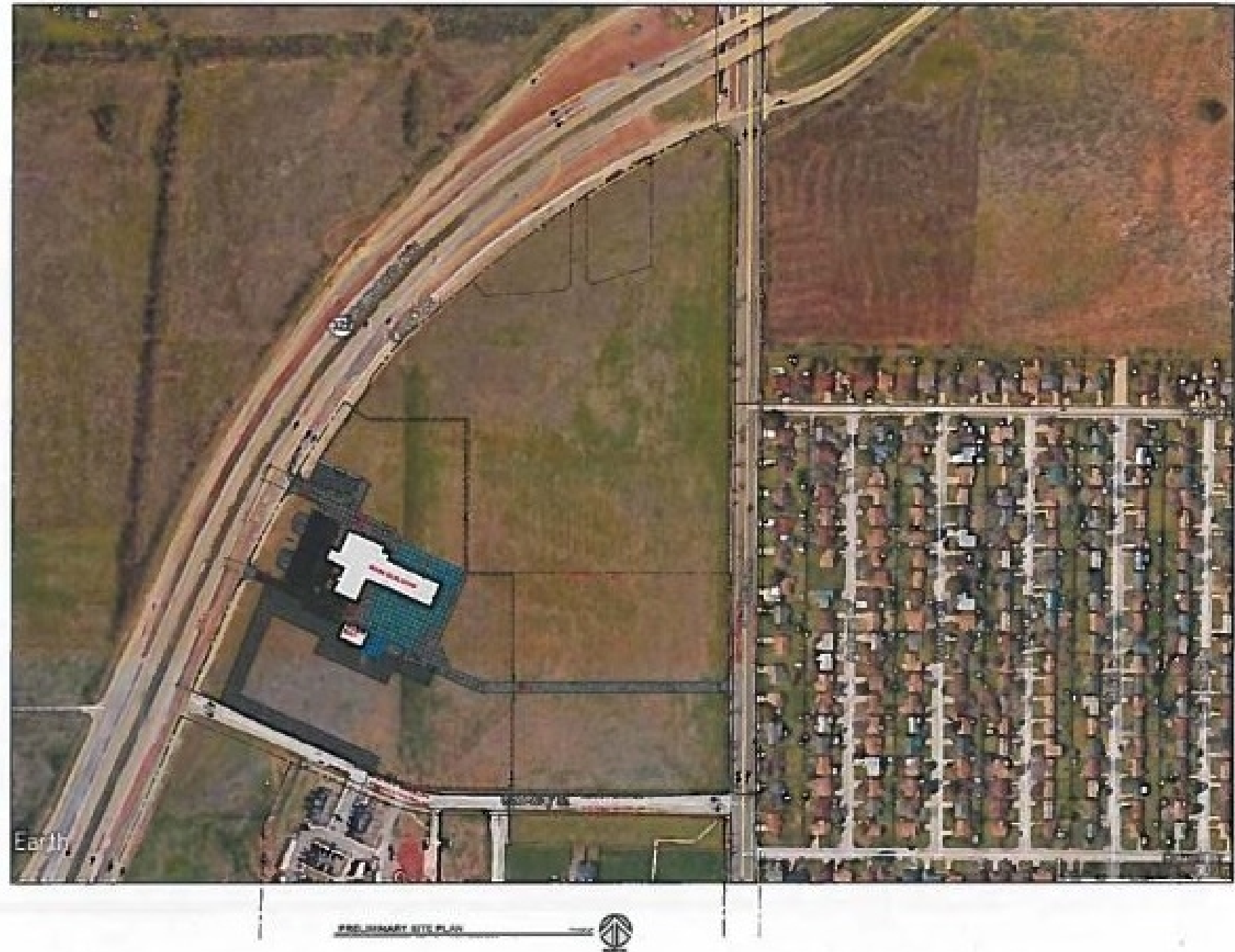
Planning & Zoning Recommendation : Approval



CUP-2020-08 ZONING MAP

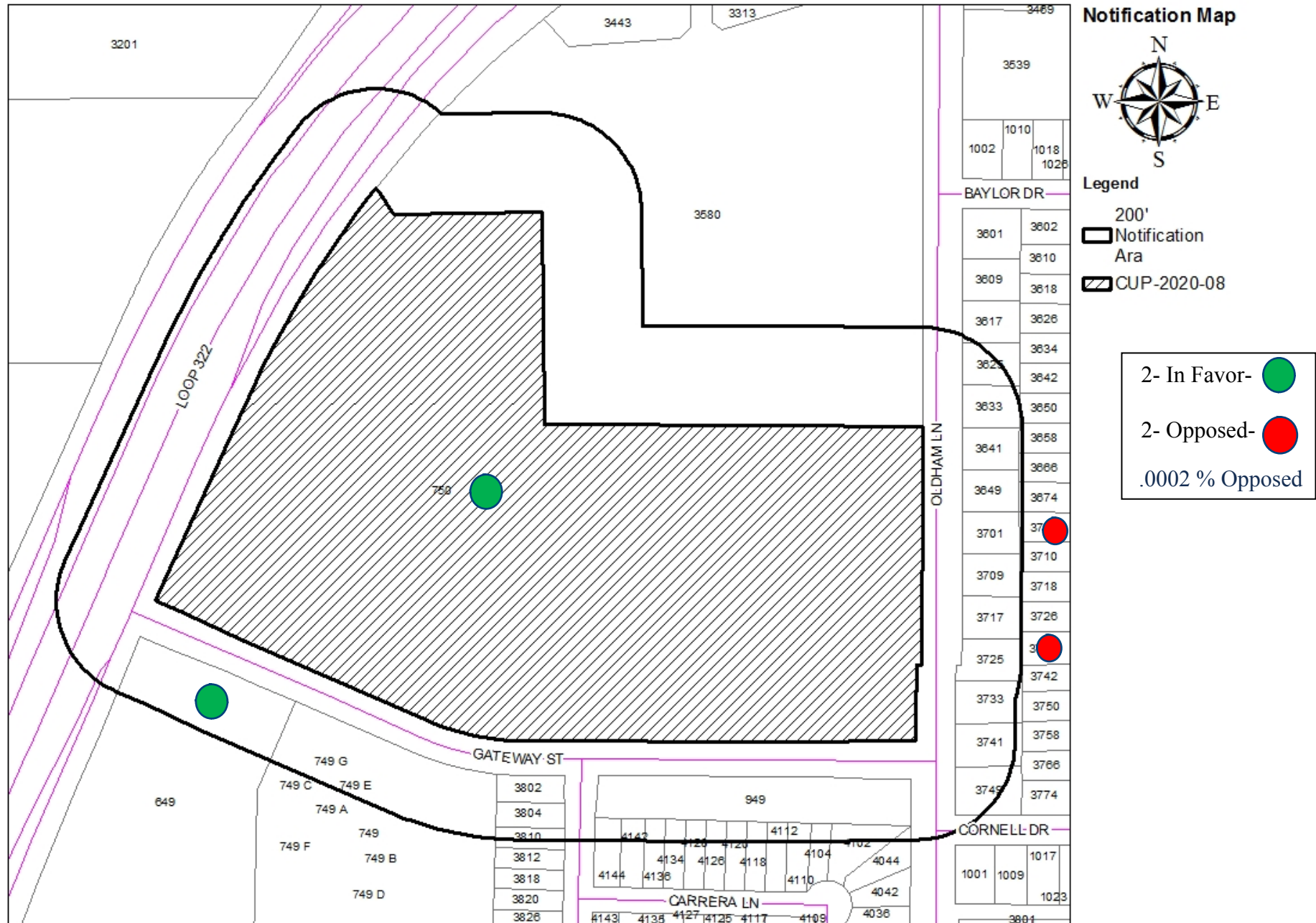








CUP-2020-08 NOTIFICATION AREA MAP



- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Reviewed Pursuant to Section 1.4.3.5 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Approval with conditions
- Planning & Zoning Commission: Approval with conditions

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: **18. Ordinance (Final Reading) OAM-2020-02:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending the Land Development Code, Chapter 2, “Zoning Regulations,” Article 3, “Zoning Districts,” Division 3, TABLE 2-4: Site Layout and Building Requirements for Nonresidential Zoning Districts,” and Article 4, “Use Regulations,” Division 3, “Requirements Applicable to Specific Land Uses,” Section 2.4.3.3, “All Other Uses with Specific Requirements,” to clarify Multiple Family Dwellings by Conditional Use Permit in Certain Non-Residential Districts *(Mike Warrix)*

GENERAL INFORMATION

Amend Land Development Code concerning development of multi-family dwellings in certain non-residential districts.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 5-0.

ATTACHMENTS:

1. OAM-2020-02 ordinance
2. 2- OAM 2020-02 staff memo to P&Z
3. 3- OAM-2020-02 PZC Presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE “LAND DEVELOPMENT CODE,” CHAPTER 2, “ZONING REGULATIONS;” ARTICLE 3, “ZONING DISTRICTS,” DIVISION 3, “TABLE 2-4: SITE LAYOUT AND BUILDING REQUIREMENTS FOR NONRESIDENTIAL ZONING DISTRICTS;” AND ARTICLE 4, “USE REGULATIONS,” DIVISION 3, “REQUIREMENTS APPLICABLE TO SPECIFIC LAND USES,” SECTION 2.4.3.3, “ALL OTHER USES WITH SPECIFIC REQUIREMENTS,” TO CLARIFY MULTIPLE FAMILY DWELLINGS BY CONDITIONAL USE PERMIT IN CERTAIN NON-RESIDENTIAL DISTRICTS; CALLING A PUBLIC HEARING; PROVIDING A PENALTY.

WHEREAS, the Planning and Zoning Commission recommends that, to clarify Multiple-Family Use in certain non-residential districts, additional ordinance changes are needed.

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

PART 1: That Chapter 2 (Zoning Regulations) in the Land Development Code of the Abilene City Code is hereby amended as set out in Exhibit A, attached hereto and made a part of this Ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of these chapters shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That if any provision or any section of this Ordinance shall be held to be illegal, invalid, void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this Ordinance, which shall remain in full force and effect.

PASSED ON FIRST READING this 19th day of November, 2020.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of October, 2020, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 3rd day of December, 2020 to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING this 3rd day of December, 2020.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT "A"

AMEND: TABLE 2-4 SITE LAYOUT AND BUILDING REQUIREMENTS FOR NONRESIDENTIAL ZONING DISTRICTS, at the end of Division 3 – Nonresidential Zoning Districts

REVISE: For the entry pertaining to Applicable Multiple-Family Standards in MX Zoning Districts, change the text from “MD or MF District Standards” to “MD District Standards.”

TABLE 2-4: SITE LAYOUT AND BUILDING REQUIREMENTS FOR NONRESIDENTIAL ZONING DISTRICTS (Continued)

Zoning District	Minimum Lot Size		Minimum Building Line Setbacks					Max. Height (ft)	Max. Floor Area Ratio (FAR)	Applicable Single-Family Standards	Applicable Multiple-Family Standards
	Width (ft) ¹	Depth (ft)	Street Setback (ft)			Rear Yard (next to other lot boundary) (ft)	Interior Side (ft) ²				
			Subcollector or Minor Street*	Collector, Arterial, or Expressway With Frontage Rd*	Expressway Without Frontage Rd						
MX			10			0	0	35'	4:1	RS-6 District Standards	MD or MF District Standards
GC	60	100	25	30	40	10;	0; abutting	none	2:1	none	none

						abutting AO or Residential, 25	AO or Residential, 25				
HC	60	100	25	30	40	25; abutting AO or Residential, 50	0; abutting AO or Residential, 30	none	2:1		
LI	60	100	25	30	40		0; abutting AO or Residential, 50	none	2:1		none
HI	60	100	25	30	40	25; abutting AO or Residential, 75	0; abutting AO or Residential District, 100	none	2:1		none

AMEND: Section 2.4.3.3 All Other Uses With Specific Requirements

REVISE: Add and delete the following entries in alphabetical order and renumber accordingly:

(a) Specific Requirements

~~RESIDENTIAL MULTIPLE-FAMILY (MF) DISTRICT~~

~~Allow for Residential Multiple-Family (MF) within other non-residential zoning districts with a Conditional Use Permit (C), per Section 2.4.2.1~~

DWELLING MULTIPLE-FAMILY

- a. In MX and NR zoning districts where allowed with approval of a Conditional Use Permit, multiple-family dwellings shall be subject to limitations on overall residential density, building height and lot coverage, as well as standards for minimum lot size and building setback, the same as if such dwellings were located in a Residential Medium Density (MD) District. The maximum number of dwelling units allowed on any one (1) individual lot in an MX zoning district shall be four (4).

- b. In CU and CB zoning districts, and in NO, O, GR and MU zoning districts where allowed with approval of a Conditional Use Permit, multiple-family dwellings shall be subject to limitations on overall residential density, and building setback, the same as if such dwellings were located in a Residential Multiple-Family (MF) District.

-END-

TO: Planning and Zoning Commissioners

FROM: Planning Services Staff

DATE: October 23, 2020

SUBJECT: Amend ordinance concerning development of multi-family dwellings in certain nonresidential districts

BACKGROUND:

In Abilene's Zoning Regulations, uses allowed only with approval of a Conditional Use Permit (CUP) may be appropriate at some but not all locations in the zoning districts where such approval is required. City Council reserves (for itself) the privilege of deciding where and under what conditions such uses shall be permitted, after a public hearing and recommendation by the Planning & Zoning Commission. As the name implies, approval of a Conditional Use Permit may be made subject to appropriate conditions necessary to make that particular proposed use a "good fit" in its specific environment.

On September 12, 2017, Abilene's City Council approved Ordinance No. 35-2017, a copy of which accompanies this correspondence. The basic intent of this ordinance was to require approval of a Conditional Use Permit (CUP) for all new multiple-family dwellings in these zoning districts:

- General Retail (GR),
- Neighborhood Retail (NR),
- Medical Use (MU),
- Mixed Use (MX),
- Neighborhood Office (NO), and
- Office (O) Districts.

When Abilene's Land Development Code was adopted in 2010, multiple-family dwellings were automatically allowed in all six above-mentioned zoning classifications.

ANALYSIS:

Amendments approved on September 12, 2017 were never integrated with the online text of Abilene's Land Development Code appearing in Franklin Legal Publishing, for one or both of the following reasons:

1. The effective date of amendments approved on September 12, 2017 was delayed more than one year, until October 1, 2018.
2. Much of the specific text in Ordinance No. 35-2017 is confusing. It appears to have confused the use category known as “multiple-family dwelling” with the zoning district classification known as “Residential Multiple-Family (MF).”

In order to clarify the law for planning staff who must use the LDC on a daily basis, 35-2017 has now been sent to Franklin Legal so that the ordinance changes will be included in our online code. To further clarify that multiple-family dwelling is a use in other zoning districts, staff recommends amending the ordinance to reflect the following changes.

RECOMMENDATION:

City staff recommends the Planning & Zoning Commission to consider recommending a draft ordinance amending Ordinance No. 35-2017 to simplify text clarifying the fundamental intent of City Council in 2017. A draft amended ordinance also accompanies this correspondence.

Besides identifying the six nonresidential zoning districts wherein development of multiple-family dwellings will require approval of a Conditional Use Permit, the draft new ordinance clarifies some basic rules for such development:

- In GR, NR, MU, NO and O Districts, multiple-family dwellings shall meet ordinary standards of Residential Multiple-Family (MF) Districts. This includes a limitation of no more than 24 dwelling units per acre.
- In MX Districts, multiple-family dwellings shall meet ordinary standards of Residential Medium Density (MD) Districts. This includes a limitation of no more than 12 dwelling units per acre.

Multiple-family dwellings will continue to be automatically allowed in Central Business (CB) and College-University (CU) zoning districts. Such development in these districts is subject to ordinary standards of Residential Multiple-Family (MF) zoning.

ORDINANCE NO. 35-2017

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, part known as the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PART 4: This Ordinance, although it shall be published in the newspaper within 20 days from passage, shall be effective beginning October 1, 2018.

PASSED ON FIRST READING this 24nd day of August, A.D. 2017.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 20th day of July, 2017, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 12th day of September, 2017 to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene. This ordinance shall be effective on October 1, 2018.

PASSED ON SECOND AND FINAL READING THIS 12th day of September, A.D. 2017.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:

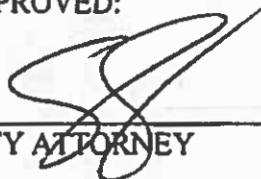

CITY ATTORNEY

EXHIBIT "A"

AMEND: Section 2.4.2.1 The Land Use Matrix

REVISE: Change MF (Multiple-Family Residential) from a P (Permitted) use to a C (Conditional Use) in the O (Office), NO (Neighborhood Office), GR (General Retail), MX (Mixed Use), MU (Medical Use), and NR (neighborhood Retail),

Amend: Section 2.3.2.9 Residential Multiple-Family (MF) District

(a) **Purpose.** The Residential Multiple-Family (MF) District is designed to encourage the provision of conveniently located, centrally maintained rental accommodations with traditional apartment units. This district provides for a maximum of twenty-four (24) dwelling units per acre. As one of the multiple-family zoning districts provided for development in Abilene, this district is also designed to achieve the following:

(1) Protect the residential character of the included areas by excluding most commercial and other incompatible activities, as appropriate. Allow for Residential Multiple-Family (MF) within other non-residential zoning districts with a Conditional Use Permit (C), per Section 2.4.2.1 The Land Use Matrix.

(2) Encourage a suitable environment by permitting certain appropriate institutions and facilities to be located in residential neighborhoods.

AMEND: Section 2.4.3.3 All Other Uses With Specific Requirements

REVISE: Add the regulations pertaining to MF (Multi-Family Residential).

(a) Specific Requirements.

(61) Residential Multiple-Family (MF) District

Allow for Residential Multiple-Family (MF) within other non-residential zoning districts with a Conditional Use Permit (C), per Section 2.4.2.1 The Land Use Matrix.

-END-

Amend Ordinance 35-2017

- Section 2.4.2.1 The Land Use Matrix
- Section 2.4.3.3 All other Uses with Specific Requirements

- **AMEND: Section 2.3.3.12 Heavy Industrial (HI) District, TABLE 2-4 SITE LAYOUT AND BUILDING REQUIREMENTS FOR NONRESIDENTIAL ZONING DISTRICTS**
- **REVISE:** For the entry pertaining to Applicable Multiple-Family Standards in MX Zoning Districts, change the text from “MD or MF District Standards” to “MD District Standards.”
- **AMEND: Section 2.4.3.3 All Other Uses With Specific Requirements**
- **REVISE:** Add and delete the following entries in alphabetical order and renumber accordingly:
- **Specific Requirements**
- ~~**RESIDENTIAL MULTIPLE-FAMILY (MF) DISTRICT:**~~
~~Allow for Residential Multiple Family (MF) within other non—~~
~~residential zoning districts with a Conditional Use Permit (C), per~~
~~Section 2.4.2.1~~

- **AMEND: Section 2.4.3.3 All Other Uses With Specific Requirements**
- **REVISE: (a) Specific Requirements**
- **DWELLING MULTIPLE-FAMILY**
 - a) In MX zoning districts where allowed with approval of a Conditional Use Permit, multiple-family dwellings shall be subject to limitations on overall residential density, building height and lot coverage, as well as standards for minimum lot size and building setback, the same as if such dwellings were located in a Residential Medium Density (MD) District. The maximum number of dwelling units allowed on any one (1) individual lot in an MX zoning district shall be four (4).
 - b) In CU and CB zoning districts, and in NO, O, NR, GR and MU zoning districts where allowed with approval of a Conditional Use Permit, multiple-family dwellings shall be subject to limitations on overall residential density, building height and lot coverage, as well as standards for minimum lot size and building setback, the same as if such dwellings were located in a Residential Multiple-Family (MF) District.

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Honorable Mayor & Members of City Council

FROM: Stanley Smith, City Attorney

SUBJECT: 19. The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

GENERAL INFORMATION

The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

A. 551.071 (Consultation with Attorney)

1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
2. Officer Patrick Sumrall and City of Abilene, Case No. 01-18-000-8653; Appeal of Indefinite Suspension to Arbitration, filed February 6, 2018
3. Alfredo Valencia v. Corey Davis and City of Abilene; Case No. 1:19-cv-00017-C; In the United States District Court, Northern District of Texas, Abilene Division, filed February 4, 2019.
4. City of Abilene v. Patrick Sumrall; Cause No. 27,733-B, In the 104th Judicial District Court, Taylor County, Texas, filed May 28, 2019
5. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
6. City of Abilene, Texas and Garfield Public/Private LLC v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-000900, In the 261st Judicial District Court, Travis County, Texas, filed February 13, 2020
7. Chandler Brooks v. Taylor County, et al.; Civil Action No. 1:20-cv-00049, In the United States District Court, Northern District of Texas, Abilene Division; filed March 5, 2020

8. John Doe v. Robert Hanna, Individually and as City Manager; Cause No. 28078-B; In the 104th Judicial District Court, Taylor County, Texas; filed July 7, 2020
9. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-004598, In the 53rd Judicial District Court, Travis County, Texas; filed September 1, 2020
10. Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District, et al.; Cause No. P-8277-83-CV, In the 83rd Judicial District Court, Pecos County, Texas; filed September 11, 2020
11. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
12. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
13. Governor's Executive Orders COVID-19

B. 551.072 (Deliberations about Real Property)

1. Clyde Water

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

1. City Council may consider appointment, employment, compensation, reassignment, duties, discipline, or dismissal of public officers or employees, City Manager, City Attorney, Municipal Court Judge, City Secretary, and City Board and Commission Members
2. City of Abilene Boards and Commissions may be discussed, as needed for (re)appointment

E. 551.076 (Deliberations about Security Devices)

F.551.087 (Business Prospect/Economic Development)

1. Abilene Convention Center Hotel Project

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 20.

Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing Members to Various Boards and Commissions per the City Charter *(Shawna Atkinson)*

- **Citizens Advisory Board for People with Disabilities**
- **Landmarks Commission**

GENERAL INFORMATION

The item provides for reappointment of new members as well as new members to certain boards and commissions.

SPECIAL CONSIDERATIONS

Member terms vary per board and commission and are outlined in Exhibit A of the resolution.

FUNDING/FISCAL IMPACT

No cost consideration to the city.

STAFF RECOMMENDATION

(Re)Appointment

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. B&C Resolution
2. Exhibit A
3. B&C Presentation Slide

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPOINTING MEMBERS TO VARIOUS BOARDS AND COMMISSIONS AS REQUIRED BY THE CHARTER OF THE CITY OF ABILENE AND STATUTES OF THE STATE OF TEXAS

WHEREAS, the Charter of the City of Abilene and the Statutes of the State of Texas require that certain Boards and Commissions be established with a portion of the memberships thereof to be filled by appointment each year; and

WHEREAS, the City Council is of the opinion that the following members should be appointed to the designated Boards and Commissions, and has requested the Mayor to appoint same with the approval of the Council.

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

PART 1: That the list of Members is attached hereto as Exhibit A, shall be in all things, approved.

PART 2: That this resolution shall take effect immediately from and after its passage.

PASSED this 3rd day of December, 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____

Board	Term End Date
<i>Citizens Advisory Board for People with Disabilities</i>	
Debra Sue Turner [Reappointment]	October 2022
<i>Landmarks Commission</i>	
Jamie Dalzell [Reappointment]	November 2023

***Resolution:* Appointing Member(s) to various Boards and Commissions per the City Charter**

- Citizens Advisory Board for People with Disabilities
- Landmarks Commission





**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Honorable Mayor & Members of City Council

FROM: Misty Mayo

SUBJECT: 21. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving an Agreement with Project One Stop (Misty Mayo)

GENERAL INFORMATION

Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approval of a Resolution approving an Agreement with Project One Stop.

Backup documentation will be provided next week.

SPECIAL CONSIDERATIONS

N/A

FUNDING/FISCAL IMPACT

Up to \$525,000

STAFF RECOMMENDATION

The DCOA staff's recommendation is to approve a Resolution approving an Agreement with Project One Stop

BOARD OR COMMISSION RECOMMENDATION

The DCOA Board's recommendation is to approve a Resolution approving an Agreement with Project One Stop

ATTACHMENTS:

1. City Resolution - Project One Stop
2. 12.03_DCOA_CC_Project One Stop_General

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
APPROVING THE DEVELOPMENT CORPORATION OF ABILENE, INC.'S ("DCOA")
INCENTIVE FOR PROJECT ONE STOP ("COMPANY").**

WHEREAS, Company is an architectural and engineering firm that delivers diversified services and solutions to building sustainable communities with a vision for the future, and the Company has been serving Texas for over seven decades in its offices around the state; and,

WHEREAS, on November 17, 2020 the DCOA approved Resolution No. DCOA-2021.03 (the "**DCOA Resolution**") authorizing the DCOA's Chief Executive Officer to enter into an agreement with the Company for an incentive for Project One Stop in an amount not to exceed \$525,000.00 (the "**Incentive**") in exchange for the Company's retention of 69 full-time employees ("**FTEs**") and creation of 9 new FTEs for total employment of 78 FTEs at the end of a five-year period; and,

WHEREAS, the DCOA requests that the City of Abilene approve the DCOA's Incentive with the Company as set forth in the DCOA Resolution.

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

- PART 1.** The City of Abilene hereby authorizes, in exchange for the Company's retention of 69 FTEs and creation of 9 new FTEs for total employment of 78 FTEs at the end of a five-year period, the DCOA to provide the Company with an incentive in an amount not to exceed \$525,000.00, under the terms and as set forth in the DCOA Resolution.
- PART 2.** The DCOA's budget is hereby amended to include the expenditures described herein.
- PART 3.** This Resolution takes effect immediately upon its adoption.

ADOPTED this 3rd day of December, 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

PROJECT ONE STOP

Project Type – Local Expansion

Industry – Engineering | Corporate HQ

Project Summary:

- Capex = \$3.5 Million
- Job Retention = 69
- Job Creation = 9
- Average Salary = \$64,592 (for both created and retained jobs)

15% Incentive = \$525,000

NET BENEFITS TO ABILENE OVER 10 YEARS

CITY	\$813,598
COUNTY	\$277,717
SCHOOL DISTRICT	\$134,871



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Honorable Mayor & Members of City Council

FROM: Misty Mayo

SUBJECT: 22. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on approval of a Resolution approving of (i) a Restated Certificate of Formation (formerly Articles of Incorporation) of the DCOA with amendments and (ii) an Application to present to the Abilene City Council to amend the DCOA's Certificate of Formation (formerly Articles of Incorporation) (*Misty Mayo*)

GENERAL INFORMATION

Receive a Report, Hold a Discussion and Public Hearing, and Take Action on approval of a Resolution approving of (i) a Restated Certificate of Formation (formerly Articles of Incorporation) of the DCOA with amendments and (ii) an Application to present to the Abilene City Council to amend the DCOA's Certificate of Formation (formerly Articles of Incorporation)

Backup documentation will be provided next week.

SPECIAL CONSIDERATIONS

N/A

FUNDING/FISCAL IMPACT

N/A

STAFF RECOMMENDATION

The DCOA staff's recommendation is to approve the Resolution approving of (i) a Restated Certificate of Formation (formerly Articles of Incorporation) of the DCOA with amendments and (ii) an Application to present to the Abilene City Council to amend the DCOA's Certificate of Formation (formerly Articles of Incorporation)

BOARD OR COMMISSION RECOMMENDATION

The DCOA Board's recommendation is to approve the Resolution approving of (i) a Restated Certificate of Formation (formerly Articles of Incorporation) of the DCOA with amendments and (ii) an Application to present to the Abilene City Council to amend the DCOA's Certificate of Formation (formerly Articles of Incorporation)

ATTACHMENTS:

1. City Resolution - Certificate of Formation
2. Certificate of Formation Written Application - approved 11.17
3. 11.17.20 approved - COMPARE_Restated Certificate of Formation (11-16-20)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
APPROVING THE DEVELOPMENT CORPORATION OF ABILENE, INC.'S ("DCOA")
RESTATED CERTIFICATE OF FORMATION F/K/A ARTICLES OF
INCORPORATION WITH NEW AMENDMENTS.**

WHEREAS, the DCOA's Board of Directors has submitted a written application to the City Council of the City of Abilene requesting approval of the attached Restated Certificate of Formation with new amendments (the "**Restated Certificate of Formation**"); and

WHEREAS, the City of Abilene authorizes the DCOA to act on its behalf to further the public purposes set forth in the Restated Certificate of Formation; and

WHEREAS, the DCOA requests that the City Council of the City of Abilene approve the Restated Certificate of Formation; and

WHEREAS, the City Council of the City of Abilene (i) finds and determines that it is advisable that the proposed amendments in the Restated Certificate of Formation with amendments be adopted; (ii) authorizes the adoption of the Restated Certificate of Formation with amendments; and (iii) approves the form of the attached Restated Certificate of Formation with amendments.

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

PART 1. The City Council of the City of Abilene hereby approves the Restated Certificate of Formation and all amendments included therein.

PART 2. This Resolution takes effect immediately upon its adoption.

ADOPTED this 3rd day of December, 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney



Develop**Abilene**
DEVELOPMENT CORPORATION OF ABILENE

November 17, 2020

City Council
Attn: Mayor Anthony Williams and
City Secretary Shawna Atkinson
City Hall
555 Walnut Street
Abilene, TX 79601

RE: Written application requesting approval of a Restated Certificate of Formation with amendments

Dear City Council:

Please find the attached Restated Certificate of Formation of the Development Corporation of Abilene, Inc. with new amendments.

Pursuant to DCOA Resolution No. DCOA-2021.05, the DCOA's Board of Directors respectfully request that you approve the Restated Certificate of Formation of the Development Corporation of Abilene, Inc. and the amendments included therein.

Sincerely,

Jack Rich, President

Enclosures

THE STATE OF TEXAS §
COUNTIES OF TAYLOR AND JONES §

Page 350 of 367

ARTICLE V REGISTERED OFFICE AND AGENT

The street address of the registered office of the Corporation is 400 Pine Street, Ste. 800, Abilene, Texas 79601, and the name of the registered agent at such address is Mark Zachary.

ARTICLE VI DIRECTORS

The affairs of the Corporation shall be managed by a Board of Directors. The number of Directors constituting the Board of Directors of the Corporation is five (5). The names and addresses of the persons who are currently serving as the Directors and the date their term expires (“**Term Expiration Date**”) and years served upon the Term Expiration Date are as follows:

Director Number	Director	Address	Term Expiration Date	Years Served Upon Term Expiration Date
1	Jack Rich	174 Cypress St., Ste. 301 Abilene, Texas 79601	December 31, 2020	6
2	Vic Corley	174 Cypress St., Ste. 301 Abilene, Texas 79601	December 31, 2020	3
3	Sam Vinson	174 Cypress St., Ste. 301 Abilene, Texas 79601	December 31, 2021	3
4	Shea Hall	174 Cypress St., Ste. 301 Abilene, Texas 79601	December 31, 2022	3
5	Floyd Miller	174 Cypress St., Ste. 301 Abilene, Texas 79601	December 31, 2022	3

As described above, each of the foregoing described Directors shall serve until the expiration of their existing three (3) year term. Upon the Term Expiration Date of Director Number 2, an individual shall be appointed to a three (3) year term as Director Number 2 that expires on December 31, 2023. All other subsequent terms of office for the Directors shall be two

(2) years. The Mayor shall appoint the Directors of the Corporation with the approval of the Council. No Director shall serve more than three (3) consecutive terms unless a Director is serving in a leadership role and it is determined that, to ensure the continuity and stability of the Board, a Director should be appointed for a fourth (4th) consecutive term.

Each Director shall meet at least one (1) of the following qualifications:

- (a) serve, or have served, as Chief Executive Officer of a company; or
- (b) serve, or have served, in a position of executive management of a company; or
- (c) serve, or have served, in a professional capacity; or
- (d) have experience equivalent to any of the above qualifications.

Any vacancy occurring shall be filled by appointment of the Mayor with approval by the City Council. Directors who have been appointed to complete an unexpired term of a resigning Director shall complete the term of the Director who he or she has been appointed to replace, and such term shall not be considered a consecutive term of said Director for purposes of this Article.

Each of the Directors shall reside or own a business that operates within the City or within the extra-territorial jurisdiction of the City of Abilene. Each Director shall be eligible for reappointment. Any Director may be removed from office as set forth in the Corporation's Bylaws. The Directors shall serve without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their duties as Directors.

ARTICLE VII MEMBERSHIP/STOCK

The Corporation has no members and is a non-stock corporation.

ARTICLE VIII AMENDMENTS

This Certificate of Formation may at any time and from time to time be amended as provided in the Act so as to make any changes therein and add any provisions thereto which might have been included in this Certificate of Formation in the first instance. Any such amendment shall be effected in either of the following manners: (i) the members of the Board of Directors of the Corporation shall file with the governing body of the City a written application requesting approval of the amendments to this Certificate of Formation, specifying in such application the amendments proposed to be made, such governing body shall consider such application and, if it shall by appropriate resolution duly find and determine that it is advisable that the proposed amendments be made and shall approve the form of the proposed amendments, then the Board of Directors of the Corporation may amend this Certificate of Formation by adopting such amendments at a meeting of the Board of Directors of the Corporation and delivering an amended certificate of formation to the Secretary of State, or (ii) the governing body of the City may, at its sole discretion, and at any time, amend this Certificate of Formation, and alter or change the structure, organization, programs or activities of the Corporation, or terminate or dissolve the Corporation (subject to the provisions of the Act, and subject to any limitation provided by the constitutions and laws of the State of Texas and the United States of America on the impairment of contracts entered into by the Corporation) by written resolution adopting the amendment to this Certificate of Formation or a certificate of termination at a meeting of the governing body of the City and delivering an amended certificate of formation or a certificate of termination to the Secretary of State, as provided in the Act or upon election as provided in the Act. A restated certificate of formation may be filed with the Secretary of State as provided in the Act.

ARTICLE IX AUTHORIZATION

The City has specifically authorized the Corporation by Resolution to act on its behalf to further the public purposes stated in said Resolution and this Certificate of Formation, and the City has by said Resolution approved this Certificate of Formation. A copy of said Resolution is attached to this Certificate of Formation and made a part hereof for all purposes.

ARTICLE X RESTRICTIONS

The Corporation may not take any action that would be inconsistent with the requirements for a tax exemption under Internal Revenue Code Section 501(c)(3) and related regulations, rulings, and procedures and regardless of any other provision in this Certificate of Formation (i) no dividends shall ever be paid by the Corporation and no part of its net earnings remaining after payment of its expenses shall be distributed to or inure to the benefit of its Directors or officers or any individual, firm, corporation or association and (ii) the Corporation may not devote more than an insubstantial part of its activities to the carrying on of propaganda, or otherwise attempting to influence legislation, and it shall not participate in, or intervene in, (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.

ARTICLE XI DISSOLUTION

If the Corporation ever should be dissolved when it has, or is entitled to, any interest in any funds or property of any kind, real, personal or mixed, such funds or property or rights thereto shall not be transferred to private ownership, but shall be transferred and delivered to the City after satisfaction or provision for satisfaction of debts and claims.



**City Council
Agenda Memo**

City Council Meeting Date: 12/3/2020

TO: Honorable Mayor & Members of City Council

FROM: Misty Mayo

SUBJECT: **23. Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action Authorizing Changes to the DCOA's Bylaws (*Misty Mayo*)

GENERAL INFORMATION

Receive a Report, Hold a Discussion and Public Hearing, and Take Action on approval of a Resolution Authorizing Changes to the DCOA's Bylaws

Backup documentation will be provided next week.

SPECIAL CONSIDERATIONS

N/A

FUNDING/FISCAL IMPACT

N/A

STAFF RECOMMENDATION

The DCOA staff's recommendation is to approve a Resolution authorizing changes to the DCOA's Bylaws

BOARD OR COMMISSION RECOMMENDATION

The DCOA Board's recommendation is to approve a Resolution authorizing changes to the DCOA's Bylaws

ATTACHMENTS:

1. City Resolution - Bylaws
2. 11.17.20 - Approved 11.17 - COMPARE_Amended DCOA Bylaws (Final 11-13-20)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
APPROVING THE DEVELOPMENT CORPORATION OF ABILENE, INC.'S ("DCOA")
AMENDED AND RESTATED BYLAWS.**

WHEREAS, on November 17, 2020, the DCOA's Board of Directors adopted the Amended and Restated Bylaws of the Development Corporation of Abilene, Inc. (the "**Amended and Restated Bylaws**"); and

WHEREAS, the DCOA requests that the City Council of the City of Abilene approve the Amended and Restated Bylaws of the Development Corporation of Abilene, Inc.

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

PART 1. The City Council of the City of Abilene hereby approves the presented Amended and Restated Bylaws of the Development Corporation of Abilene, Inc.

PART 2. This Resolution takes effect immediately upon its adoption.

ADOPTED this 3rd day of December, 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

AMENDED AND RESTATED BYLAWS OF THE DEVELOPMENT CORPORATION OF ABILENE, INC.

ARTICLE I Purpose and Powers

Section 1.01 PURPOSE. The Development Corporation of Abilene, Inc. (the “DCOA”) is incorporated, on behalf of the City of Abilene, Texas (the “City”), and in accordance with the Development Corporation Act, as set forth in Tex. Loc. Gov’t Code, Chapters 501, 502, and 504, as amended (collectively the “Act”), and other applicable laws. The purpose of the DCOA is to promote, assist, and enhance economic development activities for the City of Abilene, Texas in accordance with its ~~Articles of Incorporation~~ [Restated Certificate of Formation](#).

Section 1.02 POWERS. In the fulfillment of its corporate purpose, the DCOA shall be governed by the Act and the Texas Nonprofit Corporation Law, as set forth in the Tex. Bus. Orgs. Code, Chapters 20 and 22, as amended, and shall have all of the powers set forth and conferred in its ~~Articles of Incorporation~~ [Restated Certificate of Formation](#), the Act, the Texas Nonprofit Corporation Law, and other applicable laws, subject to the prescribed limitations (collectively the “Governing Laws”).

ARTICLE II Board of Directors

Section 2.01 POWERS, NUMBER AND TERM OF OFFICE.

(a) The affairs of the DCOA shall be managed and controlled by a Board of Directors (individually a “Director” and collectively the “Board”) and, subject to the restrictions imposed by the Governing Laws and these Bylaws.

(b) The Mayor of the City of Abilene (the “Mayor”) shall appoint the Directors of the DCOA with the approval of the City Council of the City of Abilene (the “City Council”). Each Director shall meet at least one (1) of the following qualifications:

(i) The candidate for appointment has served or is serving as the Chief Executive officer of a company; or

(ii) The candidate for appointment has served or is serving in a position of executive management of a company; or

(iii) The candidate for appointment is serving or has served the community in a professional capacity; or

(iv) The candidate for appointment shall have experience equivalent to any of the above qualifications.

The City Council shall consider an individual's experience, accomplishments, and educational background in appointing members to the Board to ensure that the interests and concerns of all segments of the community are considered, as well as the mission of the DCOA.

(c) The number of Directors shall be five (5). Directors shall serve for a term of two (2) years and each Director's term of office is set forth in the Restated Certificate of Formation.

(d) Except for Replacement Directors (defined hereafter), Director terms shall commence on January 1 of the calendar year ~~following appointment~~ that his or her term of office begins, and ~~ends~~ on December 31 of the last calendar year of appointment that his or her term of office ends, regardless of the date of appointment to, qualification for, or assumption of said office. No Director shall serve more than three (3) consecutive terms unless a Director is serving in a leadership role and it is determined that, to ensure the continuity and stability of the Board, a Director should be appointed for a fourth (4th) consecutive term.

(e) Directors who have been appointed to complete an unexpired term of a resigning or removed Director (a **"Replacement Director"**) shall complete the term of the Director who he or she has been appointed to replace, and such term shall not be considered to be a consecutive terms of said Director for purposes of this Section.

(f) Any Director may be removed from office by the City Council for cause or at will upon the affirmative vote of at least four (4) City Council members; however, should the City Council vote to remove a second Director within six (6) months from the removal of the first Director, then removal of any additional Directors within one (1) year of the removal of the first Director shall only be allowed with the affirmative vote of at least five (5) City Council members.

(g) The Board shall elect a Chairman of the Board (the **"Chair"**) and a Vice Chair for one (1) year term at each annual meeting of the Board. The term of the Chair and Vice Chair shall commence on January 1 of the year of ~~appointment~~ election, and end on December 31 that same year. No Director shall serve more than two (2) consecutive terms as Chair ~~or~~ and no Director shall serve more than two (2) consecutive terms as Vice Chair.

(h) The Chair shall: (i) preside at all meetings of the Board; (ii) as directed by the Board, direct the President in the performance of duties of the President; and (iii) perform other duties prescribed by the Board. Additionally, the Chair may enter into agreements and/or deliver instruments that the Board has authorized the Chair to execute.

(i) When the Chair is absent, is unable to act, or refuses to act, the Vice Chair shall perform the duties of the Chair. When the Vice Chair acts in place of the Chair, the Vice Chair shall have all the powers of and be subject to all the restrictions upon the Chair. The Vice Chair shall perform other duties as assigned by the Chair or Board.

(j) Regular attendance of the Board meetings is required of all Directors. The following number of absences may constitute the need for replacement of a Director: three (3) consecutive absences or attendance reflecting absences constituting 50% or more of the meetings over a twelve (12) month period. In the event replacement is appropriate, the Chair or the President shall meet with the Director, and unless the Chair or the President receives a commitment from the absentee Director to remedy their attendance at Board meetings, and such is shown by the Director's improved attendance at such meetings, the Chair or the President shall submit in writing to the City Secretary a request that the Director be replaced because of said Director's failure to meet the attendance requirements of this Section. Any vacancy occurring pursuant to this Section shall be filled by appointment of the Mayor with approval by the City Council.

Section 2.02 MEETINGS.

(a) The Board shall meet at least quarterly at places and times to be determined by the Chair. Any Director may request that an item be placed on the agenda by delivering the same in writing to the Secretary of the Board no later than ten (10) days prior to the date of the Board meeting.

(b) The annual meeting of the Board shall be during the first regularly scheduled Board meeting of each calendar year.

(c) Notice of all meetings of the Board shall be given to each Director at or before the time that any meeting notice is posted according to the Texas Open Meetings Act. The notice shall contain information regarding the time, date, and location of the meeting and agenda to be considered.

(d) All meetings of the Board shall be held in the City of Abilene, Texas. Subject to the requirements of the Texas Open Meetings Act as set forth in Tex. Gov't Code, Chapter 551, as amended (the "**Texas Open Meetings Act**"), Board members may attend Board meetings remotely.

(e) The City Manager and the Mayor may attend all meetings of the Board or Committees, provided, however, that they may not attend the executive session portion of a meeting, if the DCOA's Board determines that such attendance could waive the attorney/client privilege of the DCOA. These representatives shall not have the power to vote in the meetings they attend. If so designated by the City Manager, a Deputy or Assistant City Manager may attend meetings in place of the City Manager with the same restrictions; likewise, if so designated by the Mayor, another member of the City Council may attend meetings in place of the Mayor with the same restrictions.

Section 2.03 QUORUM. Directors must be present in order to vote at any meeting. A majority of the entire membership of the Board shall constitute a quorum for the conduct of the official business of the DCOA. The act of a majority of the Directors present at a meeting at which a quorum is in attendance shall constitute the act of the Board and of the DCOA, unless the act of a greater number is required by law.

Section 2.04 CONDUCT OF BUSINESS.

(a) At the meetings of the Board, matters pertaining to the business of the DCOA shall be considered in accordance with rules of procedure as from time to time prescribed by the Board.

(b) The Board may plan and direct its work through the President, who is given the powers set forth in Section 3.02 and charged with the responsibility of carrying out the DCOA's programs as may be adopted and planned by the Board. The President shall serve as the Chief Executive Officer ("CEO") of the DCOA unless the Board determines otherwise.

Section 2.05 IMPLIED DUTIES. The DCOA is authorized to do that which the Board deems desirable to accomplish, any of the purposes or duties set out or alluded to in these Bylaws, and in accordance with Texas law.

Section 2.06 COMMITTEES OF THE BOARD. The Chair may designate not more than two (2) Directors to constitute an official committee of the Board, with such other non-Board members of the committee as may be appointed by the Board, to exercise such authority of the Board as may be specified in a resolution. It is provided, however, that all final, official actions of the DCOA may be exercised only by the Board. Each committee so designated shall keep regular minutes of the transactions of its meetings and shall cause such minutes to be recorded for that purpose in the principal office of the DCOA.

Section 2.07 BOARD'S RELATIONSHIP WITH ADMINISTRATIVE DEPARTMENTS OF THE CITY.

(a) Any request for services made to the administrative departments of the City shall be made by the Board or the President in writing to the City Manager. The City Manager may approve such request for assistance from the Board when he or she finds such requested services are available within the administrative departments of the City and that the DCOA has agreed to reimburse the administrative department's budget for the costs of such services so provided.

(b) Any requests for legal assistance shall be made by the Board or the President to the City Attorney. The City Attorney may provide such assistance when such services are available and the DCOA has agreed to reimburse the City for providing the legal services.

Section 2.08 COMPENSATION OF DIRECTORS. Directors shall not receive any salary or compensation for their services as Directors. However, they shall be reimbursed for their actual expenses incurred in the performance of their duties hereinunder.

Section 2.09 CONFLICT OF INTEREST. In the event that a Director is aware of a conflict of interest or potential conflict of interest with regard to any particular vote, the Board's actions shall be governed by the Tex. Bus. Org. Code, Section 22.230, as amended.

ARTICLE III Officers

Section 3.01 TITLES AND TERMS OF OFFICE.

(a) The ~~elected~~ officers of the DCOA shall be a Chair, Vice Chair, President, ~~a~~ Secretary and ~~a~~ Treasurer, and such other officers as the Board may from time to time elect or appoint, including one or more Vice Presidents. One person may hold more than one office, except that neither the President nor the Chair shall hold the office of Secretary. The terms of office for each officer shall be as follows:

(i) The Chair and Vice Chair shall be elected in accordance with Section 2.01 (g).

(ii) ~~(i)~~ The President, Secretary and Treasurer shall be appointed by the Board ~~and~~. The President shall be an employee or contractor of the DCOA. ~~The President, and~~ shall serve at the pleasure of the Board until such time as he or she resigns the position, is removed by the Board, his or her term ends, or his or her contract terminates.

(iii) ~~(ii)~~ The term of the President, Secretary and Treasurer shall commence on January 1 of the year of appointment, and end on December 31 of that same year, regardless of the date of appointment to, qualification for, or assumption of said office.

(b) All officers shall be subject to removal from office at any time by a vote of a majority of the entire Board.

(c) Vacancies may be filled by the Board for the unexpired portion of the term of that office, in the same manner as other officers are elected or appointed to the Board.

Section 3.02 POWERS AND DUTIES OF THE PRESIDENT. The President shall have the general powers and authority set forth below so that the President may transact the general business of the DCOA and efficiently carry out the DCOA's programs, oversee the administrative functions of the DCOA, and otherwise oversee the DCOA's affairs. The DCOA's President is authorized to take the following actions:

(a) Make expenditures of the funds as set forth in the DCOA's annual budget, as such annual budget is approved by the Board and the City Council;

(b) Enter into contracts for the purchase of goods and services, so long as said contracts do not involve expenditures that exceed the amounts set forth for said expenditure in the DCOA's annual budget;

(c) Employ, direct, control, evaluate, discipline, and discharge the DCOA's employees, other than the President;

(d) Establish the compensation for each DCOA position other than the President position, provided that the DCOA's annual budget has sufficient funds for the expenditures; and

(e) Develop various DCOA policies and procedures, provided that any financial, accounting, and purchasing policies and procedures shall also be approved by the Board.

The authority described above shall also authorize the President to enter into agreements and/or deliver instruments in the name of and on behalf of the DCOA. Said agreements and/or instruments may have provisions for contingent liabilities, provided that the contingent liability obligations are not reasonably expected to exceed the amounts set forth in the DCOA's annual budget, as determined by the President in his or her reasonable discretion.

Section 3.03 POWERS AND DUTIES OF THE INTERIM PRESIDENT. In the absence of the President, the Board shall appoint a person to perform the duties of President on an interim basis (the "**Interim President**") until such time that the Board appoints a new President. The Interim President may be either an employee or contractor of the DCOA. The Interim President shall perform such other duties as from time to time may be assigned to him or her by the Board.

Section 3.04 POWERS AND DUTIES OF THE VICE PRESIDENT. If a Vice President is appointed by the Board, he or she shall perform such duties as from time to time may be assigned to him or her by the President.

Section 3.05 POWERS AND DUTIES OF THE TREASURER. The Treasurer shall lead the Board in its process of selecting an auditor to audit the DCOA's books, records, accounts and financial statements on an annual basis in accordance with Section 4.04(b).

Section 3.06 POWERS AND DUTIES OF THE SECRETARY. The Secretary shall ensure that a record of the minutes of all meetings of the Board and of any committees of the Board are kept and are located at the principal office of the DCOA. The Secretary shall ensure that the President remains the custodian of the corporate records and seal of the DCOA, and keeps a registered mailing address and street address (if different) of each Director.

Section 3.07 EMPLOYEES.

(a) The Board shall, in the annual budget, make provisions for the compensation to be paid to the President and such compensation so established by the Board shall comprise the salary and benefits paid to the President for his or her services. The President shall be hired by the Board.

(b) The DCOA may employ, or contract for, such full or part-time employees as needed to carry out the programs of the DCOA. These employees shall perform those

duties as are assigned to them by the President. As provided in Section 3.02, the President shall hire, direct, and control the work of all DCOA employees.

Section 3.08 BENEFITS. In accordance with Tex. Loc. Gov't Code, Section 501.067, the DCOA may obtain:

(a) health benefits coverage, liability coverage, workers' compensation coverage, and property coverage under the City's insurance policies, through self-funded coverage, or under coverage provided under an interlocal agreement with a political subdivision; and/or

(b) retirement benefits under a retirement program the City participates in or operates.

Health benefits coverage may be extended to the DCOA's employees, and to the dependents of the DCOA's employees. Workers' compensation benefits may be extended to the Directors, employees, and volunteers. Liability coverage may be extended to protect the DCOA, the Directors, and the DCOA's employees. Retirement benefits may be extended to the DCOA's employees. The DCOA must reimburse the City for any expense incurred in providing said benefits.

Section 3.09 CONTRACTING FOR SERVICES. The DCOA may contract with any qualified and appropriate person, association, corporation or governmental entity to perform and discharge designated tasks which will aid or assist the Board in the performance of its duties. However, no such contract shall ever be approved or entered into which seeks or attempts to divest the Board of its discretion and policy-making functions in discharging its duties as set forth herein.

ARTICLE IV

Functional Corporate Duties and Requirements

Section 4.01 GENERAL DEVELOPMENT PLAN.

(a) The President shall, in consultation with the Board, research, develop, prepare, and submit to the City Council for its approval, an economic development plan for the City, which shall include proposed methods and the expected costs of implementation. The plan shall include both short-term and long-term goals for the economic development of the City, proposed methods for the expansion and development of a sound economic base for the City.

(b) The President shall review and update the plan each year, prior to or in conjunction with the submission of the DCOA's annual budget to the City Council.

Section 4.02 ANNUAL CORPORATE BUDGET. Prior to the commencement of each fiscal year of the DCOA, the Board shall adopt a proposed budget of expected revenues and proposed expenditures for the ensuing fiscal year. The budget shall not be effective until the same has been approved by resolution of the City Council. The City Council's approval of the

budget shall be the City Council's approval of the DCOA's programs and expenditures outlined in the budget as required by the Act.

The Board and/or President may make expenditures within the total budget amount approved by the City Council so long as such expenditures (a) do not increase the total budget amount previously approved by the City Council, and (b) do not increase any single fund or budget classification by more than ten (10) percent.

Section 4.03 EXPENDITURES OF CORPORATE FUNDS. For any "Project" as such is defined by the Act (each a "**Project Expenditure**" and collectively "**Project Expenditures**"), in the amount of \$1,000,000 or less, the Board has sole approval authority over each Project Expenditure upon approval by the Board. For any Project Expenditure which exceeds \$1,000,000, the City Council shall also approve said Project Expenditure. The DCOA shall not make a Project Expenditure over \$1,000,000 if the Project Expenditure fails to receive the required City Council approval. This Section shall satisfy the requirements of Tex. Loc. Gov't Code, Section 501.073 requiring approval of project expenditures by the City Council, and it shall not be necessary for the DCOA to obtain the City Council's approval of an amended budget before making said Project Expenditure.

Section 4.04 BOOKS, RECORDS, AND AUDITS.

(a) The DCOA shall keep and properly maintain, in accordance with generally accepted accounting principles, corporate funds, activities, and affairs.

(b) The DCOA shall cause its books, records, accounts, and financial statements to be audited at least once each fiscal year by an outside, independent, auditing and accounting firm selected by the Board. Such audit shall be at the expense of the DCOA and shall be a certified audit.

Section 4.05 DEPOSIT AND INVESTMENT OF CORPORATE FUNDS.

(a) All proceeds from the issuance of bonds, notes, or other debt instruments ("**Obligations**") issued by the DCOA shall be deposited and invested as provided in the resolution, order, indenture, or other documents authorizing or relating to their issuance.

(b) All other monies of the DCOA shall be deposited, secured and/or invested in accordance with Tex. Gov't Code, Chapter 2257, as amended; and investments of funds and accounts, not needed for obligations of the DCOA, shall be performed in accordance with Tex. Gov't Code, Chapter 2256, as amended. The Board shall (i) designate the accounts and depositories to be created and designated for such purposes, (ii) adopt financial policies and procedures to account for such funds, and (iii) adopt investment policies to make such investments.

(c) At the request of the DCOA and with the approval of the City Council, the monies of the DCOA may be deposited, secured and/or invested for the DCOA by the accountant, staff and personnel of the City. In such event, the DCOA shall pay to the City reasonable compensation for such service.

Section 4.06 ISSUANCE OF OBLIGATIONS. No Obligations, including refunding Obligations, shall be sold and delivered by the DCOA, unless the City Council shall approve such Obligations by action taken no more than sixty (60) days prior to the date of sale of the Obligations.

ARTICLE V Miscellaneous Provisions

Section 5.01 PRINCIPAL OFFICE & REGISTERED AGENT.

(a) The principal office of the DCOA in the State of Texas shall be located in the City of Abilene, County of Taylor, and it may be, but need not be, identical with the registered office of the DCOA.

(b) The DCOA shall have and shall continually designate a qualified registered agent at its registered office, as required by the Act.

Section 5.02 FISCAL YEAR. The fiscal year of the DCOA shall begin on October 1 and end on September 30 of the following year.

Section 5.03 OPEN MEETINGS ACT AND PUBLIC INFORMATION ACT. The DCOA is subject to the Texas Open Meetings Act, and the Texas Public Information Act, as set forth in Tex. Gov't Code, Chapter 552, as amended.

Section 5.04 CORPORATE SEAL. The Board shall obtain a corporate seal which shall bear the words "Corporate Seal of Development Corporation of Abilene, Inc.". The Board may thereafter use the corporate seal and may later alter the seal as necessary without changing the corporate name; but these Bylaws shall not be construed to require the use of the corporate seal.

Section 5.05 MEMBERS. The DCOA shall have no members.

ARTICLE VI Indemnification of Directors, Officers, and Employees

As provided in Tex. Loc. Gov't Code, Section 504.107, the DCOA is, for the purposes of the Texas Tort Claims Act, as set forth in Tex. Civ. Prac. & Rem. Code, Chapter 101, as amended, a governmental unit and its actions are governmental functions.

The DCOA shall indemnify each and every Director or former Director of the Board, its officers, its employees, its attorneys, each member of the City Council ([including the Mayor](#)) and each employee of the City, to the fullest extent permitted by law, against any and all liability or expense, including attorneys' fees incurred by any of such persons by reason of any actions or omissions that may arise out of the functions and activities of the DCOA.

~~The~~[In addition \(but not to limit\) the foregoing, to the fullest extent permitted by law, the](#) Board shall authorize the DCOA to pay or reimburse any current or former Director or officer of

the DCOA for any costs, expenses, fines, settlements, judgments, and other amounts, actually and reasonably incurred by such person in any action, suit, or proceeding to which he or she is made a party by reason of holding such position as officer or Director; provided, however, that such officer or Director shall not receive such indemnification if he or she be finally adjudicated in such instance to be liable for gross negligence or intentional misconduct in office. The indemnification herein provided shall also extend to good faith expenditures incurred in anticipation of, or preparation for, threatened or proposed litigation. The Board may, in proper cases, extend the indemnification to cover the good faith settlement of any such action, suit, or proceedings, whether formally instituted or not.

To the extent the Board authorizes indemnification to Directors ~~or~~, officers or employees of the DCOA, the City shall, to the fullest extent permitted by law, also provide indemnity to said Directors ~~and~~, officers and employees. However, the City's indemnification shall only apply after the DCOA's ability to indemnify has been exhausted. Nothing in this Section creates personal liability on the part of officers ~~and~~, Directors and employees to any extent not otherwise provided by statute or case law.

Furthermore, the DCOA agrees to indemnify and hold harmless and defend the City, its officers, agents, and its employees, from and against liability for any and all claims, liens, suits, demands, and/or actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses, including court costs and attorneys' fees and other reasonable costs arising out of or resulting from the DCOA's activities and from any liability arising out of or resulting from the intentional acts or negligence or intentional acts or omissions of the DCOA, including but not limited to its officers, agents, employees, licensees, invitees, and other persons.

The DCOA further agrees that it shall at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, agents, employees, licensees, invitees, and other persons, as well as their property, while in the vicinity where activities are being performed. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the DCOA, including but not limited to, its officers, agents, employees, licensees, invitees, and other persons.

It is further agreed with respect to the above indemnity, that the City and the DCOA will provide the other prompt and timely notice of any event covered which in any way, directly or indirectly, contingently or otherwise, affects or might affect the DCOA or the City, and the City shall have the right to compromise and defend the same to the extent of its own interests. It is further agreed this indemnity clause shall be an additional remedy to the City and not an exclusive remedy.

ARTICLE VII

Effective Date, Amendments

Section 7.01 EFFECTIVE DATE. These Bylaws shall become effective upon the occurrence of all of the following events: the adoption of these Bylaws by the Board; and the approval and adoption of these Bylaws by the City Council.

Section 7.02 AMENDMENTS TO BYLAWS. These Bylaws may be amended or repealed and amended Bylaws may be adopted by an affirmative vote of at least three (3) Directors present at any regular meeting or any special meeting of the Board, if at least three (3) days written notice is given of an intention to amend, repeal, and/or adopt new Bylaws. Any Bylaw amendments will be effective upon approval of the City Council by resolution.

ARTICLE VIII

~~Dissolution~~ Termination

~~Upon the properly authorized dissolution of the DCOA, when~~

As provided by Tex. Loc. Gov't Code, Section 504.351, on petition of ten percent (10%) or more of the registered voters of the City of Abilene requesting an election on the termination of the DCOA, the City Council shall order an election on the issue. The election must be conducted according to the applicable provision of the Election Code. The ballot for the election shall be printed to provide for voting for or against the proposition:

"Termination of the Development Corporation of Abilene, Inc."

If a majority of voters voting on the issue approve the termination, the DCOA shall continue operations only as necessary to pay the principal of and interest on its bonds and to meet obligations incurred before the date of the election and, to the extent practicable, shall dispose of its assets and apply the proceeds to satisfy those obligations. When the last of the ~~DCOA's~~ obligations are satisfied, any remaining assets of the DCOA shall be transferred to the City, and the ~~existence of the~~ DCOA ~~shall be~~ is terminated.

ARTICLE IX

CERTIFICATE OF ADOPTION OF AMENDED AND RESTATED BYLAWS

These Amended and Restated Bylaws were adopted on the ____ day of _____, 2020 by DCOA Resolution _____ and on the ____ day of _____, 2020 by the City Council.

Misty Mayo, President and CEO