



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

AMENDED

Notice is hereby given of a meeting of the City Council of City of Abilene to be held on February 25, 2021, at 4:30 p.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

1. **Executive Session** - City Council will convene into Executive Session at 4:30 p.m.
Reconvene - City Council will reconvene into open session at 5:30 p.m.

INVOCATION

2. Councilmember Travis Craver

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

3. **Employee Service Awards:**
 - Michael Burden - 30 Years - Fire
 - David Phillips - 30 Years - Fire
 - William Richardson - 30 Years - Transportation Services

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 Regular Meeting Held on February 11, 2021 **(Shawna Atkinson)**
5. **Ordinance (First Reading) Z-2021-03:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Abi Harvest, LLC to rezone property from Agricultural Open Space (AO) to a mixture of both General Commercial (GC) and Residential Single Family (RS-6) District and located on approximately 172.98 acres near the northwest corner of FM 707 & FM 89. **(Mike Warrix)**
6. **Ordinance (First Reading) Z-2021-04:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Kickapoo Land Company and SKLM Properties, LP to rezone property from Agricultural Open Space (AO) to General Commercial (GC) and located on approximately 82.3 acres near the northwest corner of FM 707 & FM 89. **(Mike Warrix)**
7. **Ordinance (First Reading) Z-2021-05:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Hardin-Simmons University to rezone property from Residential Single Family (RS-6) District to General Retail (GR) and located on approximately 1.203 acres at the 1500 and 1600 blocks (north side) of Ambler Avenue in north Abilene. **(Mike Warrix)**
8. **Ordinance (First Reading) TC-2021-03:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Hardin-Simmons University to abandon an approximately 60-foot-width of public right-of-way available for Beech Street wedged between the westernmost boundary of Block C in Darby of North Park Subdivision and the easternmost boundary of Block B in Darby of North Park Subdivision. Extending approximately 150-feet north from northernmost right-of-way boundary for Ambler Avenue. Additionally the request is to abandon the 20-foot-wide alley north of lots 5 & 6 of Block C in Darby of North Park Subdivision extending approximately 98-feet from the easternmost right-of-way boundary of Beech Street in Abilene, Taylor County, Texas. **(Mike Warrix)**

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

9. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding Bid No. 2124 to Bontke Brothers, Inc. on Griffith Road Improvements Project **(Greg McCaffery)**
10. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on the Winter Weather State of Emergency Declared by the Mayor **(Robert Hanna)**

EXECUTIVE SESSION

11. **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. Rosie Tonche v. City of Abilene, Texas; Cause No. 50955-A, In the 42nd Judicial District Court, Taylor County, Texas; filed December 31, 2020
14. 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

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.

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 Amended meeting notice was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 19th day of February, 2021, at 12:20 pm.

Shawna Atkinson, TRMC
City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 2/25/2021

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 Regular Meeting Held on February 11, 2021 (*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the Regular Meeting held on February 11, 2021

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 02-11-2021 Minutes - Regular - Morning

CITY COUNCIL MEETING
February 11, 2021 at 8:30 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 Regular Session on February 11, 2021, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Anthony Williams was present and presiding with Mayor Pro-tem Shane Price, Deputy Mayor Pro-tem Jack Rentz, and Councilmembers Donna Albus, Weldon Hurt, Kyle McAlister, and Travis Craver. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, and City Secretary Shawna Atkinson.

Mayor Pro-tem Shane Price delivered the invocation and led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

CONSENT AGENDA

The Consent Agenda consisted of items 3-13. Items 7, 8, 10 & 11 were pulled for individual consideration.

Item pulled for individual consideration were as follows:

- Councilmember Hurt and David Swart, citizen – Item #8
- David Swart, citizen – Item #7, 10 & 11

Councilmember Hurt moved to approve the consent agenda, now consisting of items 3-6, 9, & 12-13. Councilmember McAlister seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver
NAYS (0): None

3. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on January 28, 2021
4. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Ordering a City of Abilene General Election to be Held on Saturday, May 1, 2021, for the Purpose of Electing Members to City Council Places 1 and 2
[ASSIGNED RESOLUTION NO. 13-2021]
5. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing a Joint Election Agreement and Contract for Election Services with Taylor County for a General Election to be Held on Saturday, May 1, 2021, and Authorizing the Extension of this Contract to Cover a Runoff Election, if Needed
[ASSIGNED RESOLUTION NO. 14-2021]
6. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Award Bid No. CB-1953 for the Sale of Real Property located at 294, 302 and 310 Medical Drive
[ASSIGNED RESOLUTION NO. 15-2021]
9. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding Bid No. 2121 to Bontke Brothers, Inc. on Airport Blvd. Resurfacing Project
[ASSIGNED RESOLUTION NO. 18-2021]

12. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on the Abilene Empowerment Zone No. 1 (NEZ) Report
[ASSIGNED RESOLUTION NO. 21-2021]
13. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Supporting a Housing Tax Credit Application for Heritage at Abilene and Commitment of Development Incentives
[ASSIGNED RESOLUTION NO. 22-2021]

ITEMS PULLED FOR INDIVIDUAL CONSIDERATION

7. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Execute a Contract with the Architectural Office and Interior Design Office of Tim Rice McClarty for the Design and Project Management Services for the Abilene Convention Center - North Plaza Renovation
[ASSIGNED RESOLUTION NO. 16-2021]

The item was pulled by David Swart, citizen.

Having pulled the item, David Swart spoke about the lighting on this project. He thinks there are several needed light poles and wanted to mention that LED lighting would be best. It gets dark in that area at night and people can get hurt, so he recommends adding that lighting, if it's not already in the plan.

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

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

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz and Councilmembers Albus, Hurt, McAlister and Craver

NAYS (0): None

8. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Modifying and Extending the Declaration of Local Disaster Issued January 14, 2021
[ASSIGNED RESOLUTION NO. 17-2021]

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

Having pulled the item, David Swart stated he knows this is about funding, but is hoping for some sort of COVID relief from the government soon. He gave examples of businesses in the area closing and thinks it scary that this is happening. He does not want to penalize local businesses.

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

Robert Hanna, City Manager, presented the item. Adoption of the item would modify and extend the disaster declaration issued on December 17, 2020.

Councilmember Hurt, also having pulled the item, spoke about protecting the vulnerable but not shutting down local businesses in the process. He stated that we have a duty to protect ourselves and a right to earn a living

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

AYES (6): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz and Councilmembers Albus, McAlister and Craver
NAYS (1): Councilmember Hurt

10. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding Bid No. 2123 to Bontke Brothers, Inc. on Southwest Drive Resurfacing Project
[ASSIGNED RESOLUTION NO. 19-2021]

The item was pulled by David Swart, citizen.

Having pulled the item, David Swart stated that he thinks this funding is coming from the Street Maintenance Fee, as well as the DCOA. He stated that the media said this resurfacing is happening because of the street, but that he knows the real reason is the restaurant on the corner, and how they routinely hold up traffic. He also questioned how far down the Southwest Drive this would be going.

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

City Manager Hanna clarified that the resurfacing is from Southwest Drive to Sharon Drive.

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

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz and Councilmembers Albus, Hurt, McAlister and Craver
NAYS (0): None

11. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on the Purchase of Accessories to Complete Six (6) Standard Patrol Police Pursuit Vehicle Tahoes from Cap Fleet Upfitters for Abilene Police Department
[ASSIGNED RESOLUTION NO. 20-2021]

The item was pulled by David Swart, citizen.

Having pulled the item, David Swart questioned why this is for only 6 vehicles, when 7 were purchased recently. He also questioned why the City can't strip out parts of the old vehicles, such as gun racks and light bars, and use those in the new ones, as it would save a lot of money.

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

Tim Cass, Assistant Director of Fleet, clarified that the seventh unit is for a K9 unit and would be fitted separately. He also clarified that there was a change in the model of the Tahoes and they won't be able to use a lot of the items from the previous vehicles since the body has changed.

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

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz and Councilmembers Albus, Hurt, McAlister and Craver
NAYS (0): None

REGULAR AGENDA

14. Ordinance (Final Reading) Z-2021-01: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Lane Miller to rezone property from a Planned Development (PD) District primarily limited to residences, to a Neighborhood Office (NO) District and located at 3702 Antilley Road, approximately 0.2 mile east from Buffalo Gap Road
[TABLED]

Zack Rainbow, Assistant Director of Planning & Development Services, presented the item. Adoption of the item would rezone the above referenced property from Planned Development District 4 (PD 4) to Neighborhood Office (NO), to allow for a financial services office.

Mayor Pro-tem Price questioned what other uses the NO designation allows for. Since there was some opposition from the neighbors, he wanted to make sure something else couldn't end up going in, like a restaurant, instead of the financial services office. Councilmember McAlister also questioned the hour restrictions with the NO zone.

Staff was unable to answer these questions and needed some time to come up with answers.

Mayor Williams moved to table the item, to allow staff time to find answers. Mayor Pro-tem Price seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz and Councilmembers Albus, Hurt, McAlister and Craver
NAYS (0): None

15. Ordinance (Final Reading) Z-2020-23: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Pattie Hollingsworth and Matthew Gjerstad to rezone property from an Agricultural Open Space (AO) to a Residential Single-Family (RS-6) District and located on approximately 0.79 acre at 5526 and 5534 Highway 277, approximately 0.62 mile southwest from Texas Avenue's intersection with Highway 277
[ASSIGNED ORDINANCE NO. 09-2021]

Zack Rainbow, Assistant Director of Planning & Development Services, presented the item. Adoption of the item would rezone the above referenced properties from Agricultural Open Space (AO) to a Residential Single-Family (RS-6) District.

Mayor Williams opened the public hearing. With no 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 (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver
NAYS (0): None

16. Ordinance (Final Reading) Z-2020-24: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Leonor Rivera, agents Anton and Francesca Barnett, to abandon the public right-of-way (40-feet) of Sunrise Avenue extending between Minda Street (on the south) and Hailey Street (on the north) and located approximately 650 feet east from T&P Lane in east central Abilene
[ASSIGNED ORDINANCE NO. 10-2021]

Before the presentation, Mayor Williams stated that he is an elder at the Church located next to this property and questioned if this would be a conflict of interest for him. Stanley Smith, City Attorney, stated that it was not a conflict and he was allowed to participate.

Zack Rainbow, Assistant Director of Planning & Development Services, presented the item. Adoption of the item would abandon the above referenced right-of-way to incorporate land within the properties, to allow the owners to build a new home.

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

- Francesca Barnett – her grandmother is the applicant. She and her family are wanting to move forward with putting a home on the property. The property has been in her family for close to 100 years, passed down through her family, and she wanted Council to know that this is not a business deal for them, but a family home.

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

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

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver

NAYS (0): None

14. Ordinance (Final Reading) Z-2021-01: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Lane Miller to rezone property from a Planned Development (PD) District primarily limited to residences, to a Neighborhood Office (NO) District and located at 3702 Antilley Road, approximately 0.2 mile east from Buffalo Gap Road
[ASSIGNED ORDINANCE NO. 08-2021]

Mayor Williams moved to remove the item from the table. Mayor Pro-tem Price seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz and Councilmembers Albus, Hurt, McAlister and Craver

NAYS (0): None

Zack Rainbow, Assistant Director of Planning & Development Services, answered Council's questioned on the hours. The hours allowed in NO zoning is 6 am to 11pm. He called up Cheryl Sawyers, Planning Manager, to answer the other questions. Ms. Sawyers clarified that they would not be able to put in a restaurant in NO zoning. The only things allowed along those lines would be something like a coffee shop in an existing office building. It just can't be the main use of the property. Staff also read through what was allowed in NO zoning.

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

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

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver

NAYS (0): None

PUBLIC COMMENTS

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

- David Swart – stated the reason he brought up gun racks on his previous comments were because a friend of his purchased a Crown Vic from DPS years ago and there was a gun rack still on it. Also spoke about the recent fires in town and questioned if the old fire station on Cherry could be brought back into service or perhaps a new station completely.

Mayor Williams announced that there will be a Council Retreat Workshop on February 26th, and the topic of fire protection will be brought up at that meeting. City Manager reiterated this and clarified that we do not have any issues with fire protection at this time

- Jack Rich, Chair of the DCOA Board – gave a brief overview of the DCOA's past year and the deals they've done. He also spoke about the many achievements and awards the DCOA has achieved recently and that they will be reviewing their expense policy at their upcoming board meeting. Their goal is to build existing businesses in Abilene and attract new ones and they believe they are keeping Abilene competitive in that regard.

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

EXECUTIVE SESSION

Mayor Williams announced that an Executive Session was not needed for this meeting and the meeting continued in open session.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:25 a.m.

Shawna Atkinson
City Secretary

Anthony Williams
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 2/25/2021

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: **5. Ordinance (First Reading) Z-2021-03: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Abi Harvest, LLC to rezone property from Agricultural Open Space (AO) to a mixture of both General Commercial (GC) and Residential Single Family (RS-6) District and located on approximately 172.98 acres near the northwest corner of FM 707 & FM 89. *(Mike Warrix)***

GENERAL INFORMATION

Rezone approximately 6.9 acres of vacant land from Agriculture Open Space (AO) to General Commercial (GC) and the adjacent 169.4 acres of vacant land from 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 5 - 0.

ATTACHMENTS:

1. Z-2021-03 draft ordinance
2. Z-2021-03 Council staff report full
3. Z-2021-03 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 25th day of February, 2021.

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 16th day of January, 2021, 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 11th day of March, 2021, 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 11th day of March, 2021.

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 Residential Single-Family (RS-6) District (TRACT 1) and General Commercial (GC) District (TRACT 2)

TRACT 1

BEING a 165.264 acre zoning tract out of the M. Talbot Survey No. 103, Abstract No. 319, City of Abilene, Taylor County, Texas, and being out of that certain 150.0 acre tract conveyed in a Special Warranty Deed With Vendor's Lien to Abi Harvest, LLC recorded in Instrument No. 202024159, Official Public Records, Taylor County, Texas and also being out of that certain 22.98 acre tract conveyed in a Special Warranty Deed With Vendor's Lien And Mineral Reservation to Abi Harvest, LLC recorded in Instrument No. 202024617 of said Official Public Records. Said 165.264 acre zoning tract also being out of Lot 1, Block A, Butterfield Trail subdivision (which is wholly contained within said 150.0 acre tract) as shown per plat recorded in Cabinet 1, Slide 795, Plat Records, Taylor County Texas, and is more particularly described in metes and bounds as follows:

BEGINNING at a point for the northwest corner of this described tract and being in the north line of said 150.0 acre tract, and being in the south line of El Prado Estates as shown per plat recorded in Cabinet 3, Slide 133, of said Plat Records, from which a point at the northwest corner of said 150.0 acre tract bears N89°09'45"W 149.80 feet; **THENCE** S89°09'45"E along the most westerly north line of this described tract, same being the north line of said 150.0 acre tract, same being the south line of said El Prado Estates, a distance of 1482.78 feet to a point for the southeast corner said El Prado Estates, same being the southwest corner of Willow Ridge Addition, Section 4, as shown per plat recorded in Cabinet 3, Slide 581 of said Plat Records;

THENCE S89°09'52"E and continuing along the most westerly north line of this described tract, same being the north line of said 150.0 acre tract, same being the south line of said Willow Ridge Addition, Section 4, a distance of 834.46 feet to a point for the southeast corner of said Willow Ridge Addition, Section 4, same being the most southerly southwest corner of Willow Ridge Addition, Section 3, as shown per plat recorded in Cabinet 3, Slide 494 of said Plat Records;

THENCE S89°12'43"E and continuing along the most westerly north line of this described tract, same being the north line of said 150.0 acre tract, same being the most easterly south line of said Willow Ridge Addition, Section 3, a distance of 254.22 feet to a point for the southeast corner of said Willow Ridge Addition, Section 3, same being the southwest corner of Willow Ridge Addition, Section 1, as shown per plat recorded in Cabinet 3, Slide 282 of said Plat Records;

THENCE S89°09'33"E and continuing along the most westerly north line of this described tract, same being the north line of said 150.0 acre tract, at 257.63 feet pass a point for the southeast corner of said Willow Ridge Addition, Section 1, same being the southwest corner of Willow Bend West Addition, Section 1, as shown per plat recorded in Cabinet 3, Slide 130 of said Plat Records, and continuing on for a total distance of 928.30 feet to a point for the southeast corner of said Willow Bend West Addition, Section 1, same being the southwest corner of a replat of a portion of Country Village, Section 2, as shown per plat recorded in Cabinet 3, Slide 47 of said Plat Records; Page 2 of 2

THENCE S89°07'39"E and continuing along the most westerly north line of this described tract, same being the north line of said 150.0 acre tract, at 262.31 feet pass a point for the most southerly southeast corner of said replat of Country Village, Section 2, same being the southwest corner of that certain Drainage And Detention Pond Area (called 1.49 acres) out of Country Village, Section 2, as shown per

plat recorded in Cabinet 1, Slide 485 of said Plat Records, and continuing on for a total distance of 803.55 feet to a point for the most northerly northeast corner of this described tract, and being at northeast corner of said 150.0 acre tract, and being at the southeast corner of said Drainage And Detention Pond Area;

THENCE S00°57'05"W along the most northerly east line of this described tract, same being the east line of said 150.0 acre tract, a distance of 317.00 feet to a point for an interior corner of this described tract, and being at the northwest corner of said 22.98 acre tract;

THENCE N89°15'00"E along the most easterly north line of this described tract, same being the north line of said 22.98 acre tract, a distance of 622.37 feet to a point for corner of this described tract and of said 22.98 acre tract;

THENCE S69°08'37"E and continuing along the most easterly north line of this described tract, same being the north line of said 22.98 acre tract, a distance of 261.28 feet to a point for the most easterly northeast corner of this described tract, same being the northeast corner of said 22.98 acre tract;

THENCE S05°28'04"W along the most southerly east line of this described tract, same being the east line of said 22.98 acre tract, a distance of 699.53 feet to a point for corner of this described tract and of said 22.98 acre tract;

THENCE S41°48'03"W and continuing along the most southerly east line of this described tract, same being the east line of said 22.98 acre tract, a distance of 999.27 feet to a point for the most southerly corner of this described tract and of said 22.98 acre tract, and being in the common northeasterly line between said 150.0 acre tract and said Lot 1, Block A, Butterfield Trail subdivision, from which a point at the southeast corner of said 150.0 acre tract and said Lot 1, Block A, bears S43°28'11"E 97.22 feet;

THENCE N55°14'06"W and crossing into the interior of said 150.0 acre tract and said Lot 1, Block A, a distance of 106.41 feet to a point for corner of this described tract;

THENCE N23°07'39"W and continuing across the interior of said 150.0 acre tract and said Lot 1, Block A, at 62.08 feet pass said common northeasterly line between said 150.0 acre tract said Lot 1, Block A, with the southwest line of said 22.98 acre tract, and continuing across the interior of said 22.98 acre tract for a total distance of 77.65 feet to a point for an interior corner of this described tract;

THENCE N89°11'19"W and continuing across the interior of said 22.98 acre tract, at 7.58 feet pass said common northeasterly line between said 150.0 acre tract and said Lot 1, Block A, with the southwest line of said 22.98 acre tract, and continuing across the interior of said 150.0 acre tract and said Lot 1, Block A, for a total distance of 1205.44 feet to a point for the most southerly southwest corner of this described tract, and being in the most southerly west line of this described tract, same being the most southerly west line of said 150.0 acre tract, same being the west line of said Lot 1, Block A, from which a point at the most southerly southwest corner of said 150.0 acre tract, same being the southwest corner of said Lot 1, Block A bears S05°28'24"W 200.66 feet;

THENCE N05°28'24"E along the most southerly west line of this described tract, same being the most southerly west line of said 150.0 acre tract, same being the west line of said Lot 1, Block A, a distance of 480.77 feet to a point for an interior corner of this described tract and of said 150.0 acre tract;

THENCE N89°09'41"W along the most westerly south line of this described tract and of said 150.0 acre tract, a distance of 2844.32 feet to a point for corner of this described tract and of said 150.0 acre tract;

THENCE N67°12'54"W and continuing along the most westerly south line of this described tract and of said 150.0 acre tract, a distance of 1071.53 feet to a point for the most westerly corner of this described tract, from which a point for the most westerly corner of said 150.0 acre tract bears N67°12'54"W 368.38 feet;

THENCE N39°30'58"E and crossing into the interior of said 150.0 acre tract, a distance of 1065.49 feet to the POINT OF BEGINNING and containing 165.264 acres of land, more or less.

TRACT 2

BEING a 5.947 acre zoning tract out of the M. Talbot Survey No. 103, Abstract No. 319, City of Abilene, Taylor County, Texas, and being out of that certain 150.0 acre tract conveyed in a Special Warranty Deed With Vendor's Lien to Abi Harvest, LLC recorded in Instrument No. 202024159, Official Public Records, Taylor County, Texas and also being out of that certain 22.98 acre tract conveyed in a Special Warranty Deed With Vendor's Lien And Mineral Reservation to Abi Harvest, LLC recorded in Instrument No. 202024617 of said Official Public Records. Said 5.947 acre zoning tract also being out of Lot 1, Block A, Butterfield Trail subdivision (which is wholly contained within said 150.0 acre tract) as shown per plat recorded in Cabinet 1, Slide 795, Plat Records, Taylor County Texas, and is more particularly described in metes and bounds as follows:

BEGINNING at a point for the southwest corner of this described tract and being at the most southerly southwest corner of said 150.0 acre tract, and being at the southwest corner of said Lot 1, Block A, and being in the north right-of-way line of FM Highway No. 707;

THENCE N05°28'24"E along the west line of this described tract, same being the most southerly west line of said 150.0 acre tract, same being the west line of said Lot 1, Block A, a distance of 200.66 feet to a point for the northwest corner of this described tract;

THENCE S89°11'19"E and crossing into the interior of said 150.0 acre tract and said Lot 1, Block A, at 1197.86 feet, pass the common northeasterly line between said 150.0 acre tract and said Lot 1, Block A, with the southwest line of said 22.98 acre tract, and continuing across the interior of said 22.98 acre tract for a total distance of 1205.44 feet to a point for the northeast corner of this described tract;

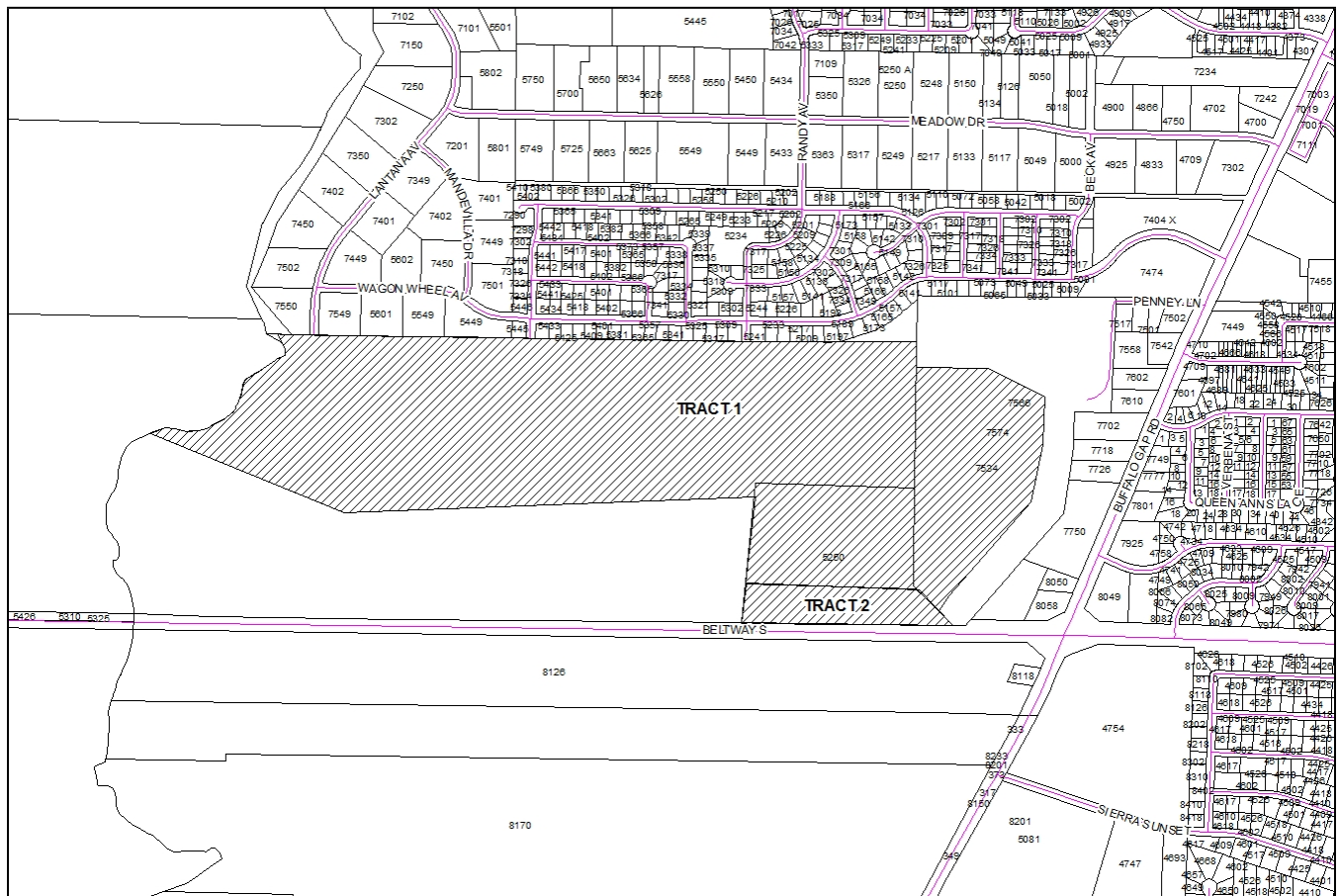
THENCE S23°07'39"E along a northeasterly line of this described tract, and continuing across the interior of said 22.98 acre tract, at 15.57 feet, pass said common northeasterly line between said 150.0 acre tract and said Lot 1, Block A, with the southwest line of said 22.98 acre tract, and continuing across the interior of said 150.0 acre tract and said Lot 1, Block A for a total distance of 77.65 feet to a point for an interior corner of this described tract;

THENCE S55°14'06"E along a northeasterly line of this described tract, and continuing across the interior of said 150.0 acre tract and said Lot 1, Block A, a distance of 106.41 feet to a point for corner of this described tract, and being in said common northeasterly line between said 150.0 acre tract and said Lot 1, Block A, and being at the south corner of said 22.98 acre tract;

THENCE S43°28'11"E along a northeasterly line of this described tract, and continuing along said common northeasterly line between said 150.0 acre tract and said Lot 1, Block A, a distance of 97.22 feet to a point for the southeast corner of this described tract, same being the southeast corner of said 150.0 acre tract, same being the southeast corner of said Lot 1, Block A, and being in the north right-of-way line of said FM Highway No. 707;

THENCE N89°11'19"W along the south line of this described tract, same being the most easterly south line of said 150.0 acre tract, same being the south line of said Lot 1, Block A, same being the north

right-of-way line of said FM Highway No. 707, a distance of 1409.39 feet to the POINT OF BEGINNING and containing 5.947 acres of land, more or less.



Located on approximately 172.98 acres near the northwest corner of Beltway South (FM 707) and Buffalo Gap Road (FM 89). Legal description being approximately 150 acres in Tract 1 and 22.98 acres in Tract 2 out of Mathew Talbot Section 103, in Abilene, Taylor County, Texas.

ZONING CASE Z-2021-03

STAFF REPORT



REQUEST:

Rezone approximately 6.9 acres of vacant land from Agricultural Open Space (AO) to General Commercial (GC) and the adjacent 169.4 acres of vacant land from AO to Residential Single-Family (RS-6).

APPLICANT:

Owners: Abi Harvest, LLC.

Agents: Jacob & Martin

HEARING DATES:

P & Z Commission: February 2, 2021

City Council 1st Reading: February 25, 2021

City Council 2nd Reading: March 11, 2021

LOCATION & LEGAL DESCRIPTION:

Located on approximately 172.98 acres near the northwest corner of Beltway South (FM 707) and Buffalo Gap Road (FM 89). Legal description being approximately 150 acres in Tract 1 and 22.98 acres in Tract 2 out of Mathew Talbot Section 103, in Abilene, Taylor County, Texas.

BACKGROUND:

This request encompass three (3) parcels of land, all of which were annexed into the city limits in 1980 and zoned Agricultural Open Space (AO). The proposed RS-6 zoning is compatible with the single-family residences to the north in the Willow Ridge Addition. These properties do not fall within the Buffalo Gap Corridor.

EVALUATION CRITERIA:

According to Section 1.4.1.4, Criteria for Approval, of the City of Abilene Land Development Code, in making a recommendation regarding a requested zone change, the Planning and Zoning Commission and 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 as shown on the Future Land Use and Development Plan map, as amended.

The Future Land Use and Development Plan Map of the Comprehensive Plan designates the subject properties for use as single-family residential. Therefore, the rezoning of the majority of the vacant land to RS-6 is generally appropriate. Additionally, Beltway South is included in the extended thoroughfare plan as a proposed expressway and is not suitable for single-family residential use. The majority of the expressways within the City of Abilene are surrounded by General Commercial (GC) zoning. The proposed rezoning of the vacant land along the proposed expressway of Beltway South (FM 707) to General Commercial (GC) is generally appropriate as it also promotes a wider range of activities along this expressway that promote the Comprehensive Plan's objective of creating a mixture of land uses to support the development close to the Buffalo Gap Corridor.

(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.

The proposed single-family residential development is compatible with the residential subdivision to the north. The proposed General Commercial zoning is consistent with the zoning and uses of the neighboring properties to the east surrounding Beltway South (FM 707) and Buffalo Gap Road intersection.

	Zoning	Existing Land Use
North	RS-6	Single-Family Residences
South	AO	Vacant Land
East	AO	Vacant Land
West	County ETJ 2001	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.

It is the opinion of the staff that this application is in accord with existing plans for public services and any public improvements will be addressed during the platting process.

(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 present that substantially affect the public health, safety, morals, or general welfare of the City of Abilene.

STAFF RECOMMENDATION:

City staff recommends approval of the request. The rezoning request was reviewed pursuant to Section 1.4.1.4 (Criteria for Approval) of the Land Development Code.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval of this request by a vote of five (5) to zero (0) on February 2, 2021.

NOTIFICATION:

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

Owner	Situs	Response
ALBERT JAMES & LISA	5202 WAGON WHEEL AV	
AMILINENI VENKATA K	5601 WAGON WHEEL AV	In Favor
ARRINGTON CAREY	5374 WAGON WHEEL AV	Opposed
BELANGER MOODEY & KIMBERLY	5426 WAGON WHEEL AV	
BOUNDS MICHAEL & DANITA	7549 LANTANA AV	
BRADEN BARBARA A	5402 WAGON WHEEL AV	Opposed
BRADY MARK LANCE & JOAN A	5442 WAGON WHEEL AV	
CALLAHAN JOHN P SR & SUSAN DIANE	5173 WAGON WHEEL AV	
CANTWELL NED & ROBERTA	7341 WILLOW VIEW RD	
CITY OF ABILENE		
CITY OF ABILENE		
CITY OF ABILENE	7534 PENNEY LN	
CITY OF ABILENE	7566 PENNEY LN	
CITY OF ABILENE	7574 PENNEY LN	
COOK AARON & TONIA	5301 WAGON WHEEL AV	
COOK ROEL ANGEL	5201 WAGON WHEEL AV	
COOKSEY ROBBIE & KIMBERLY	5549 WAGON WHEEL AV	
DUNCAN CARI SUE	5433 WAGON WHEEL AV	
EUREK ANDREW THOMAS & KACIE BERUTTI	5441 WAGON WHEEL AV	
EVANS CASEY DON	5381 WAGON WHEEL AV	
FARR DAVID ELMO &		
FARR DAVID ELMO &		
FIERRO MICHAEL	5244 WAGON WHEEL AV	
FINN VELMA LORENE	5341 WAGON WHEEL AV	
FORS MATTHEW L & MAYA DENISE	5325 WAGON WHEEL AV	
GIST DAVID & DONNA C	5330 WILLOW RIDGE RD	
GLASS FORREST P & BETTY J	5365 WAGON WHEEL AV	Opposed
HEATON RONALD W & DENA R	5165 WAGON WHEEL AV	
HOLBROOK STEPHANIE	5218 WAGON WHEEL AV	
HOLLAND REGGIE L & REBECCA A	5302 WAGON WHEEL AV	
HORRELL BILLY R & KATHY S	5445 WAGON WHEEL AV	
JACKSON TREVOR R & FRANCES Y	5333 WAGON WHEEL AV	
JARRELL BRYANT M	5417 WAGON WHEEL AV	
JOHNSON JAMISON C & REINA Y	5181 WAGON WHEEL AV	
KELLEY MICHAEL J & JACQUELINE S	5157 WAGON WHEEL AV	
KICKAPOO LAND CO	5250 BELTWAYS	
KICKAPOO LAND CO		
KIRSCHBAUM JOSEPH L & MARY A	5309 WAGON WHEEL AV	
KOPER STEVEN & LEAH	5241 WAGON WHEEL AV	
LANGHAM AARON & AMY	5317 WAGON WHEEL AV	
LONGORIA LEROY & JUDY	5373 WAGON WHEEL AV	Opposed
LYLE KENNETH R & ANITA W	5410 WAGON WHEEL AV	
LYNN TAMMIE RUTH EDMONDSON &	8126 BUFFALO GAP RD	
MARTINEZ ROBERT	5434 WAGON WHEEL AV	
MC EVOY PATRICK D	5310 WAGON WHEEL AV	
NELSON ROBERT C & TONI	5401 WAGON WHEEL AV	
PARKER C W & LOIS	5382 WAGON WHEEL AV	
PERKINS MATTHEW W & REBECCA J	5210 WAGON WHEEL AV	
PLACKER BILLY & JOANN	5233 WAGON WHEEL AV	
QINAMI ADMONDA	5327 WILLOW RIDGE RD	
RANDELL DAVID J AND ROSEMARY	7550 LANTANA AV	
ROBERTS SUMMER	5198 WAGON WHEEL AV	
ROWE CHRISTOPHER L	5366 WAGON WHEEL AV	Opposed
ROWE CHRISTOPHER L	5446 WAGON WHEEL AV	Opposed
SIGLOCK STEPHEN DEAN & AURORA	5425 WAGON WHEEL AV	
SIMPSON BRADFORD J & KARI J	5418 WAGON WHEEL AV	
SMITH JAMES LEE &	5318 WAGON WHEEL AV	
STEPP CRYSTAL LYNN	5190 WAGON WHEEL AV	
STEPP CURTIS A	5225 WAGON WHEEL AV	
SULLIVAN EUGENE P & SUSAN	5349 WAGON WHEEL AV	
TAYLOR ELECTRIC COOP INC		
TAYLOR ROBERT O & CAROL D	5357 WAGON WHEEL AV	
THOMPSON JACK H & HELEN C	5217 WAGON WHEEL AV	
TOWQEUR MOHAMMAD	5234 WAGON WHEEL AV	
TRIBOLET SCOTT A	5409 WAGON WHEEL AV	
VOORHEES RANDY & MARION	7501 MANDEVILLA DR	
VOSWINKEL KEITH A & TAMMY	5449 WAGON WHEEL AV	
WARRIX JOSEPH & KRISTINA	5209 WAGON WHEEL AV	
WESSON JEFFERSON M & ALLISON J	5197 WAGON WHEEL AV	
WHEELER PHILIP & LAURA	5226 WAGON WHEEL AV	Opposed
WHITEHEAD LARRY J & PAM L	5189 WAGON WHEEL AV	

ATTACHMENTS:

- Application
- PowerPoint





Development Application

Planning

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

Project Name: The Harvest

Address: NW Corner of FM 707 & FM 89 No. of lots: _____ Acreage: 150.0 (Tract 1) and 22.98 acres (Tract 2)
 Legal Description: A0319 SUR 103 MATHEW TALBOT, ACRES 150.0 (Tract 1) & 22.98 Acres of Land Out Of M. Talbot Survey No. 103, Taylor County, Texas, Said 22.98 Acres Being Part of a 40.8 Acre Tract Described In Volume 207, Page 41, Deed Records, Taylor County, Texas (Tract 2)

Subdivision Name: The Harvest, Phase 1 Block: _____ Lot: _____

Current Zoning: AO Proposed Zoning (if applicable): GC & RS-6

OWNER AND AUTHORIZATION

Owner Name: Abi Harvest, LLC

Address: 3409 S. 14th St, Suite 204

City, State, Zip: Abilene, TX 79605 Fax: _____

Phone: _____ 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: _____ Date: _____

FOR OFFICE USE ONLY

Received: 1/5/21 Fee: \$ 1,500.00

Receipt No.: 0001057700

Case No.: 2-2021-03

Reviewed By: [Signature]



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 zoning request is to support a new single family residential neighborhood near the NW corner of FM 89 and FM 707. This use is prevalent in the neighborhoods immediately to the north, and we believe it matches the city's current comprehensive plan for this area. GC is requested along the frontage of FM 707 as is found elsewhere along the same corridor for future development along the frontage. Depth has been provided so that future commercial development can have appropriate buffering from the residential as is required in the Land Development Code.



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.

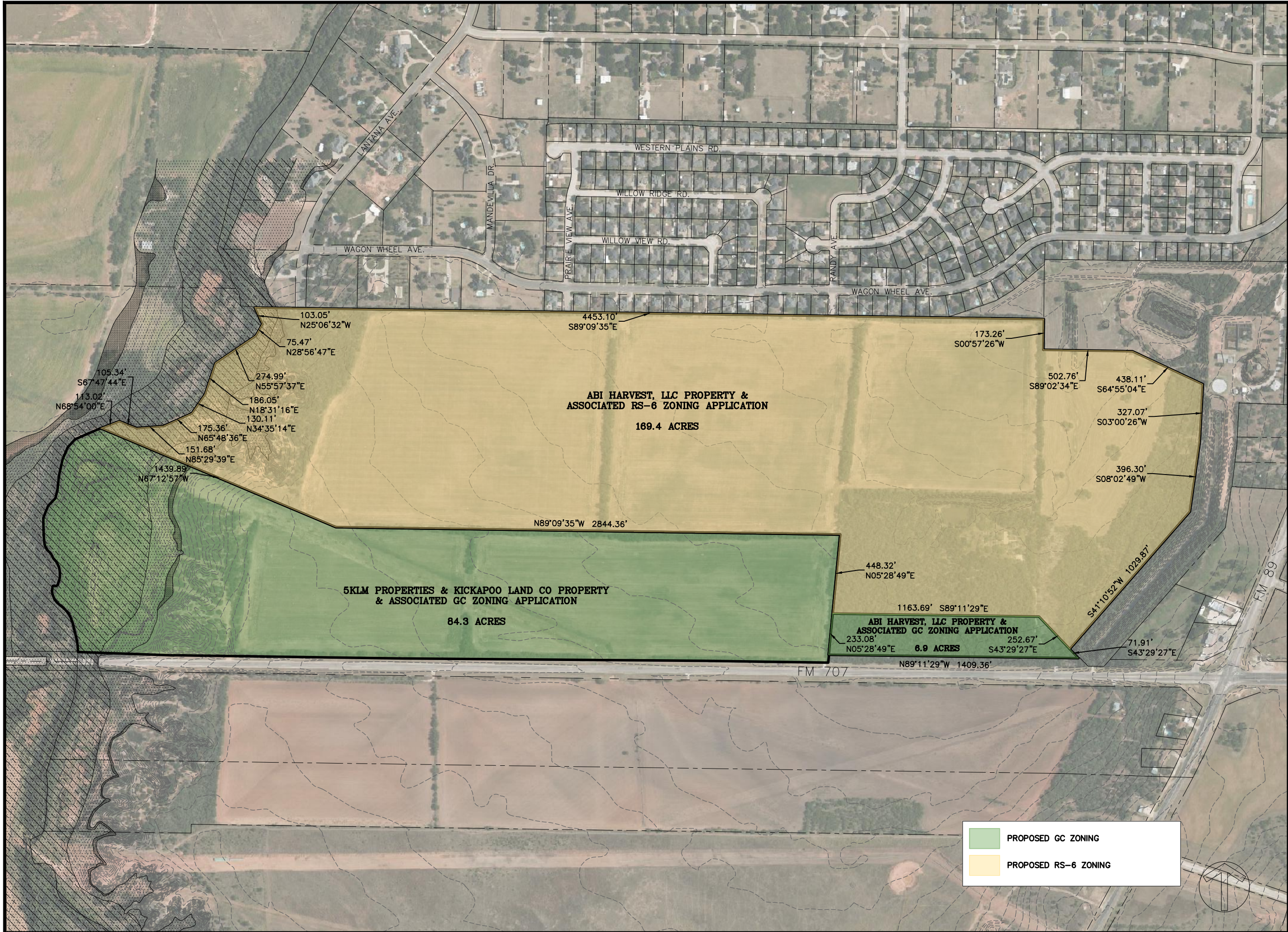
I understand and acknowledge that it is my responsibility to furnish an accurate and precise legal description of the property, and only the property, that is subject of this application, and that failure to furnish such information prior to the application deadline date will delay the processing of 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, possibly "KQ", written in black ink over a horizontal line.

DATE: _____

January 5, 2020



CITY OF ABILENE, TEXAS		3465 CURRY LANE ABILENE, TX 79606 325-695-1070		
THE HARVEST		1508 SANTA FE DR. STE 204 WEATHERFORD, TX 76086 817-594-9880		
PLANNING		1014 BROADWAY STREET LUBBOCK, TX 79401 806-368-6375		
ZONING CONCEPT PLAN		FRW# F-2448		
NO.	REVISION	DATE	SCALE	1"=500'
PROJECT # 20152		DESIGNED	CSF	
DRAWN		KFR		
CHECKED		CSF		
SHEET				
TOTAL 1 OF 1				

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

Page 28 of 150



CITY OF ABILENE

PLANNING & DEVELOPMENT SERVICES

GLASS FORREST P & BETTY J
5365 WAGON WHEEL AVE
ABILENE, TX 79606-8301

NOTICE OF PUBLIC HEARING

RE: Rezoning Application Number Z-2021-03

01/21/2021

The Planning and Zoning Commission will hold a public hearing on **February 2, 2021 at 1:30 PM**, in the Abilene Public Library, South Branch Conference Room, Mall of Abilene, 4310 Buffalo Gap Road, Abilene, TX, 79606 to recommend approval or denial to City Council on a request from Abi Harvest, LLC to rezone property from Agricultural Open Space (AO) to a mixture of both General Commercial (GC) and Residential Single Family (RS-6) District and located on approximately 172.98 acres near the northwest corner of FM 707 & FM 89. Legal description being approximately 150 acres in Tract 1 and 22.98 acres in Tract 2 out of Mathew Talbot Section 103, in Abilene, Taylor County, Texas.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of the request. Only that area which is bounded by the cross-hatched line on the map is being considered for rezoning. The solid boundary line around the subject area is only a notification area. If approved by the Planning and Zoning Commission or if denied and appealed to Abilene's City Council within the specified ten-day period, this case will be heard by City Council for 2nd and Final Reading with a public hearing on **March 11, 2021 at 8:30 AM** in Council Chambers on the second floor of City Hall, 555 Walnut Street.

If you have any questions, please contact Nick Watts Planner I at (325) 437- 4585 or nick.watts@abilenetx.gov

For the PLANNING & ZONING COMMISSION

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

E #: Z-2021-03

JAN 29 PM 1:19

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 use 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: GLASS FORREST P & BETTY J

Address: 5365 WAGON WHEEL AV

ing 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: *Forrest P Glass*

see see attached MEMO and the map on the back.

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.

January 28, 2021

To: Nick Watts – Planner
Fr: Forrest P. & Betty J. Glass
5365 Wagon Wheel Ave.
Abilene, TX 79606
Re: Rezoning Application Number Z-2021-03

Dear Mr. Watts;

The ***Notice of Public Hearing*** we received this week was deflating. When we purchased our home 15 years ago, one of the deciding factors was, we were told that the property behind our house was legally bound, **for 99 years**, from building or subdividing. I would like to know when and how that contract was annulled!

Because we were told we were protected from having neighborhoods built behind our house, we invested around \$15,000 to have a very nice privacy fence installed. This fence has a 3' section of fence on the property line where you want to rezone. We built that fence to frame and enhance the view of the hills in south Taylor County. If your rezoning measure succeeds, we will be forced to tear down that portion of the fence and spend money to erect a new one.

When we purchased our house, it had been on the market for a while. One of the reasons it hadn't sold was certainly not the house or the asking price, rather it was due to a small, narrow, backyard. We overcame that by installing the low fence and enhancing the view from our backyard. If we have to replace the low fence with a higher privacy fence, due to new neighbors, you in essence shrink our yard again and make it difficult to sell should we ever decide to do that.

We want to go on record, Mr. Watts, as opposing Rezoning Application Number Z-2021-03. I believe our votes will have no effect on the decision to rezone. Should the decision to rezone be made, we will sell our property. I have already scheduled an appointment for next week with a realtor to discuss our options. Getting ahead of the mass exodus on Wagon Wheel will help us to, at least, get a better price for our home.

Mr. Watts, with all that is going on in politics and with the Covid-19 outbreak, thinking about having to move is the last thing we need to concern ourselves with right now. It saddens us deeply, but we will do what we have to do.

Thank you for allowing us to vote on this application and to express our concerns about it. I wish you well as you navigate through this and ultimately decide what you think will be the best course of action.

Sincerely;



Forrest P. Glass



Betty J. Glass

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

JAN 27 AM 10:21

CASE #: Z-2021-03

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: WHEELER PHILIP & LAURA

Address: 5226 WAGON WHEEL AV

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:



555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.

To whom it may concern:

In the matter of planning and zoning
area.

Dear City of Abilene,

My name is Nicole Longoria, my husband,
Leroy Longoria and I are writing to you
today in regards to the lot behind us getting
opinions on what we feel, say, concerns, etc.
We both are not agreeing to this matter nor do
we approve. The very reason we bought our
home was to view out our back window and
enjoy our backyard with the view. The peaceful
quiet mornings, days, and nights. Building
back there will not only affect our privacy
but it will also affect the very reason we
bought this home. We thank you for
considering our vote on not approving the
new construction behind our home.

The Longoria's,
Judy & Leroy

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

FEB 4 PM 1:29

CASE #: Z-2021-03

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: LONGORIA LEROY & JUDY
Address: 5373 WAGON WHEEL AV

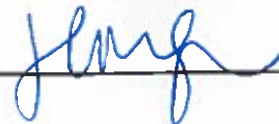
Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: _____



555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.

FEB 9 PM 12:20

CASE #: Z-2021-03

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: ARRINGTON CAREY

Address: 5374 WAGON WHEEL AV

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:

Carey D. Arrington

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.

For the PLANNING & ZONING COMMISSION

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

CASE #: Z-2021-03

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.

Mailing To:

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

I am in favor ☐

I am opposed ☒

Signature:

Barbara Braden

Email: planning@abilenetx.gov

Name: BRADEN BARBARA A
Address: 5402 WAGON WHEEL AV

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060
We work together to build and maintain a community of the highest quality for present and future generations.



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

[Planning] Rezoning Application Number Z-2021-03

1 message

Chris Rowe <clowe1970@gmail.com>
To: planning@abilenetx.gov

Thu, Jan 28, 2021 at 9:53 AM

Vote: I am opposed

Rowe, Christopher L
[5446 Wagon Wheel Ave](#)
[Abilene, TX 79606](#)

ThankYou,
Chris Rowe

--

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/CAPcdhrRwZ57JF6knos8vFtkiY7MbcOpEOehtg5rA%3D%2B52mvmeFA%40mail.gmail.com>.



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

[Planning] Rezoning Application Number Z-2021-031 message

Chris Rowe <clowe1970@gmail.com>

Thu, Jan 28, 2021 at 9:53 AM

To: planning@abilenetx.gov

Vote: I am opposed

Rowe, Christopher L
5366 Wagon Wheel Ave
Abilene, TX 79606

ThankYou,
Chris Rowe

--

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/CAPcdhrQ8MxQccGHZy-jL9ZxyJw_WGihyyz6yDJ-_epdv1%3D7gWQ%40mail.gmail.com.

For the PLANNING & ZONING COMMISSION

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

JAN 29 PM 1:19

CASE #: Z-2021-03

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.

Mailing To:

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

Name: AMILINENI VENKATA K
Address: 5601 WAGON WHEEL AV

Email: planning@abilenetx.gov

I am in favor ☒

I am opposed ☐

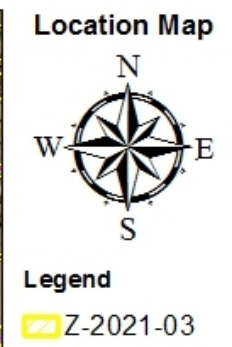
Signature: Arvudas 01/25/2021

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

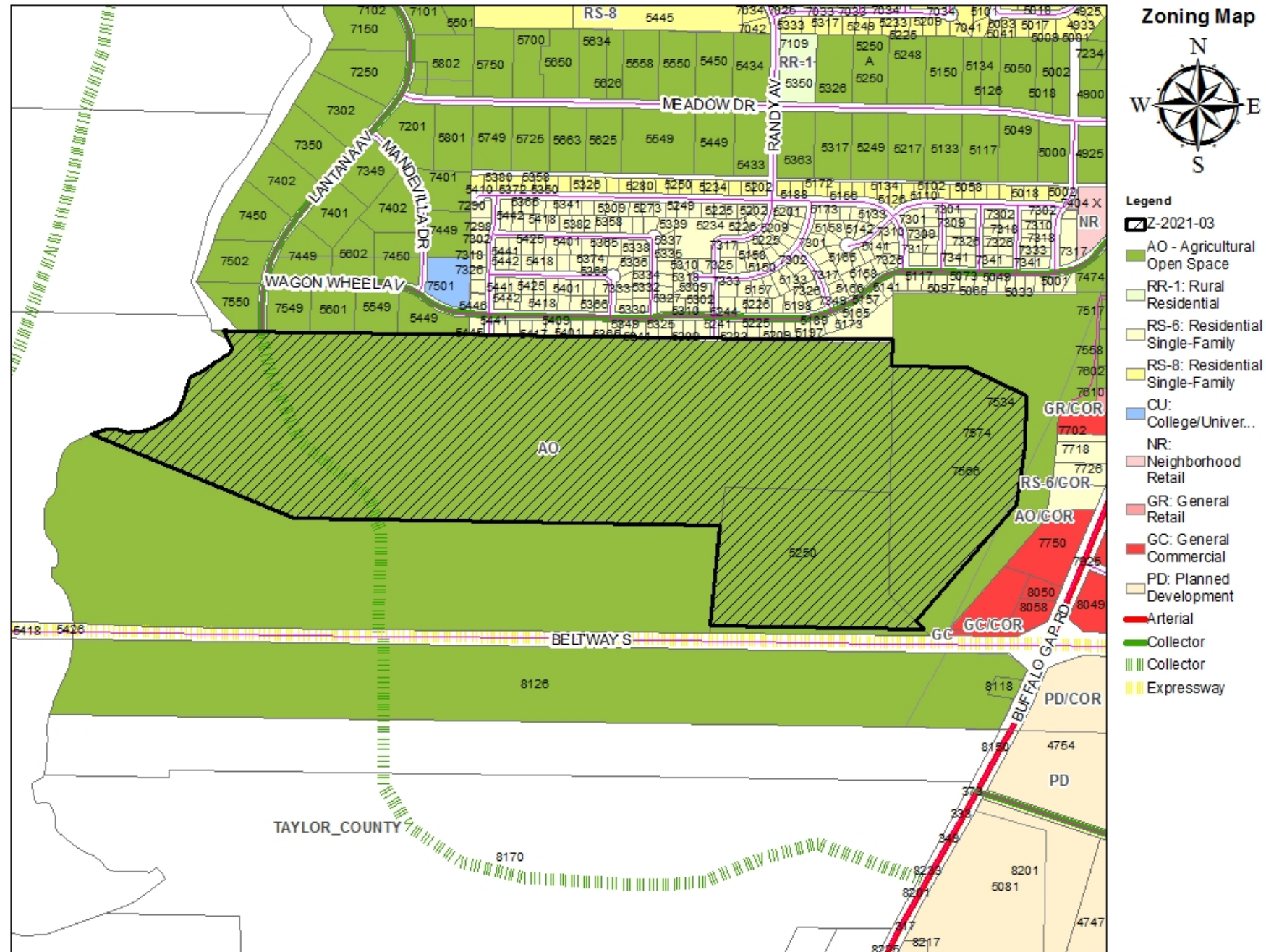
We work together to build and maintain a community of the highest quality for present and future generations.

Case:	Z-2021-03
Owner:	Abi Harvest, LLC.
Agent:	Jacob & Martin
Request:	Rezone from Agricultural Open Space (AO) to Single-Family Residential (RS-6) and General Commercial (GC)
Location:	172.98 acres near the northwest corner of Beltway South (FM 707) and Buffalo Gap Road (FM 89)
Notification:	1 in Favor, 7 Opposed
Planning & Zoning Recommendation:	Approval

Z-2021-03 LOCATION MAP



Z-2021-03 ZONING MAP





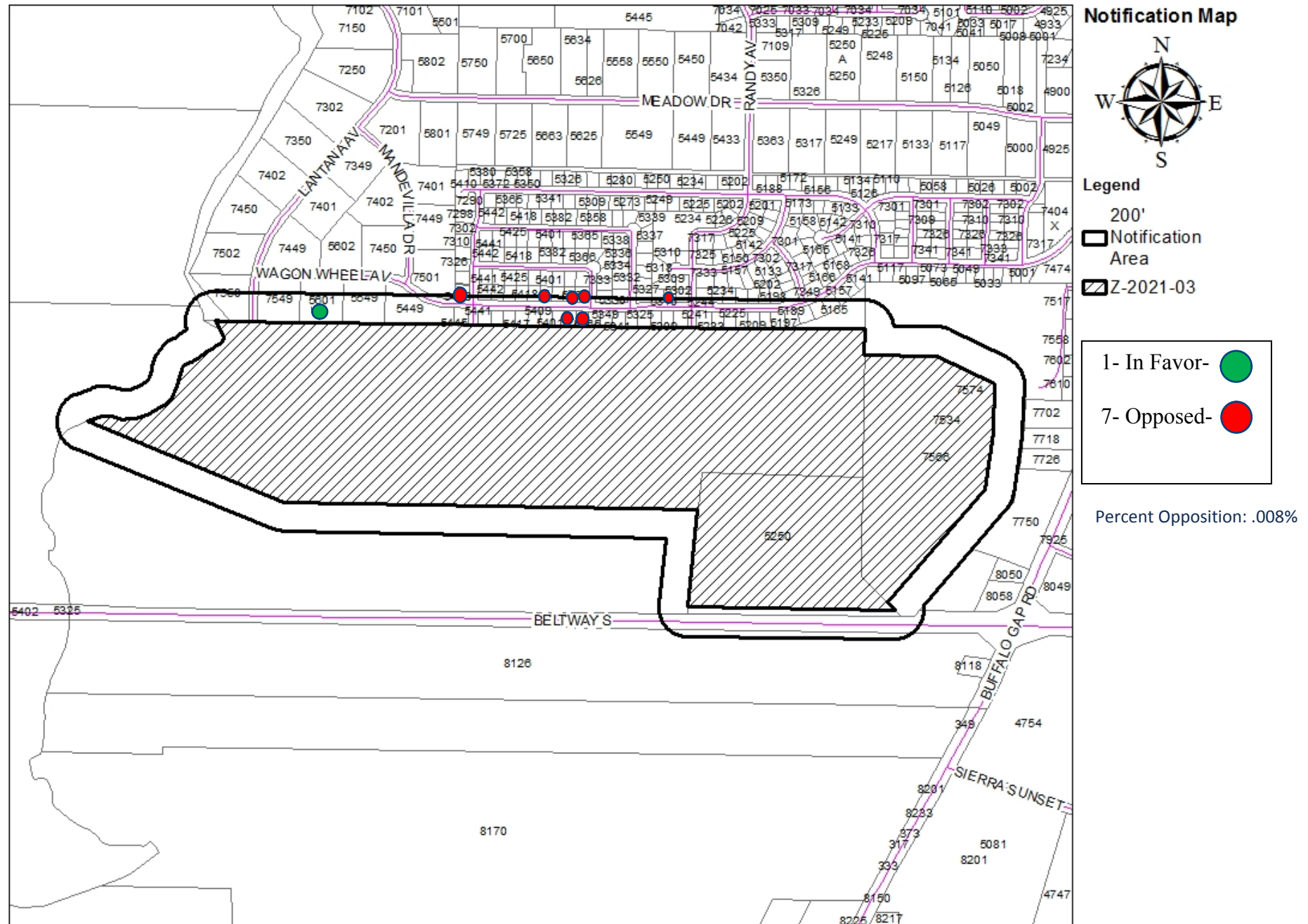
Subject Property



South Neighboring Property



Z-2021-03 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: 2/25/2021

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: 6. Ordinance (First Reading) Z-2021-04: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Kickapoo Land Company and 5KLM Properties, LP to rezone property from Agricultural Open Space (AO) to General Commercial (GC) and located on approximately 82.3 acres near the northwest corner of FM 707 & FM 89. *(Mike Warrix)*

GENERAL INFORMATION

Rezone approximately 82.3 acres of vacant land from Agricultural Open Space (AO) to General Commercial (GC)

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. Z-2021-04 Draft Ordinance
2. Z-2021-04 Council staff report full
3. Z-2021-04 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 25th day of February, 2021.

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 16th day of January, 2021, 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 11th day of March, 2021, 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 11th day of March, 2021.

ATTEST:

CITY SECRETARY

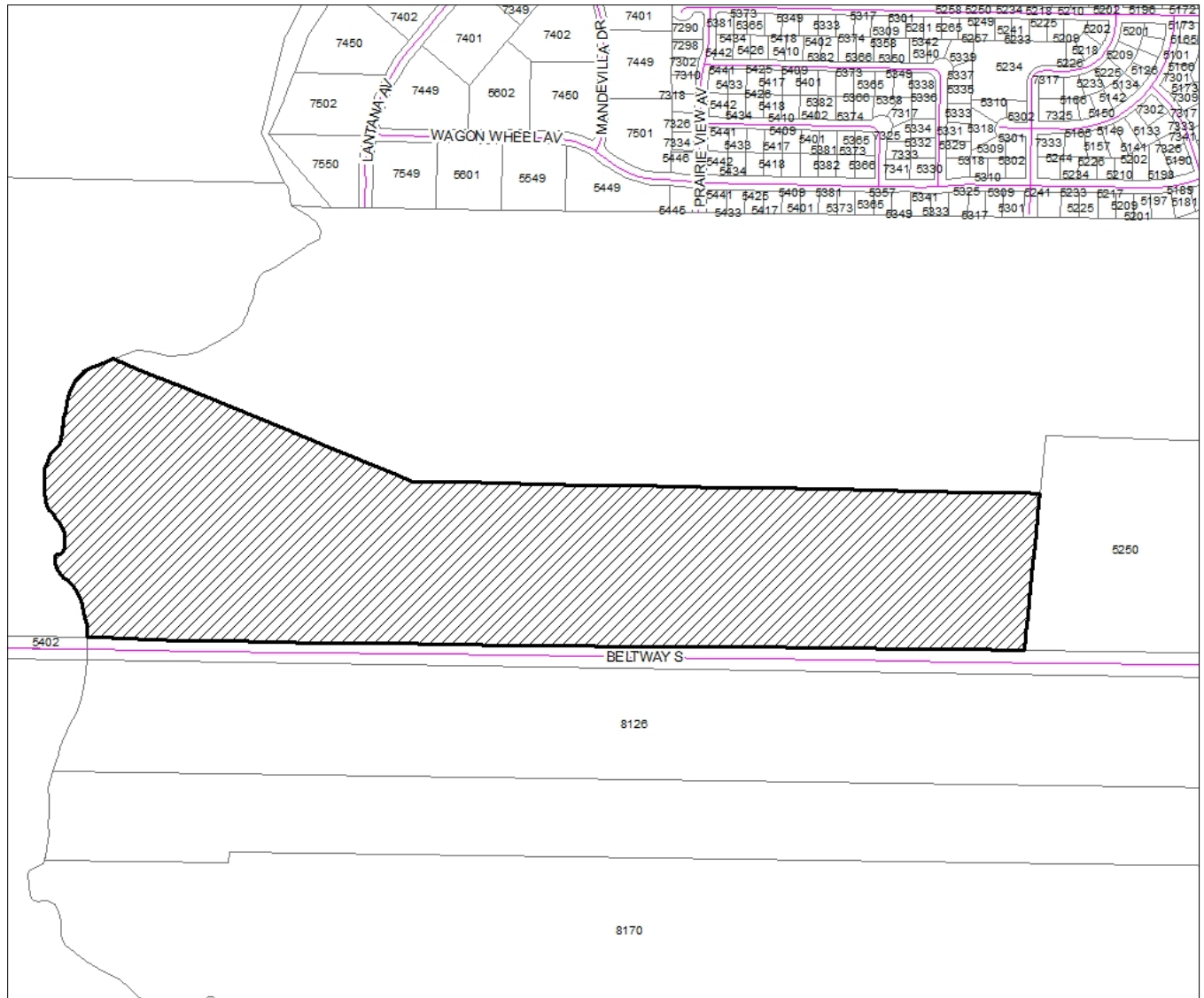
MAYOR

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



Located on approximately 82.3 acres of vacant land, 2030 feet east of Beltway South (FM 707) and Buffalo Gap (FM 89) intersection. Legal description being approximately 82.3 acres out of Mathew Talbot Section 103, in Abilene, Taylor County, Texas.

ZONING CASE Z-2021-04

STAFF REPORT



REQUEST:

Rezone approximately 82.3 acres of vacant land from Agricultural Open Space (AO) to General Commercial (GC).

APPLICANT:

Owners: Kickapoo Land Co. & 5KLM Properties, LP
Agent: David Todd

HEARING DATES:

P & Z Commission: February 2, 2021
City Council 1st Reading: February 25, 2021
City Council 2nd Reading: March 11, 2021

LOCATION & LEGAL DESCRIPTION:

Located on approximately 82.3 acres of vacant land, 2030 feet east of Beltway South (FM 707) and Buffalo Gap (FM 89) intersection. Legal description being approximately 82.3 acres out of Mathew Talbot Section 103, in Abilene, Taylor County, Texas.

BACKGROUND:

The subject property was annexed into the city limits in 1980 and zoned Agricultural Open Space (AO). The applicants are requesting to rezone this parcel to General Commercial (GC).

APPLICATION REVIEW:

According to Section 1.4.1.4, Criteria for Approval, of the City of Abilene Land Development Code, in making a recommendation regarding a requested zone change, the Planning and Zoning Commission and 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 as shown on the Future Land Use and Development Plan map, as amended.

The Future Land Use and Development Plan Map of the Comprehensive Plan designates the subject property for use as single-family residential. However, Beltway South (FM 707) is included in the proposed thoroughfare plan as an expressway, which is not suitable for single-family residential. The majority of the expressways within the City of Abilene are surrounded by General Commercial (GC) districts. The proposed rezoning of the vacant land along the proposed expressway of Beltway South (FM 707) to General Commercial (GC) is generally appropriate. Commercial zoning will also promote a wider range of activities along this expressway that will promote the Comprehensive Plan's objective of creating a mixture of land uses to support the development close to the Buffalo Gap Corridor.

(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.

The proposed General Commercial (GC) zoning is consistent with the zoning and uses of the neighboring properties to the east surrounding the intersection of Beltway South (FM 707) and Buffalo Gap Road.

	Zoning	Existing Land Use
North	AO	Vacant Land
South	AO	Vacant Land
East	AO	Vacant Land
West	County ETJ 2001	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.

It is the opinion of the staff that this application is in accord with existing plans for public services and any public improvements will be addressed during the platting process.

(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 present that substantially affect the public health, safety, morals, or general welfare of the City of Abilene.

STAFF RECOMMENDATION:

City staff recommends approval of the request. The rezoning request was reviewed pursuant to Section 1.4.1.4 (Criteria for Approval) of the Land Development Code.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval of this request by a vote of five (5) to zero (0) on February 2, 2021.

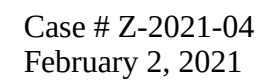
NOTIFICATION:

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

Owner	Situs	Response
FARR DAVID ELMO &		
FARR DAVID ELMO &		
KICKAPOO LAND CO	5250 BELTWAY S	
KICKAPOO LAND CO		
LYNN TAMMIE RUTH EDMONDSON &	8126 BUFFALO GAP RD	

ATTACHMENTS:

- Application
- PowerPoint





Development Application

Planning

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

Project Name: _____
 Address: NW Corner of FM 707 & FM 89 No. of lots: _____ Acreage: 82.3 acres
 Legal Description: A0319 SUR 103 MATHEW TALBOT, ACRES 57.9 (Tract 1)
 Subdivision Name: _____ Block: _____ Lot: _____
 Current Zoning: AO Proposed Zoning (if applicable): GC

OWNER AND

AUTHORIZATION Owner: Kickapoo Land Co. 5KLM Properties, LP
 Name: 400 Pine St., Suite 900 PO Box 1170
 Address: Abilene, TX 79601 Clarendon, TX 79226 Fax: 325-673-2028
 City, State, Zip: 325-673-6429 Email: icanon@rjonesey.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) David Todd will act as my agent before the Planning and Zoning Commission.

Agent Name: David Todd
 Address: 402 Cedar Street
 City, State, Zip: Abilene, TX 79601 Fax: _____
 Phone: 325-698-5560 Email: david.todd@e-ht.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: Joseph E. Canon Date: 1-5-21
 Kickapoo Land Company Joseph E. Canon Executive V.P.

FOR OFFICE USE ONLY

Received: 1/5/21 Fee: \$ 1,500.00 Receipt No.: 0001057701
 Case No.: 2-2021-04 Reviewed By: [Signature]



Development Application

Planning

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

Project Name: _____
Address: NW Corner of FM 707 & FM 89 No. of lots: _____ Acreage: 57.9 Acres
Legal Description: A0319 SUR 103 MATHEW TALBOT, ACRES 57.9 (Tract 1)
Subdivision Name: _____ Block: _____ Lot: _____
Current Zoning: AO Proposed Zoning (if applicable): GC

OWNER AND

AUTHORIZATION OWNER: Kickapoo Land Co. 5KLM Properties, LP
Name: _____
Address: 400 Pine St., Suite 900 PO Box 1170
Abilene, TX 79601 Clarendon, TX 79226 Fax: 325-673-2028
City, State, Zip: 325-673-6429 Email: icanon@rjonesey.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) David Todd will act as my agent before the Planning and Zoning Commission.

Agent Name: David Todd
Address: 402 Cedar Street
City, State, Zip: Abilene, TX 79601 Fax: _____
Phone: 325-698-5560 Email: david.todd@e-ht.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: Kade L. Matthews Date: 1-5-21
5KLM Properties, LP Kade L. Matthews as President of Alegett Management, LLC, GP

FOR OFFICE USE ONLY

Received: _____ Fee: \$ _____ Receipt No.: _____
Case No.: _____ 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 zoning request is to support a commercial corridor planned near the NW corner of FM 89 and FM 707. GC is requested along the frontage of FM 707 as is found elsewhere along the same corridor for future development along the frontage. Depth has been provided so that future commercial development can have appropriate buffering from the residential as is required in the Land Development Code.



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: _____


Rickapoo Land Co. Executive VP

DATE: 1-5-21

SKLM Properties, LP



Kade L. Matthews, As President of Alegett Management, LLC, General Partner

8 | Page

**FIELD NOTES
FOR
A 82.3 ACRE TRACT
OUT OF
M. TALBOT SURVEY NO. 103
ABILENE, TAYLOR COUNTY, TEXAS**

BEING a 82.3 acre tract out of the M. Talbot Survey No. 103, Taylor County, Texas, same being out of a 233.81 acre tract recorded in Volume 1595, Page 850 Official Public Records, Taylor County, Texas, and being more particularly described as follows:

BEGINNING at a point for the southeast corner of this tract, same being the southwest corner of Lot 1, Block "A" recorded in Cabinet 1, Slide 795, Plat Records, Taylor County, Texas;

THENCE North 89 degrees 11 minutes 02 seconds West a distance of 3388.66 feet along the north right of way of FM 707 to a point;

THENCE North 80 degrees 39 minutes 42 seconds West a distance of 101.10 feet to a point;

THENCE South 89 degrees 48 minutes 58 seconds West a distance of 738.80 feet to a point on the north right of way of FM 707, same being in the centerline of Elm Creek, for the southwest corner of this tract, same being the southwest corner of 233.81 acre tract recorded in Volume 1595, Page 850, Official Public Records, Taylor County, Texas;

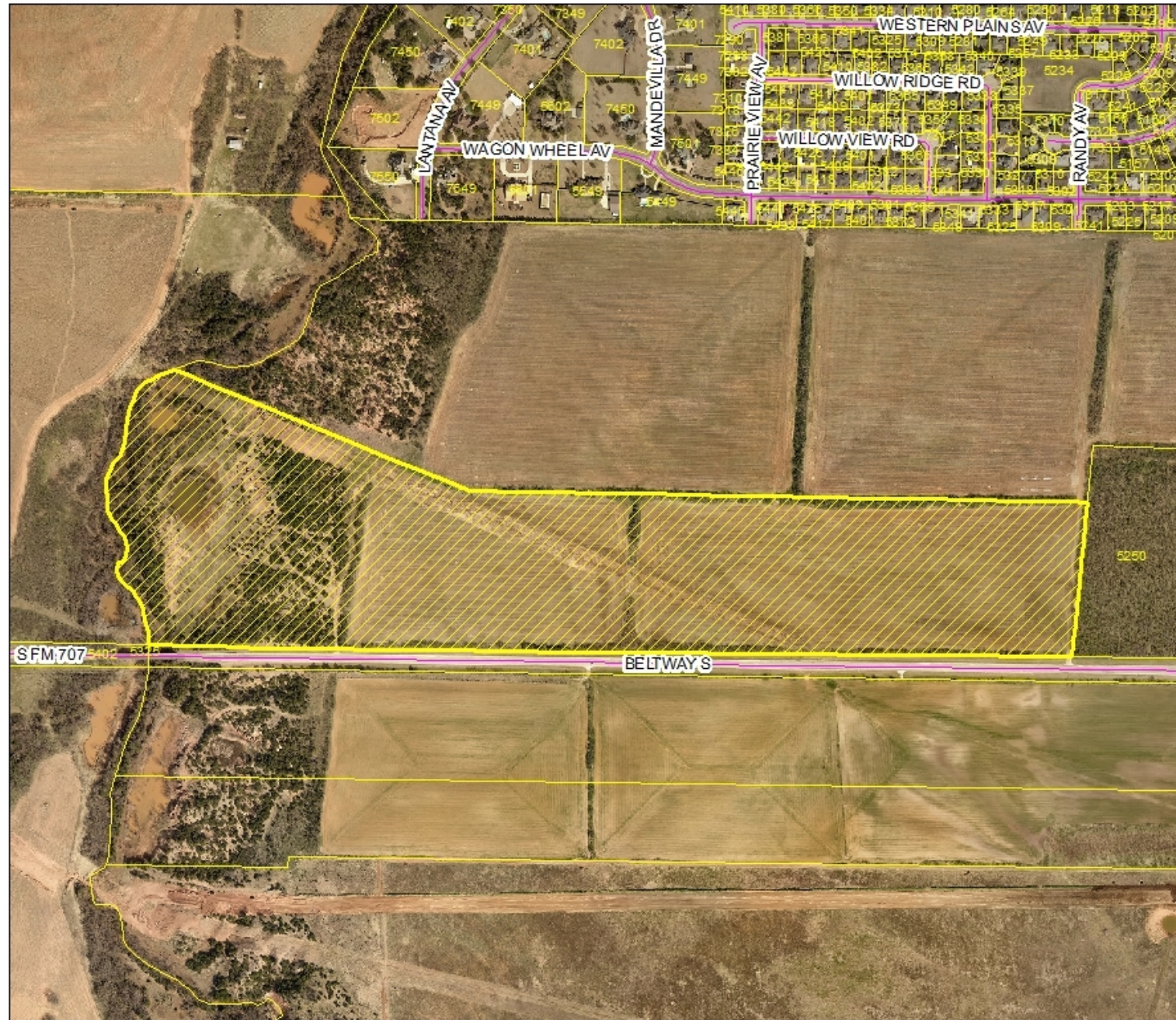
THENCE along the meanders of the centerline of Elm Creek as follows: North 21 degrees 59 minutes 29 seconds West a distance of 276.98 feet, North 06 degrees 35 minutes 52 seconds West a distance of 231.40 feet, North 21 degrees 10 minutes 52 seconds West a distance of 112.30 feet, North 09 degrees 55 minutes 52 seconds West a distance of 121.10 feet, North 23 degrees 57 minutes 08 seconds East a distance of 260.50 feet, North 17 degrees 43 minutes 08 seconds East a distance of 193.20 feet, North 52 degrees 15 minutes 09 seconds East a distance of 193.23 feet to a point for the northwest corner of this tract, same being the southwest corner of 150 acre tract;

THENCE South 67 degrees 12 minutes 57 seconds East, along the south line of said 150 acre tract, a distance of 1439.89 feet to a point;

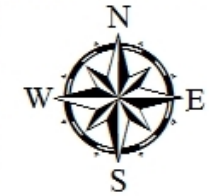
THENCE South 89 degrees 09 minutes 35 seconds East, along the south line of said 150 acre tract, a distance of 2844.36 feet to a point for the northeast corner of this tract, same being an angle point corner in said 150 acre tract;

THENCE South 05 degrees 37 minutes 21 seconds West a distance of 717.52 feet to the Point of Beginning containing an area of 82.3 acres. This tract has not been surveyed on the ground.

Case:	Z-2021-04
Owner:	Kickapoo Land Co. & 5KLM Properties, LP
Agent:	David Todd
Request:	Rezone from Agricultural Open Space (AO) to General Commercial (GC)
Location:	82.3 acres of vacant land approximately 2030 feet east of Beltway South (FM 707) and Buffalo Gap intersection
Notification:	0 in Favor, 0 Opposed
Planning & Zoning Recommendation:	Approval



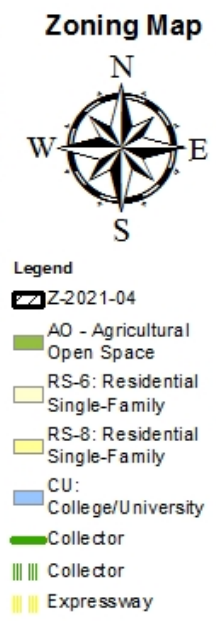
Location Map



Legend

 Z-2021-04

Z-2021-04 ZONING MAP



GENERAL COMMERCIAL (GC) PERMITTED USES

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

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

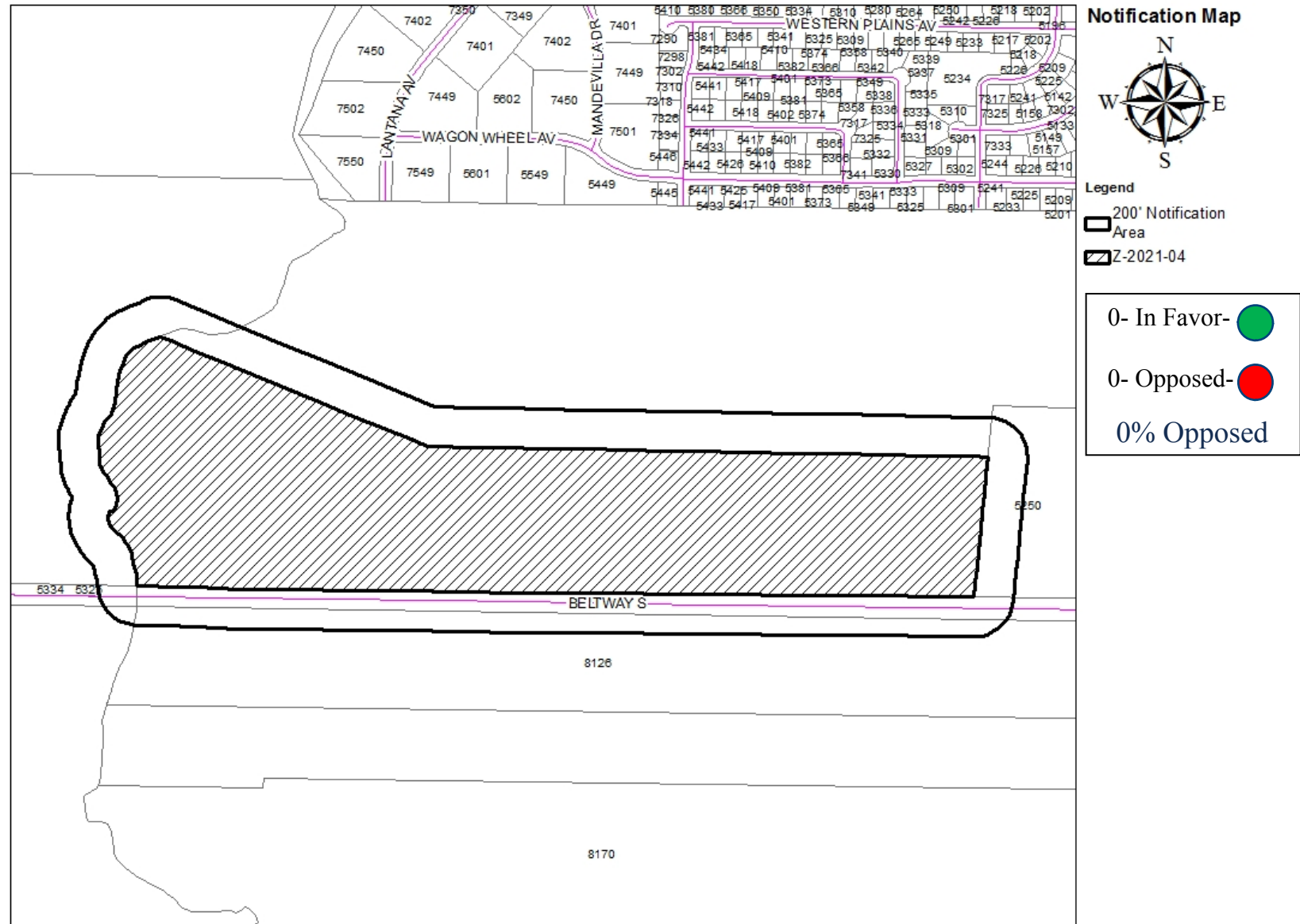
Subject Property



South Neighboring Property



Z-2021-04 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: 2/25/2021

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: **7. Ordinance (First Reading)Z-2021-05:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Hardin-Simmons University to rezone property from Residential Single Family (RS-6) District to General Retail (GR) and located on approximately 1.203 acres at the 1500 and 1600 blocks (north side) of Ambler Avenue in north Abilene. *(Mike Warrix)*

GENERAL INFORMATION

Rezone approximately 1.203 acres from Single Family Residential (RS-6/COR) to General Retail (GR/COR)

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. Z-2021-05 draft ordinance
2. Z-2021-05 Council Staff Report full
3. Z-2021-05 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 25th day of February, 2021.

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 16th day of January, 2021, 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 11th day of March, 2021, 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 11th day of March, 2021.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Rezone four (4) tracts of land from Single Family Residential (RS-6) to a General Retail (GR) District.

Legal description being: All of Lots 5 and 6 of Block C in Darby of North Park Subdivision and all of Lot 14 and the easternmost 25-feet of Lot 13 of Block B in Darby of North Park Subdivision.



Located at the 1500 and 1600 blocks (north side) of Ambler Avenue in north Abilene, Taylor County, Texas

-END-

ZONING CASE Z-2021-05

STAFF REPORT



REQUEST:

Rezone approximately 1.2 acres from Single Family Residential with Ambler Avenue Corridor Overlay (RS-6/AMB-COR) to General Retail (GR/AMB-COR).

APPLICANT:

Owner: Hardin Simmons University
Agent: Enprotec Hibbs & Todd (eHT)

HEARING DATES:

P & Z Commission: February 2, 2021
City Council 1st Reading: February 25, 2021
City Council 2nd Reading: March 11, 2021

LOCATION & LEGAL DESCRIPTION:

Approximately 1.2 acres located at the 1500 and 1600 blocks (north side) of Ambler Avenue. Legal description being all of Lots 5 and 6 of Block C in Darby of North Park Subdivision and all of Lot 14 and the easternmost 25-feet of Lot 13 of Block B in Darby of North Park Subdivision.

BACKGROUND:

The subject properties were annexed in 1925. One of these homes pre-dates annexation, but the remaining homes were constructed between 1925 and 1931. In 1974, the subject properties were zoned Single Family Residential (RS-6). The subject properties are located within the Ambler Avenue Corridor Overlay (AMB-COR) which was adopted by City Council in April 2013. The corridor overlay is intended to promote high quality development representing the “first impression” of Abilene for visitors to Abilene Christian University, Hardin-Simmons University, and Hendrick Medical Center. According to the Abilene’s Land Development Code, uses within this corridor overlay should include restaurants, services, medical, office, research, educational, and related uses. Additionally, the subject property is located within the Neighborhood Empowerment Zone (NEZ) which is a special zone adopted by City Council targeted to promote the revitalization and redevelopment of economically distressed areas of Abilene. The applicant is requesting the rezoning to construct a Braum’s restaurant and convenience grocery store on the subject properties.

EVALUATION CRITERIA:

According to Section 1.4.1.4, Criteria for Approval, of the City of Abilene Land Development Code, in making a recommendation 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 show the subject properties near a “Special Activity Center” which embraces Hendrick Medical Center and Hardin-Simmons University. The Comprehensive Plan identifies the need to fully develop the economic potential of this special activity center by promoting a mixture of land uses in support of the activity center, such as offices and restaurants. General Retail zoning will promote a wider range of activities and is consistent with the Comprehensive Plan’s objective of creating a mixture of land uses.

(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 land use permitted within the proposed zoning is generally appropriate with the surrounding properties. The subject properties are located near the intersection of Grape Street and Ambler Avenue, both of which are identified in Abilene's thoroughfare plan as arterial roads. Locations which are in proximity to intersections of arterial roads are traditionally considered appropriate for commercial activities. Intersections such as this provide the exposure and volume of traffic necessary for commercial businesses to succeed. Furthermore, the majority of properties along this section of Ambler Avenue are within commercial zoning districts.

	Zoning	Existing Land Use
North	RS-6 & CU	Single Family Residences/Hardin Simmons
South	GR/AMB-COR	Walmart Neighborhood Market
East	CU/AMB-COR	Hardin Simmons University
West	RS-6/AMB-COR	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 property is currently served with a variety of existing utilities and public amenities that are considered adequate.

(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 present that substantially affect the public health, safety, morals, or general welfare of the City 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) of the Land Development Code.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

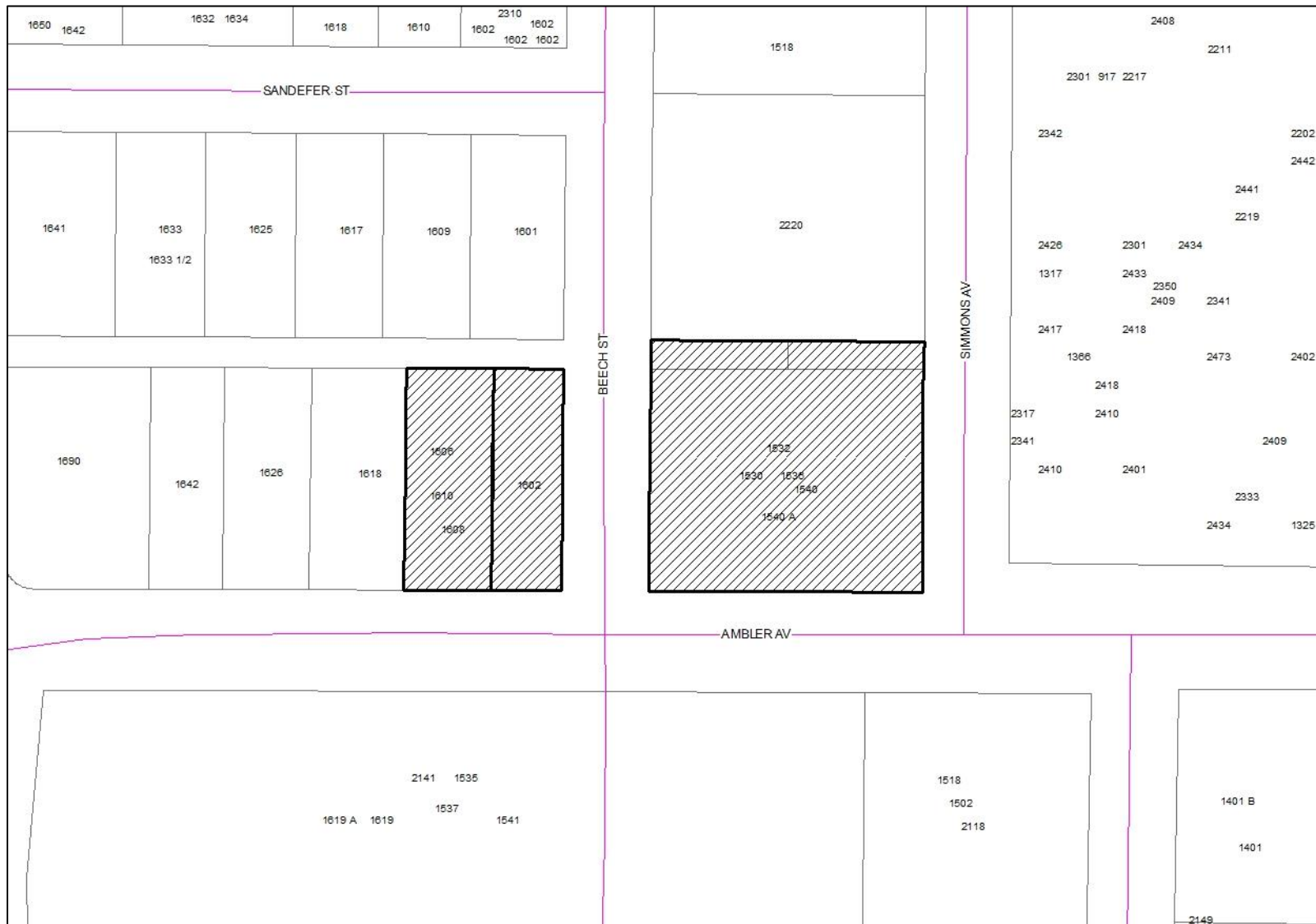
The Planning and Zoning Commission recommended approval of this request by a vote of five (5) to zero (0) on February 2, 2021.

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
HARDIN SIMMONS UNIVERSITY	1625 SANDEFER ST	In Favor
HARDIN SIMMONS UNIVERSITY	1617 SANDEFER ST	In Favor
HARDIN SIMMONS UNIVERSITY	1601 SANDEFER ST	In Favor
HARDIN SIMMONS UNIVERSITY	1609 SANDEFER ST	In Favor
HARDIN SIMMONS UNIVERSITY	1518 SANDEFER ST	In Favor
HARDIN SIMMONS UNIVERSITY	1602 AMBLER AV	In Favor
HARDIN SIMMONS UNIVERSITY	2220 SIMMONS AV	In Favor
HARDIN SIMMONS UNIVERSITY	2410 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2434 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	1325 VOGEL AV	In Favor
HARDIN SIMMONS UNIVERSITY	2317 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2434 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2402 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2301 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2426 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2341 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2401 SIMMONS AV	In Favor
HARDIN SIMMONS UNIVERSITY	2433 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2301 SIMMONS AV	In Favor
HARDIN SIMMONS UNIVERSITY	2202 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2409 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2418 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2417 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2341 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2473 SIMMONS AV	In Favor
HARDIN SIMMONS UNIVERSITY	2442 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2217 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2342 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2211 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2409 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2333 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2219 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2350 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	1317 VOGEL AV	In Favor
HARDIN SIMMONS UNIVERSITY	2441 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	1366 AMBLER AV	In Favor
HARDIN SIMMONS UNIVERSITY	2418 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2410 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2408 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	917 LINEBERRY BL	In Favor
HARDIN SIMMONS UNIVERSITY	1530 AMBLER AV	In Favor

HARDIN SIMMONS UNIVERSITY	1540 AMBLER AV	In Favor
HARDIN SIMMONS UNIVERSITY	1540 A AMBLER AV	In Favor
HARDIN SIMMONS UNIVERSITY	1532 AMBLER AV	In Favor
HARDIN SIMMONS UNIVERSITY	1536 AMBLER AV	In Favor
HARDIN-SIMMONS UNIVERSITY	1608 AMBLER AV	In Favor
HARDIN-SIMMONS UNIVERSITY	1606 AMBLER AV	In Favor
HARDIN-SIMMONS UNIVERSITY	1610 AMBLER AV	In Favor
HENDRICK MEDICAL CENTER	1518 N 21ST ST	In Favor
HENDRICK MEDICAL CENTER	2118 SIMMONS AV	In Favor
HENDRICK MEDICAL CENTER	1502 N 21ST ST	In Favor
HENDRICK MEDICAL EXEMPT	1401 AMBLER AV	In Favor
HENDRICK MEDICAL EXEMPT	1401 B AMBLER AV	In Favor
PCKC LLC	1642 AMBLER AV	
PCKC LLC	1626 AMBLER AV	
PCKC LLC	1618 AMBLER AV	
PCKC LLC	1690 AMBLER AV	
PETTY MARY JO	1633 SANDEFER ST	
PETTY MARY JO	1633 1/2 SANDEFER ST	
WALMART REAL ESTATE	1535 AMBLER AV	
WALMART REAL ESTATE	1541 AMBLER AV	
WALMART REAL ESTATE	2141 GRAPE ST	
WALMART REAL ESTATE	1537 AMBLER AV	
WALMART REAL ESTATE	1619 AMBLER AV	
WALMART REAL ESTATE	1619 A AMBLER AV	





Development Application

Planning

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

Project Name: Braum's Ice Cream and Dairy Store
Address: Ambler Avenue and Simmons Street No. of lots: 3 Acreage: 1.203 Acres
Legal Description: See Attached Exhibit A
Subdivision Name: North Park Addition Block: S/2 of Block 1 Lot: See Exhibit A
Current Zoning: RS6 Proposed Zoning (if applicable): General Retail (GR)

OWNER AND AUTHORIZATION

Owner Name: Hardin Simmons University
Address: PO Box 16005
City, State, Zip: Abilene, Texas 79698-0001 Fax: N/A
Phone: N/A Email: N/A

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

Agent Name: BJ Prichard, PE / eHT
Address: 402 Cedar
City, State, Zip: Abilene, Texas, 79601 Fax: 325-698-3241
Phone: 325-698-5560 Email: bj.prichard@e-ht.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: January 5, 2021

FOR OFFICE USE ONLY

Received: 1/5/21 Fee: \$ 1,500.00 Receipt No.: 0001057702
Case No.: 2-2021-05 Reviewed By: [Signature]



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 blue ink, appearing to be "M. R. D.", written over a horizontal line.

DATE: January 5, 2021



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.

Braum's Ice Cream is proposing to purchase the three tracts land from Hardin Simmons University (located on either side of Beech Street) for the purposes of constructing a new ice cream restaurant / grocery store facility. Presently, these three parcels are zoned RS6 (single family residential) and have have all previously held single family homes. The existing structures on these lots are in the process of being abated and demolished. In order to accommodate a fast food type restaurant, Baum's respectfully requests that the City of Abilene amend the current zoning on the identified tracts as well as the abandoned Beech Street ROW from RS6 to General Retail (GR). In reference to Exhibit A, the requested General Retail (GR) zone classification fits well with the surrounding development. The newly constructed Walmart facility and the Hendrick Medical facility directly across the street from the proposed project site are both zoned General Retail. The Wild Bills pawn on the northeast corner of Ambler Avenue and Grape Street is currently zoned general commercial.



LEGAL DESCRIPTIONS:

TRACT 1
EAST 25' OF LOT 13 & WEST 35' OF LOT 14, BLOCK B, DARBY SUBDIVISION OF THE S/2 OF BLOCK 1, NORTH PARK ADDITION (PAGE 368, PLAT RECORDS, TAYLOR COUNTY, TEXAS)

TRACT 2
EAST 50' OF LOT 14, BLOCK B, BLOCK B, DARBY SUBDIVISION OF THE S/2 OF BLOCK 1, NORTH PARK ADDITION (PAGE 368, PLAT RECORDS, TAYLOR COUNTY, TEXAS)

TRACT 3
LOTS 5 & 6, BLOCK C, DARBY SUBDIVISION OF THE S/2 OF BLOCK 1, NORTH PARK ADDITION (PAGE 368, PLAT RECORDS, TAYLOR COUNTY, TEXAS)

BEECH STREET ROW
ALL OF BEECH STREET BETWEEN THE NORTH RIGHT OF WAY OF AMBLER AVENUE AND THE SOUTH RIGHT OF WAY OF THE ALLEYS IN BLOCKS B & C, DARBY SUBDIVISION OF THE SOUTH ONE HALF OF BLOCK NO. ONE OF NORTH PARK ADDITION TO ABILENE, RECORDED IN VOLUME 1, PAGE 368, PLAT RECORDS, TAYLOR COUNTY, TEXAS



10 0 30
SCALE IN FEET

ENPROTEC/HIBBS & TODD, INC. ENVIRONMENTAL AND CIVIL ENGINEERS 201 South Street Abilene, Texas 79601 (817) 692-1000 FAX (817) 692-1001	20-7166
	PROJECT NO.
	01/25/2020
	DATE
DESIGNED BY	R.H.P.
DRAWN BY	J.C.
CHECKED BY	
RE-ZONING REQUEST FOR BRAUM'S ICE CREAM AND DAIRY STORE EXHIBIT A	
1 OF 2	



75 0 150

SCALE IN FEET

 ENPROTEC/HIBBS & TODD, INC. ENVIRONMENTAL AND CIVIL ENGINEERING 2010 E. 1st Street, Suite 1000 Fort Worth, Texas 76102 (817) 335-1100	20-7780
	PROJECT NO.
	01/01/2020
	DATE
	R.H.P.
RE-ZONING REQUEST FOR BRAUN'S ICE CREAM AND DAIRY STORE EXHIBIT A	DESIGNED BY
	J.C.
	DRAWN BY
	R.H.P.
	CHECKED BY
	2 OF 2

ORDINANCE NO. 11-2013

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "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, Subpart E, 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.

PASSED ON FIRST READING this 28th day of March, A.D. 2013.

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 15th day of February, 2013, 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 11th day of April, 2013 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.

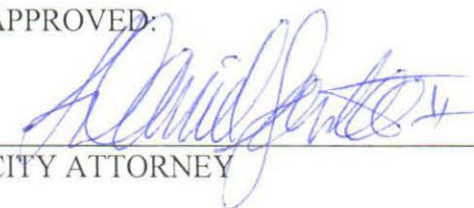
PASSED ON SECOND AND FINAL READING THIS 11th day of April, A.D. 2013.

ATTEST:


CITY SECRETARY


MAYOR

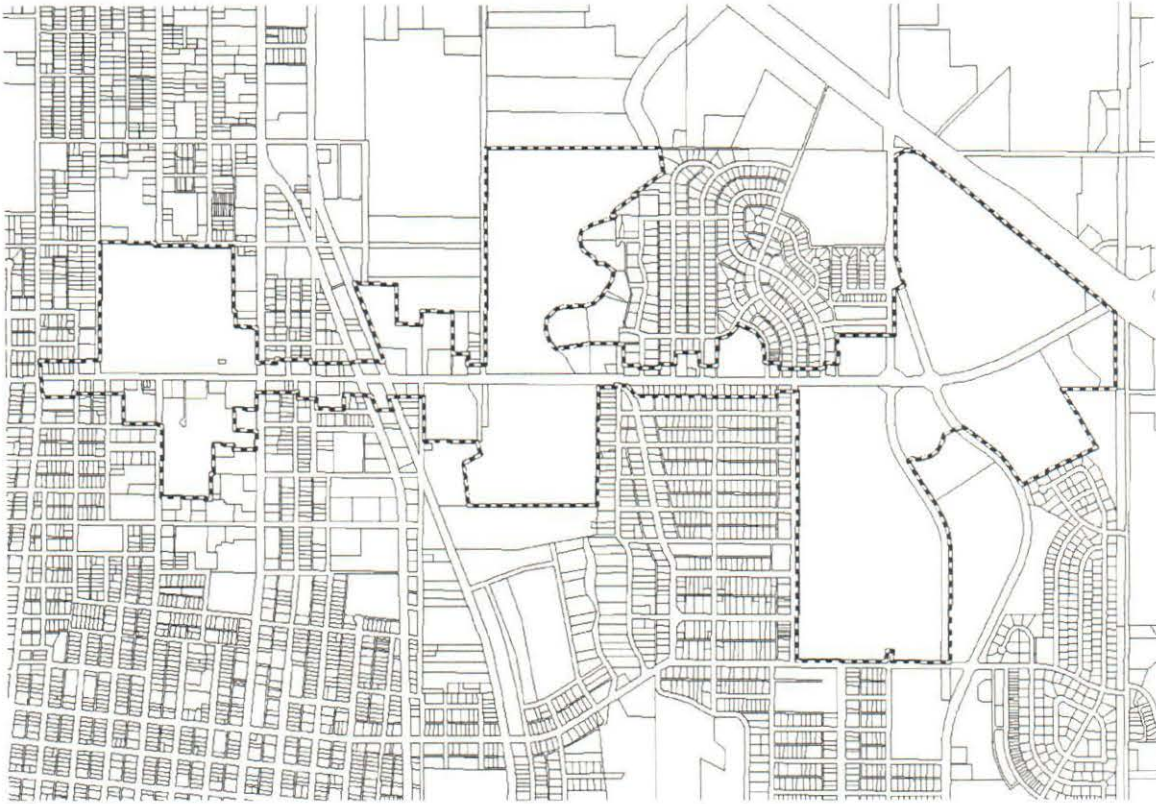
APPROVED:


CITY ATTORNEY

ORDINANCE NO. 11-2013

EXHIBIT "A"

Rezone property to apply the Ambler Avenue Corridor Overlay to specific properties.



Location:

All properties fronting on Ambler Avenue from Grape Street to Interstate 20.

-END-



PLANNING & DEVELOPMENT SERVICES

HENDRICK MEDICAL EXEMPT
PO BOX 2973
ABILENE, TX 79604-2973

NOTICE OF PUBLIC HEARING

RE: Rezoning Application Number Z-2021-05

01/21/2021

The Planning and Zoning Commission will hold a public hearing on **February 2, 2021 at 1:30 PM**, in the Abilene Public Library, South Branch Conference Room, Mall of Abilene, 4310 Buffalo Gap Rd., Abilene, TX, 79606, to recommend approval or denial to City Council on a request from Hardin-Simmons University to rezone property from Residential Single Family (RS-6) District to General Retail (GR) and located on approximately 1.203 acres at the 1500 and 1600 blocks (north side) of Ambler Avenue in north Abilene. Legal description being all of Lots 5 & 6 of Block C in Darby of North Park Subdivision and all of Lot 14 and the easternmost 25-feet of Lot 13 of Block B in Darby of North Park Subdivision.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of the request. Only that area which is bounded by the cross-hatched line on the map is being considered for rezoning. The solid boundary line around the subject area is only a notification area. If approved by the Planning and Zoning Commission or if denied and appealed to Abilene's City Council within the specified ten-day period, this case will be heard by City Council for 2nd and Final Reading with a public hearing on **March 11, 2021 at 8:30 AM** in Council Chambers on the second floor of City Hall, 555 Walnut Street.

If you have any questions, please contact Jared Smith Planner II at (325) 676- 6490 or jared.smith@abilenetx.gov

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

CASE #: Z-2021-05

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: HENDRICK MEDICAL EXEMPT
Address: 1401 AMBLER AV

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: 

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.



CITY OF ABILENE

PLANNING & DEVELOPMENT SERVICES

HENDRICK MEDICAL CENTER
1900 PINE ST
ABILENE, TX 79601-2432

NOTICE OF PUBLIC HEARING

RE: Rezoning Application Number Z-2021-05

01/21/2021

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For the PLANNING & ZONING COMMISSION

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CASE #: Z-2021-05

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Name: HENDRICK MEDICAL CENTER

Address: 1502 N 21ST 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:

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.



PLANNING & DEVELOPMENT SERVICES

HENDRICK MEDICAL CENTER
1900 PINE ST
ABILENE, TX 79601-2432

NOTICE OF PUBLIC HEARING

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01/21/2021

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P.O. Box 60, Abilene TX 79604-0060

Name: HENDRICK MEDICAL CENTER
Address: 1518 N 21ST ST

Email: planning@abilenetx.gov

I am in favor ☒
Additional Comments: 

I am opposed ☐

Signature: 

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.



PLANNING & DEVELOPMENT SERVICES

HENDRICK MEDICAL CENTER
1900 PINE ST
ABILENE, TX 79601-2432

NOTICE OF PUBLIC HEARING

RE: Rezoning Application Number Z-2021-05

01/21/2021

The Planning and Zoning Commission will hold a public hearing on **February 2, 2021 at 1:30 PM**, in the Abilene Public Library, South Branch Conference Room, Mall of Abilene, 4310 Buffalo Gap Rd., Abilene, TX, 79606, to recommend approval or denial to City Council on a request from Hardin-Simmons University to rezone property from Residential Single Family (RS-6) District to General Retail (GR) and located on approximately 1.203 acres at the 1500 and 1600 blocks (north side) of Ambler Avenue in north Abilene. Legal description being all of Lots 5 & 6 of Block C in Darby of North Park Subdivision and all of Lot 14 and the easternmost 25-feet of Lot 13 of Block B in Darby of North Park Subdivision.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of the request. Only that area which is bounded by the cross-hatched line on the map is being considered for rezoning. The solid boundary line around the subject area is only a notification area. If approved by the Planning and Zoning Commission or if denied and appealed to Abilene's City Council within the specified ten-day period, this case will be heard by City Council for 2nd and Final Reading with a public hearing on **March 11, 2021 at 8:30 AM** in Council Chambers on the second floor of City Hall, 555 Walnut Street.

If you have any questions, please contact Jared Smith Planner II at (325) 676- 6490 or jared.smith@abilenetx.gov

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

CASE #: Z-2021-05

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: HENDRICK MEDICAL CENTER
Address: 2118 SIMMONS AV

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:



PLANNING & DEVELOPMENT SERVICES

HARDIN-SIMMONS UNIVERSITY
ATTN HAROLD PRESTON
PO BOX 16005
ABILENE, TX 79698-0001

NOTICE OF PUBLIC HEARING

RE: Rezoning Application Number Z-2021-05

01/21/2021

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

FEB 1 PM 12:51

CASE #: Z-2021-05

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: HARDIN-SIMMONS UNIVERSITY
Address: 1608 AMBLER AV

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: *attached Properties*

Signature: *Jodie McGaughey*

For all attached Properties
1555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

Vice Pres. for Finance

We work together to build and maintain a community of the highest quality for present and future generations.



CITY OF ABILENE

PLANNING & DEVELOPMENT SERVICES

HENDRICK MEDICAL EXEMPT
PO BOX 2973
ABILENE, TX 79604-2973

NOTICE OF PUBLIC HEARING

RE: Rezoning Application Number Z-2021-05

01/21/2021

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

CASE #: Z-2021-05

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

Name: HENDRICK MEDICAL EXEMPT
Address: 1401 B AMBLER AV

Email: planning@abilenetx.gov

I am in favor ☒
Additional Comments: *[Handwritten signature]*

I am opposed ☐

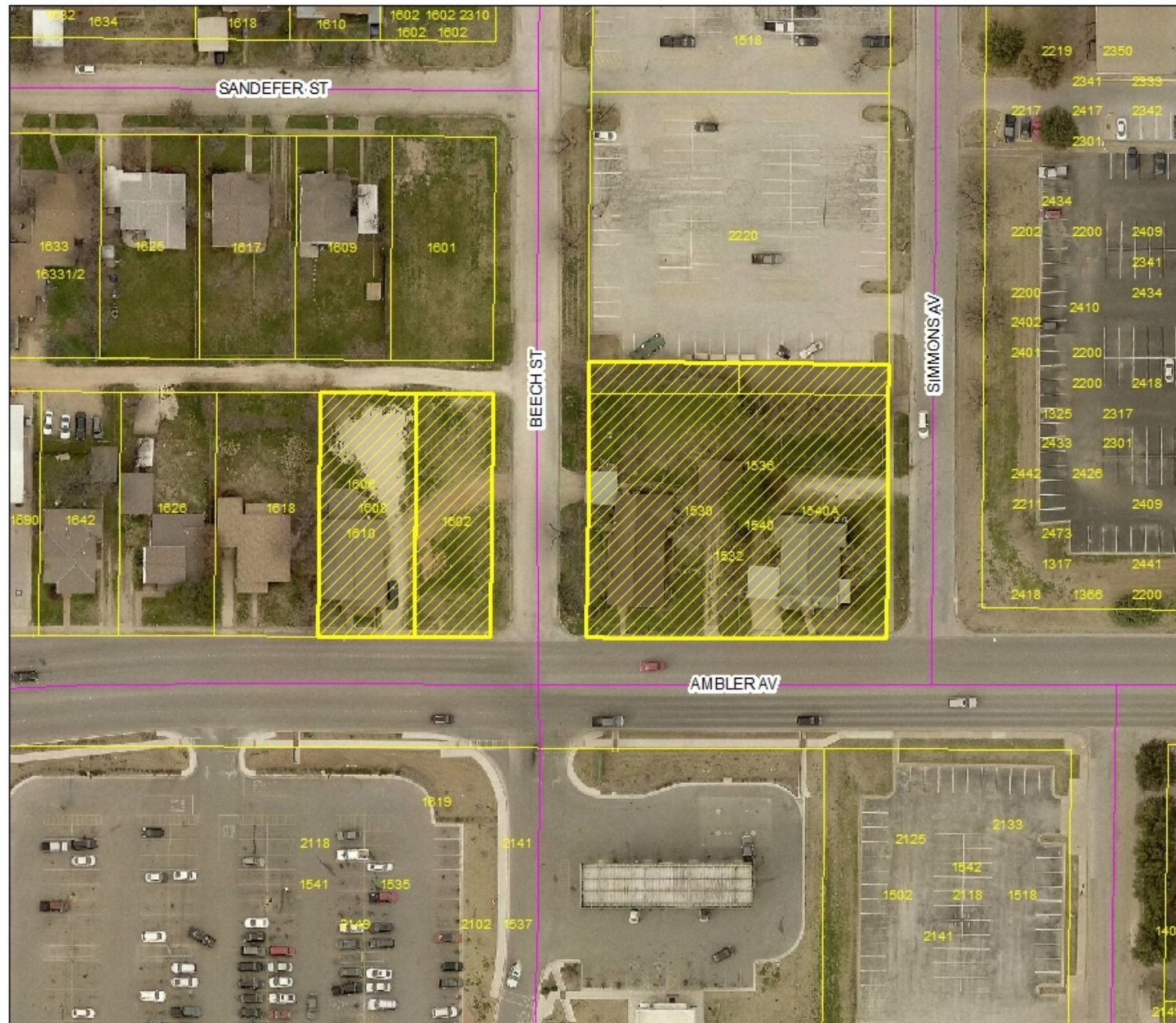
Signature: *[Handwritten signature]*

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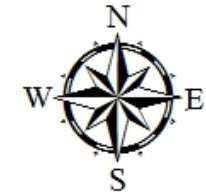
We work together to build and maintain a community of the highest quality for present and future generations.

Case:	Z-2021-05
Owner:	Hardin-Simmons University
Agent:	Enprotec Hibbs & Todd (eHT)
Request:	Rezone from Residential Single-Family (RS-6/AMB-COR) to General Retail (GR/AMB-COR)
Location:	Lots 5 & 6 of Block C, Lot 13 & 14 of Block B in Darby of North Park Subdivision
Notification:	53 in Favor, 0 Opposed
Planning & Zoning Recommendation:	Approval

Z-2021-05 LOCATION MAP



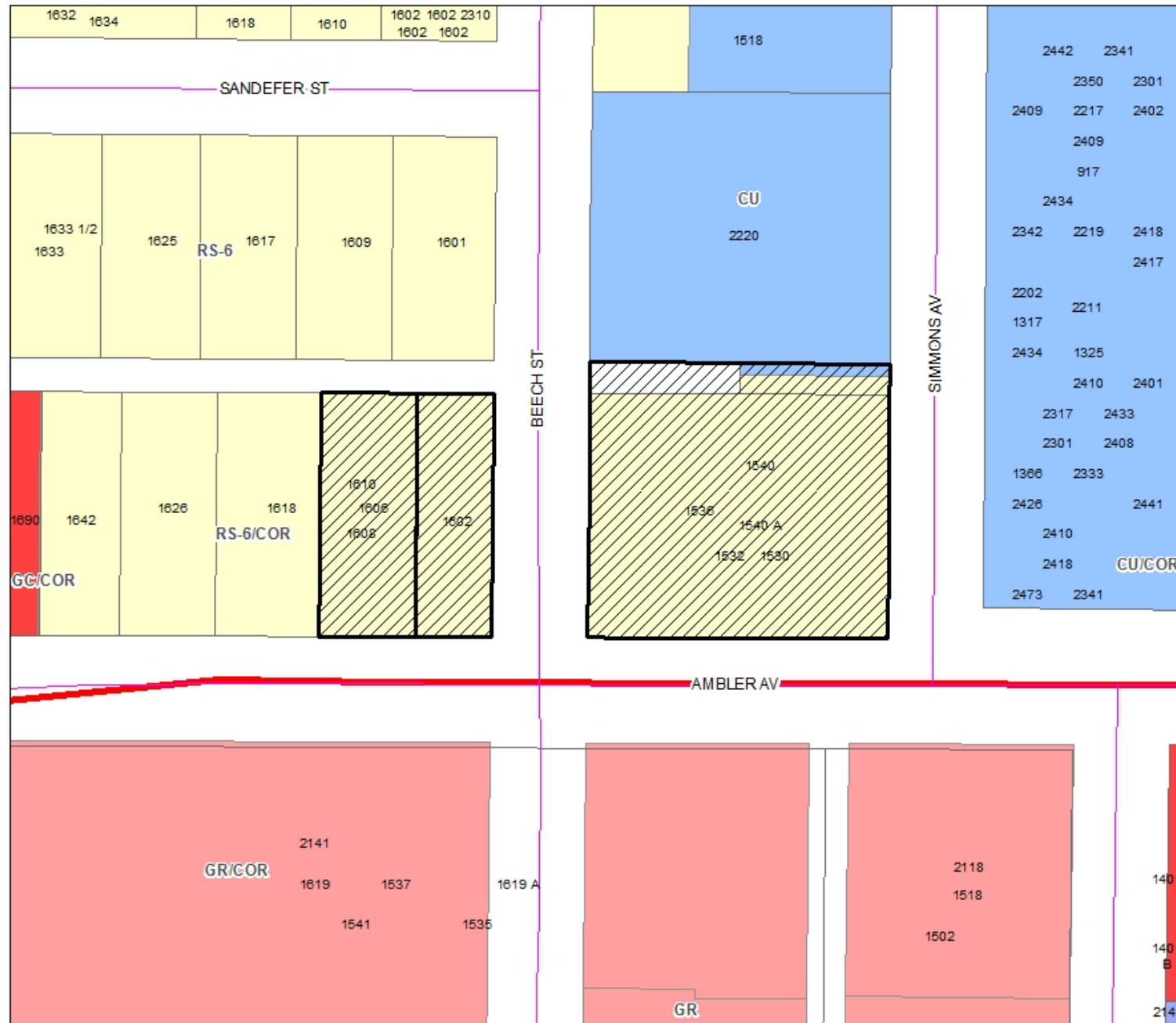
Location Map



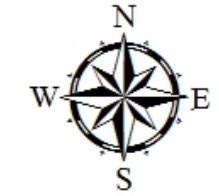
Legend

 Z-2021-05

Z-2021-05 ZONING MAP



Zoning Map



Legend

- Z-2021-05
- RS-6: Residential Single-Family
- CU: College/University
- MU: Medical Use
- GR: General Retail
- GC: General Commercial
- Arterial

GENERAL RETAIL (GR) PERMITTED USES

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

East neighboring property



Subject property



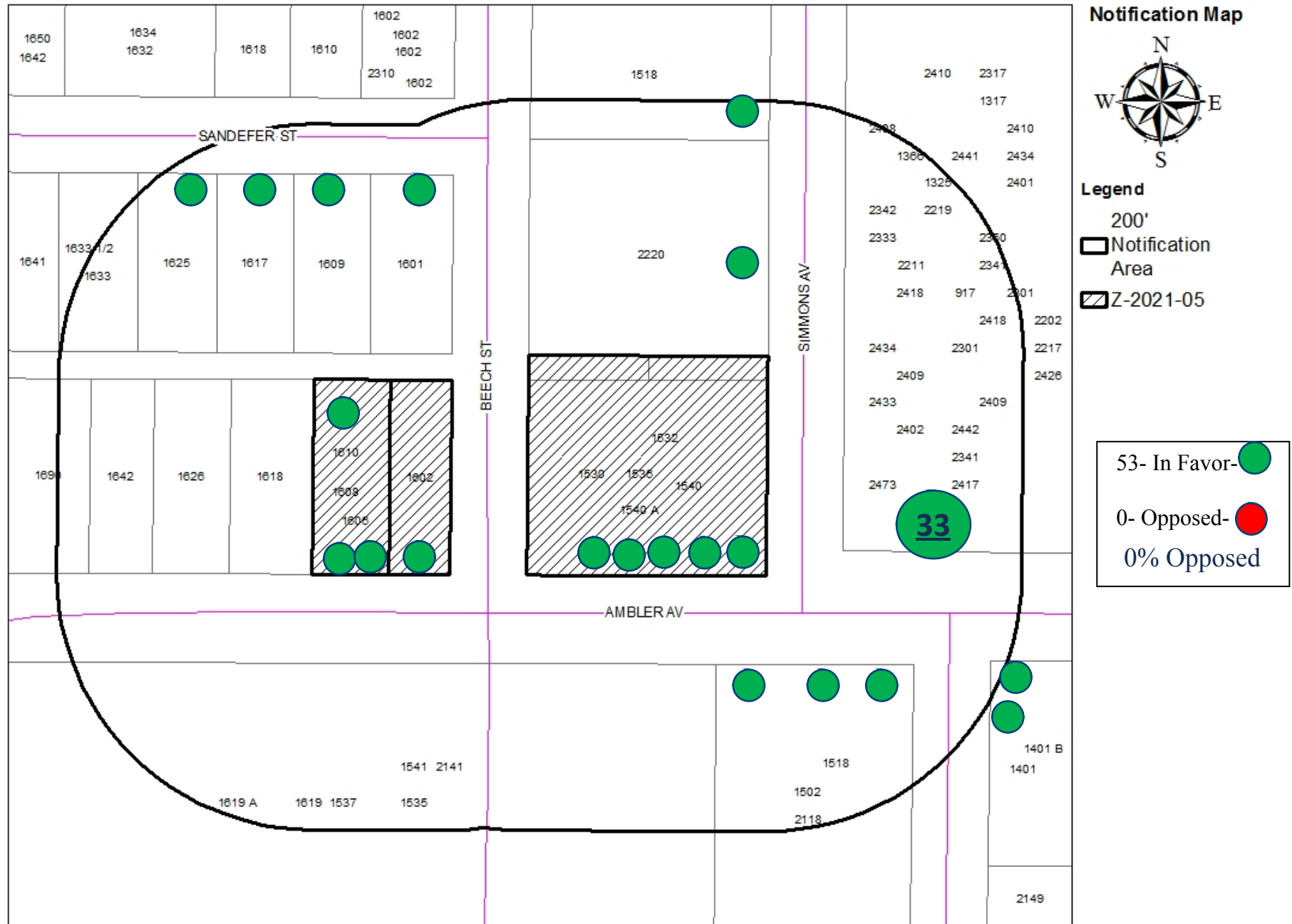
West neighboring property



Subject property



Z-2021-05 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: 2/25/2021

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: **8. Ordinance (First Reading) TC-2021-03: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Hardin-Simmons University to abandon an approximately 60-foot-width of public right-of-way available for Beech Street wedged between the westernmost boundary of Block C in Darby of North Park Subdivision and the easternmost boundary of Block B in Darby of North Park Subdivision. Extending approximately 150-feet north from northernmost right-of-way boundary for Ambler Avenue. Additionally the request is to abandon the 20-foot-wide alley north of lots 5 & 6 of Block C in Darby of North Park Subdivision extending approximately 98-feet from the easternmost right-of-way boundary of Beech Street in Abilene, Taylor County, Texas. (Mike Warrix)**

GENERAL INFORMATION

Abandon approximately 150-feet of the improved 60-foot-wide public right-of-way for Beech Street extending north from the northern right-of-way boundary for Ambler Avenue and the 20-foot-wide alley north of Lots 5 & 6, Block C in Darby of North Park Addition

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval subject to conditions.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval with conditions by a vote of 5 - 0.

ATTACHMENTS:

1. TC-2021-03 Draft Ordinance
2. TC-2021-03 Council Staff Report full
3. TC-2021-03 Council presentation

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR ABANDONMENT OF CERTAIN PORTION OF PUBLIC RIGHT-OF-WAY FOR BEECH STREET AND THE ENTIRE 20-FOOT-WIDE ALLEY NORTH OF LOTS 5 AND 6 OF BLOCK "C" IN DARBY OF NORTH PARK SUBDIVISION, PROVIDING FOR TERMS AND CONDITIONS OF SUCH ABANDONMENT, AND CALLING A PUBLIC HEARING.

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

PART 1: That the following described portion of public right-of-way for Beech Street and entire 20-foot-wide alley north of Lots 5 and 6 in Block C of Darby of North Park Subdivision, as described on Exhibit "A" attached hereto and made part of this ordinance for all purposes, be and the same is hereby abandoned, vacated and closed insofar as the right, title or easement of the City of Abilene is concerned, subject to the underlying property owner(s) graphically resubdividing (by replat,) the subject portion of public right-of-way into the adjoining properties.

PART 2: That said portion of public right-of-way is not needed for public purposes, and it is in the public interest to abandon the above described portion of public right-of-way.

PART 3: That the abandonment provided for herein shall extend only to the public right, title and easement in and to the tract of land specifically described in Part 1 of this ordinance, and shall be construed only to that interest the governing body of the City of Abilene may legally and lawfully abandon.

PASSED ON FIRST READING THE 25th day of February, A.D. 2021.

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 16th day of January, 2021, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 11th day of March, 2021, to permit the public to be heard prior to final consideration of this ordinance.

PASSED ON FINAL READING THIS 11th day of March, 2021.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

The City of Abilene hereby abandons the 60-foot-wide improved public right-of-way for Beech Street, extending approximately 150-feet north from the northernmost right-of-way boundary for Ambler Avenue. As well as the entire 20-foot-wide alley which appears north of Lots 5 and 6 in Block C of Darby of North Park Subdivision in Abilene, Taylor County, Texas.

SUBJECT to the following conditions:

1. Approval and subsequent recording of a re-plat showing how the street and alley rights-of-way will be integrated with one or more adjacent new lot(s).
2. On the required replat, right-of-way must be reserved and/or dedicated for a suitable vehicle turnaround at the termination of the remaining dead-end segment of Beech Street as a result of this abandonment. Such turnaround may be either a "cul-de-sac" or "hammerhead" type, but must be designed and improved to allow routine movement of utility service and refuse collection vehicles.
3. On the required replat, suitable easements must be reserved for continued access to all existing utility facilities planned to remain within the otherwise abandoned street and alley rights-of-way.
4. Relocate any affected existing facilities not remaining in place, at the expense of the property owner(s) within whose land the abandoned street and alley will be integrated.
5. Provide City staff with documentation from an appropriate official of each affected utility provider (having facilities remaining in the subject street and alley rights-of-way) and which indicates that such facilities have either already been relocated or that suitable financial arrangements have been made for the timely relocation of these affected utilities.



-END-

TC-2021-03

STAFF REPORT



REQUEST:

Abandon approximately 150-feet of the improved 60-foot-wide public right-of-way for Beech Street extending north from the northern right-of-way boundary for Ambler Avenue and the 20-foot-wide alley north of Lots 5 & 6, Block C in Darby of North Park Addition.

APPLICANT:

Owner: Hardin-Simmons University
Agent: Enprotec Hibbs & Todd (eHT)

HEARING DATES:

P & Z Commission: February 2, 2021
City Council 1st Reading: February 25, 2021
City Council 2nd Reading: March 11, 2021

LOCATION & LEGAL DESCRIPTION:

The 60-foot-wide improved right-of-way for Beech Street between the westernmost boundary of Block C and the easternmost boundary of Block B in Darby of North Park Addition, extending approximately 150-feet north from the northernmost right-of-way boundary for Ambler Avenue.

The 20-foot-wide alley north of Lots 5 & 6, Block C in Darby of North Park Addition extending approximately 98-feet from the easternmost right-of-way boundary of Beech Street in Abilene, Taylor County, Texas.

BACKGROUND:

The 60-foot-wide right-of-way for Beech Street and the 20-foot-wide alley requested for abandonment were originally dedicated by the Darby of North Park Addition in October 1925. The right-of-way for Beech Street is fully improved with approximately 30-feet of pavement width, complete with curb and gutter. The alley is currently unmaintained and overgrown and is not utilized for solid waste collection. The only purpose of this alley is to house a 6-inch Vitrified Clay sewer main which extends approximately 100-feet eastward from the easternmost right-of-way boundary for Beech Street. This sewer line does not extend all the way through the alley to service any lots further east of Block C in Darby of North Park Addition. The applicant is requesting to abandon these two rights-of-way to construct a Braum's restaurant and convenience grocery store within the adjacent lots.

EVALUATION CRITERIA:

Pursuant to Section 3.2.7.4, Street, Alley Abandonment, and Closure Policy, of the Land Development Code, any closure or abandonment shall follow the same public hearing process as required for a zoning change.

The proposed abandonment was reviewed by the City of Abilene's Development Review Committee (DRC) and determined this request is satisfactory with conditions to be addressed during the replat process upon approval of the abandonment.

STAFF RECOMMENDATION:

City staff recommends approving the requested abandonment subject to the following conditions:

1. Approval and subsequent recording of a re-plat showing how the street and alley rights-of-way will be integrated with one or more adjacent new lot(s).
2. On the required replat, right-of-way must be reserved and/or dedicated for a suitable vehicle turnaround at the termination of the remaining dead-end segment of Beech Street as a result of this abandonment. Such turnaround may be either a “cul-de-sac” or “hammerhead” type, but must be designed and improved to allow routine movement of utility service and refuse collection vehicles.
3. On the required replat, suitable easements must be reserved for continued access to all existing utility facilities planned to remain within the otherwise abandoned street and alley rights-of-way.
4. Relocate any affected existing facilities not remaining in place, at the expense of the property owner(s) within whose land the abandoned street and alley will be integrated.
5. Provide City staff with documentation from an appropriate official of each affected utility provider (having facilities remaining in the subject street and alley rights-of-way) and which indicates that such facilities have either already been relocated or that suitable financial arrangements have been made for the timely relocation of these affected utilities.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval of this request by a vote of five (5) to zero (0) on February 2, 2021.

NOTIFICATION:

The Planning Services Division sent written notice of this request (with certificate of mailing) to all owners of property within a 200-foot radius of this subject property.

Owner	Situs	Response
HARDIN SIMMONS UNIVERSITY	1625 SANDEFER ST	In Favor
HARDIN SIMMONS UNIVERSITY	1617 SANDEFER ST	In Favor
HARDIN SIMMONS UNIVERSITY	1601 SANDEFER ST	In Favor
HARDIN SIMMONS UNIVERSITY	1609 SANDEFER ST	In Favor
HARDIN SIMMONS UNIVERSITY	1518 SANDEFER ST	In Favor
HARDIN SIMMONS UNIVERSITY	1602 AMBLER AV	In Favor
HARDIN SIMMONS UNIVERSITY	2220 SIMMONS AV	In Favor
HARDIN SIMMONS UNIVERSITY	2410 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2434 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	1325 VOGEL AV	In Favor
HARDIN SIMMONS UNIVERSITY	2317 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2434 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2402 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2301 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2426 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2341 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2401 SIMMONS AV	In Favor
HARDIN SIMMONS UNIVERSITY	2433 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2301 SIMMONS AV	In Favor
HARDIN SIMMONS UNIVERSITY	2202 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2409 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2418 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2417 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2341 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2473 SIMMONS AV	In Favor
HARDIN SIMMONS UNIVERSITY	2442 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2217 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2342 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2211 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2409 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2333 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2219 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2350 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	1317 VOGEL AV	In Favor
HARDIN SIMMONS UNIVERSITY	2441 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	1366 AMBLER AV	In Favor
HARDIN SIMMONS UNIVERSITY	2418 CEDAR ST	In Favor
HARDIN SIMMONS UNIVERSITY	2410 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	2408 HICKORY ST	In Favor
HARDIN SIMMONS UNIVERSITY	917 LINEBERRY BL	In Favor
HARDIN SIMMONS UNIVERSITY	1530 AMBLER AV	In Favor

Case # TC-2021-03
January 21, 2021

HARDIN SIMMONS UNIVERSITY	1540 AMBLER AV	In Favor
HARDIN SIMMONS UNIVERSITY	1540 A AMBLER AV	In Favor
HARDIN SIMMONS UNIVERSITY	1532 AMBLER AV	In Favor
HARDIN SIMMONS UNIVERSITY	1536 AMBLER AV	In Favor
HARDIN-SIMMONS UNIVERSITY	1608 AMBLER AV	In Favor
HARDIN-SIMMONS UNIVERSITY	1606 AMBLER AV	In Favor
HARDIN-SIMMONS UNIVERSITY	1610 AMBLER AV	In Favor
HENDRICK MEDICAL CENTER	1518 N 21ST ST	In Favor
HENDRICK MEDICAL CENTER	2118 SIMMONS AV	In Favor
HENDRICK MEDICAL CENTER	1502 N 21ST ST	In Favor
PCKC LLC	1626 AMBLER AV	
PCKC LLC	1618 AMBLER AV	
WALMART REAL ESTATE	1535 AMBLER AV	
WALMART REAL ESTATE	1541 AMBLER AV	
WALMART REAL ESTATE	2141 GRAPE ST	
WALMART REAL ESTATE	1537 AMBLER AV	
WALMART REAL ESTATE	1619 AMBLER AV	
WALMART REAL ESTATE	1619 A AMBLER AV	

ATTACHMENTS:

- 1) Application
- 2) PowerPoint



CITY OF ABILENE

SUBDIVISION COMMENT FORM

1/19/2021

REFERENCE No.: **TC-2021-03 (Beech St.)**

SUBDIVISION TITLE/LOCATION: 60-foot-width of public right-of-way for Beech Street wedged between the westernmost boundary of Block C in Darby of North Park Subdivision and the easternmost boundary of Block B in Darby of North Park Subdivision. Extending approximately 150-feet north from the northernmost right-of-way boundary for Ambler Avenue. Additionally, the request is to abandon the 20-foot-wide alley north of lots 5 & 6 of Block C in Darby of North Park Subdivision extending approximately 98-feet from the easternmost right-of-way boundary of Beech Street in Abilene, Taylor County Texas.

CITY DEPARTMENT/PVT. UTILITY CO.: TRAFFIC SERVICES

REPRESENTATIVE: JAMES ROGGE P.E.

TITLE: TRAFFIC ENGINEER

I HAVE REVIEWED THE ABOVE PLAT AND FIND IT TO BE:

SATISFACTORY

UNSATISFACTORY (explain below)

X

SATISFACTORY WITH CONDITIONS

THE FOLLOWING CONDITIONS AND/OR CORRECTIONS ARE RECOMMENDED:

Traffic Services is good with the closure only if the following requirements are met.

- New curb and gutter will need to be install along Ambler Ave across the opening of Beech St.
- A cul-de-sac will need to be constructed at the mouth of the closure to provide a turnaround for traffic.
- It may be easier for them to just close the whole street rather than just a part of it.

DATE

SIGNED: Director/Representative

CITY OF ABILENE
SUBDIVISION COMMENT FORM

1/21/2021

REFERENCE No.: **TC-2021-03 (Beech St.)**

SUBDIVISION TITLE/LOCATION: 60-foot-width of public right-of-way for Beech Street wedged between the westernmost boundary of Block C in Darby of North Park Subdivision and the easternmost boundary of Block B in Darby of North Park Subdivision. Extending approximately 150-feet north from the northernmost right-of-way boundary for Ambler Avenue. Additionally, the request is to abandon the 20-foot-wide alley north of lots 5 & 6 of Block C in Darby of North Park Subdivision extending approximately 98-feet from the easternmost right-of-way boundary of Beech Street in Abilene, Taylor County Texas.

CITY DEPARTMENT/PVT. UTILITY CO.: WATER UTILITIES MAPPING

REPRESENTATIVE: WAYNE TERRELL

TITLE: ENGINEER TECHNICIAN III

I HAVE REVIEWED THE ABOVE PLAT AND FIND IT TO BE:

SATISFACTORY



UNSATISFACTORY (explain below)

SATISFACTORY WITH CONDITIONS

THE FOLLOWING CONDITIONS AND/OR CORRECTIONS ARE RECOMMENDED:

The existing City of Abilene water and sewer utilities will need to remain and continued to be owned and maintained by the City of Abilene Water Utilities. There needs to be a written acknowledgement that the water and sewer utilities will remain at this location and under the ownership by the City of Abilene Water Utilities.

01/21/2021
DATE


SIGNED: Director/Representative

CITY OF ABILENE
SUBDIVISION COMMENT FORM

01/25/2021

REFERENCE No.: **TC-2021-03 (Beech St.)**

SUBDIVISION TITLE/LOCATION: 60-foot-width of public right-of-way for Beech Street wedged between the westernmost boundary of Block C in Darby of North Park Subdivision and the easternmost boundary of Block B in Darby of North Park Subdivision. Extending approximately 150-feet north from the northernmost right-of-way boundary for Ambler Avenue. Additionally, the request is to abandon the 20-foot-wide alley north of lots 5 & 6 of Block C in Darby of North Park Subdivision extending approximately 98-feet from the easternmost right-of-way boundary of Beech Street in Abilene, Taylor County Texas.

CITY DEPARTMENT/PVT. UTILITY CO.: _____Solid Waste_____

REPRESENTATIVE: _____Jim Winward_____

TITLE: _____Public Works Operations Manager_____

I HAVE REVIEWED THE ABOVE PLAT AND FIND IT TO BE:

☐ **SATISFACTORY**

☐ **UNSATISFACTORY (explain below)**

X **SATISFACTORY WITH CONDITIONS**

THE FOLLOWING CONDITIONS AND/OR CORRECTIONS ARE RECOMMENDED:

Southernmost alley to the west of Beech Street should remain open, we can adjust our route at this location.

1/22/2021
DATE

Jim Winward
SIGNED: Director/Representative



Development Application

Planning

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

Project Name: Braum's Ice Cream and Dairy Store - Beech Street ROW Abandonment Request

Address: Beech Street and Ambler Ave No. of lots: 1 Acreage: 0.199 Acres

Legal Description: See Attached Exhibit

Subdivision Name: North Park Addition Block: See attached Lot: See attached

Current Zoning: Right of Way Proposed Zoning (if applicable): General Retail (GR)

OWNER AND AUTHORIZATION

Owner Name: Hardin Simmons University

Address: PO Box 16005

City, State, Zip: Abilene, Texas 79698-0001 Fax: N/A

Phone: N/A Email: N/A

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

Agent Name: BJ Prichard, PE / eHT

Address: 402 Cedar

City, State, Zip: Abilene, Texas, 79601 Fax: 325-698-3241

Phone: 325-698-5560 Email: bj.prichard@e-ht.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: January 5, 2021

FOR OFFICE USE ONLY

Received: 1/5/21 Fee: \$ 1,500.00

Receipt No.: 1000000001057703

Case No.: TC-2021-03

Reviewed By: [Signature]



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.

Braum's Ice Cream is proposing to purchase the three tracts land from Hardin Simmons University (located on either side of Beech Street) for the purposes of constructing a new ice cream restaurant / grocery store facility. In order to facilitate the proposed project, Braum's is seeking to abandon approximately 150' of the existing Beech Street ROW. Braum's will re-route affected water and sewer utilities as may be required and will work with other franchise utility providers (Atmos, AEP, AT&T, etc.) to address utilities that may be located in the project area. This ROW abandonment also includes an existing alley running between Simmons and Beech. This alley does not appear to have ever been constructed. The City of Abilene GIS Map currently shows this Alley extending approximately half the distance between Beech and Simmons, though the current legal description suggests it runs the full length. Braum's is requesting to abandon any remaining length of this existing alley segment.



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.

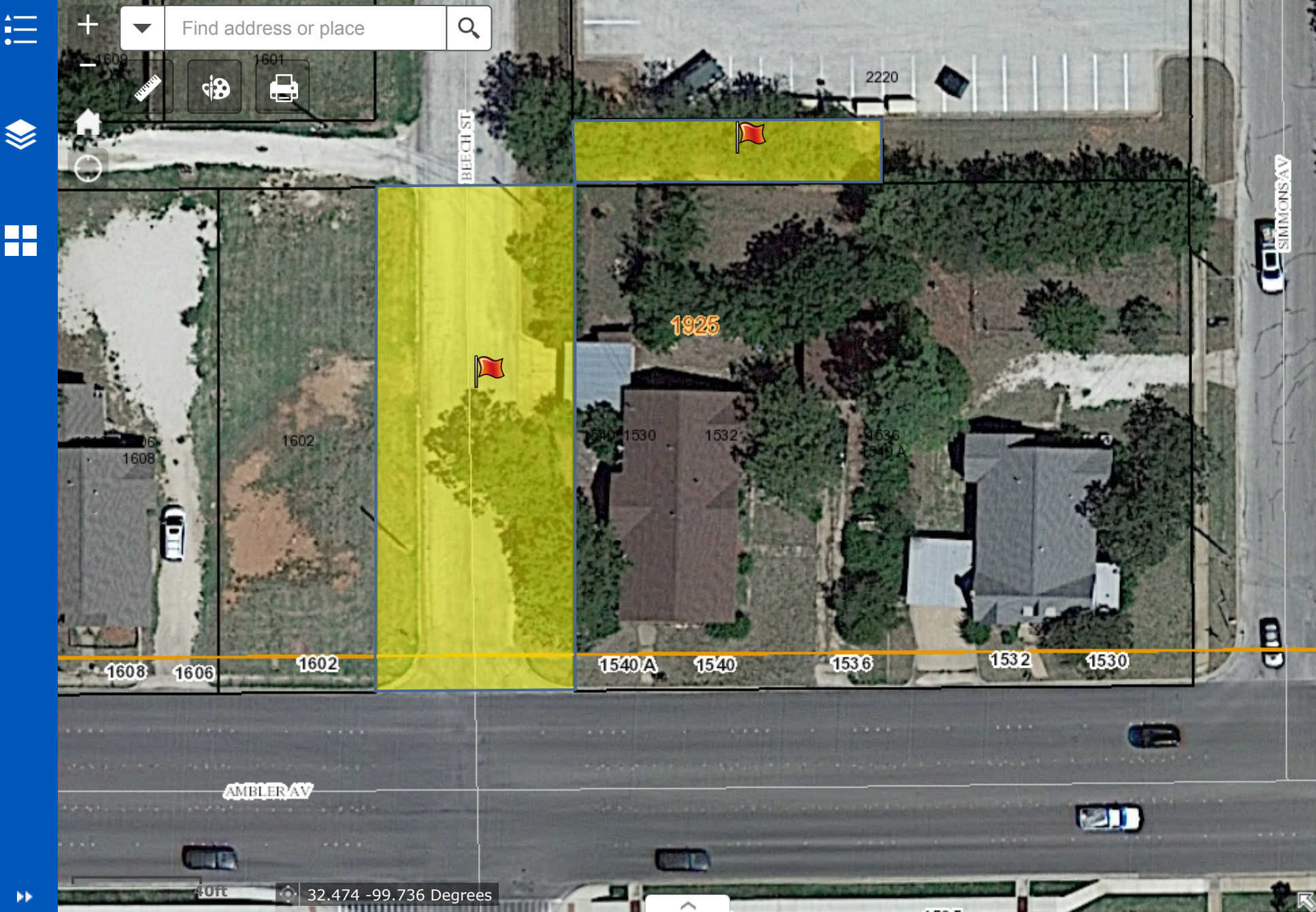
SIGNED: _____

A handwritten signature in blue ink, appearing to be "J. B. B.", written over a horizontal line.

DATE: January 5, 2021

Site Exhibit provided by applicant





All Rights Reserved



CITY OF ABILENE

PLANNING & DEVELOPMENT SERVICES

HENDRICK MEDICAL CENTER
1900 PINE ST
ABILENE, TX 79601-2432

NOTICE OF PUBLIC HEARING

RE: Application Number TC-2021-03

01/21/2021

The Planning and Zoning Commission will hold a public hearing on **February 2, 2021 at 1:30 PM**, in the Abilene Public Library, South Branch Conference Room, Mall of Abilene, 4310 Buffalo Gap Rd., Abilene, TX, 79606, to recommend approval or denial to City Council on a request from Hardin-Simmons University to abandon an approximately 60-foot-width of public right-of-way available for Beech Street wedged between the westernmost boundary of Block C in Darby of North Park Subdivision and the easternmost boundary of Block B in Darby of North Park Subdivision. Extending approximately 150-feet north from the northernmost right-of-way boundary for Ambler Avenue. Additionally the request is to abandon the 20-foot-wide alley north of Lots 5 & 6 of Block C in Darby of North Park Subdivision extending approximately 98-feet from the easternmost right-of-way boundary of Beech Street in Abilene, Taylor County, Texas.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of the request. Only that area which is bounded by the cross-hatched line on the map is being considered for rezoning. The solid boundary line around the subject area is only a notification area. If approved by the Planning and Zoning Commission or if denied and appealed to Abilene's City Council within the specified ten-day period, this case will be heard by City Council for 2nd and Final Reading with a public hearing on **March 11, 2021 at 8:30 AM** in Council Chambers on the second floor of City Hall, 555 Walnut Street.

If you have any questions, please contact Jared Smith Planner II at (325) 676- 6490 or jared.smith@abilenetx.gov

For the PLANNING & ZONING COMMISSION

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

CASE #: TC-2021-03

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: HENDRICK MEDICAL CENTER

Address: 1502 N 21ST 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: 

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.



CITY OF ABILENE

PLANNING & DEVELOPMENT SERVICES

HENDRICK MEDICAL CENTER
1900 PINE ST
ABILENE, TX 79601-2432

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Address: 1518 N 21ST 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: _____

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PLANNING & DEVELOPMENT SERVICES

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Name: HENDRICK MEDICAL CENTER
Address: 2118 SIMMONS AV

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: X

Signature: 

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.



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

Fwd: Braum Zone Change and Road Closure

1 message

Rainbow, Zack <zack.rainbow@abilenetx.gov>
To: Jared Smith <jared.smith@abilenetx.gov>

Tue, Feb 2, 2021 at 11:15 AM

FYI

----- Forwarded message -----

From: **McGaughey, Jodie** <jmcgaughey@hsutx.edu>
Date: Tue, Feb 2, 2021 at 11:12 AM
Subject: Braum Zone Change and Road Closure
To: zack.rainbow@abilenetx.gov <zack.rainbow@abilenetx.gov>
Cc: BJ Prichard <BJ.Prichard@e-ht.com>, Briscoe, Andrew <andrew.briscoe@hsutx.edu>, McCarry, Tim <facilities@hsutx.edu>

Zack,

The university is in full support of this rezoning and road closure presented by eht on behave of Braum. I signed one of the forms you provided, checked to approve, and added a note that our approval covered all the forms mailed to the university. HSU fully supports this change.

Thank you,

Jodie McGaughey, Ph.D., CGMA, CPA
Vice President for Finance
Hardin-Simmons University
[2200 Hickory Street](#)
Campus Box 16005
Abilene, TX 79698
325 670 1508



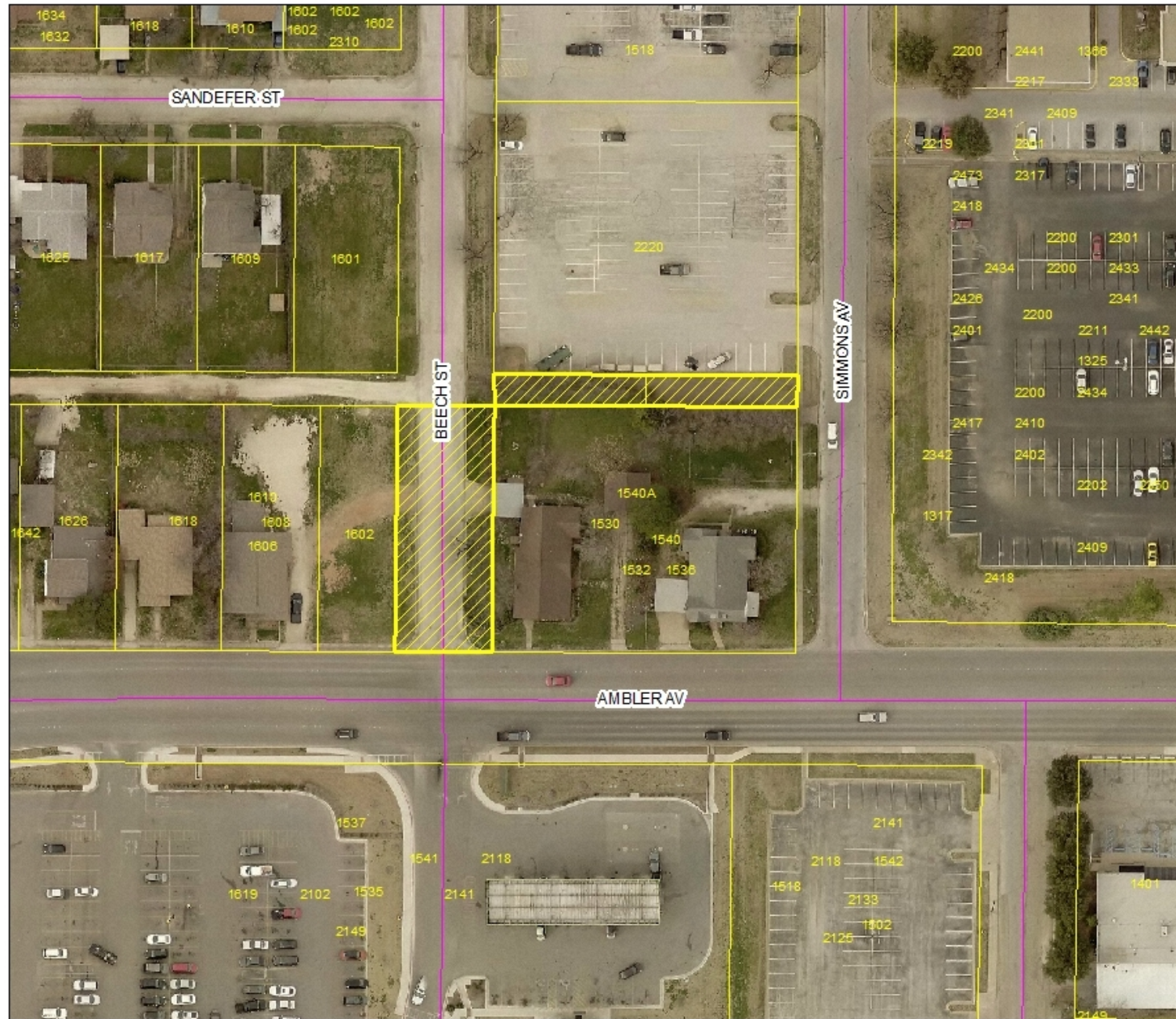
This communication and any attachments to it are confidential and intended solely for the use of the person to whom they are addressed. If you have received this e-mail in error, please notify us by telephone immediately at (325) 670-1508, and you are notified that any disclosure, distribution, or the taking of any action in reliance on the contents of this information is prohibited. Nothing in this message may be construed as a digital or electronic signature of any employee of Hardin-Simmons University(HSU). HSU automatically blocks e-mails containing objectionable language or suspicious content. Messages sent to HSU should be considered received only if confirmed by a return receipt. HSU expressly reserves and maintains any attorney-client privilege or work-product protections in this communication.

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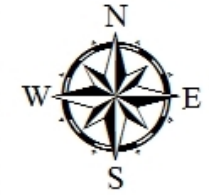


Case:	TC-2021-03
Owner:	Hardin-Simmons University
Agent:	Enprotec Hibbs & Todd (eHT)
Request:	The 150-foot improved 60-foot-wide right-of-way for Beech Street and 20-foot-wide alley north of Lots 5 & 6, Block C in Darby of North Park Addition
Notification:	51 in Favor, 0 Opposed
Planning & Zoning Recommendation:	Approval

TC-2021-03 LOCATION MAP



Location Map



Legend

 TC-2021-03

TC-2021-03 ZONING MAP





North View of Beech Street



South View of Beech Street

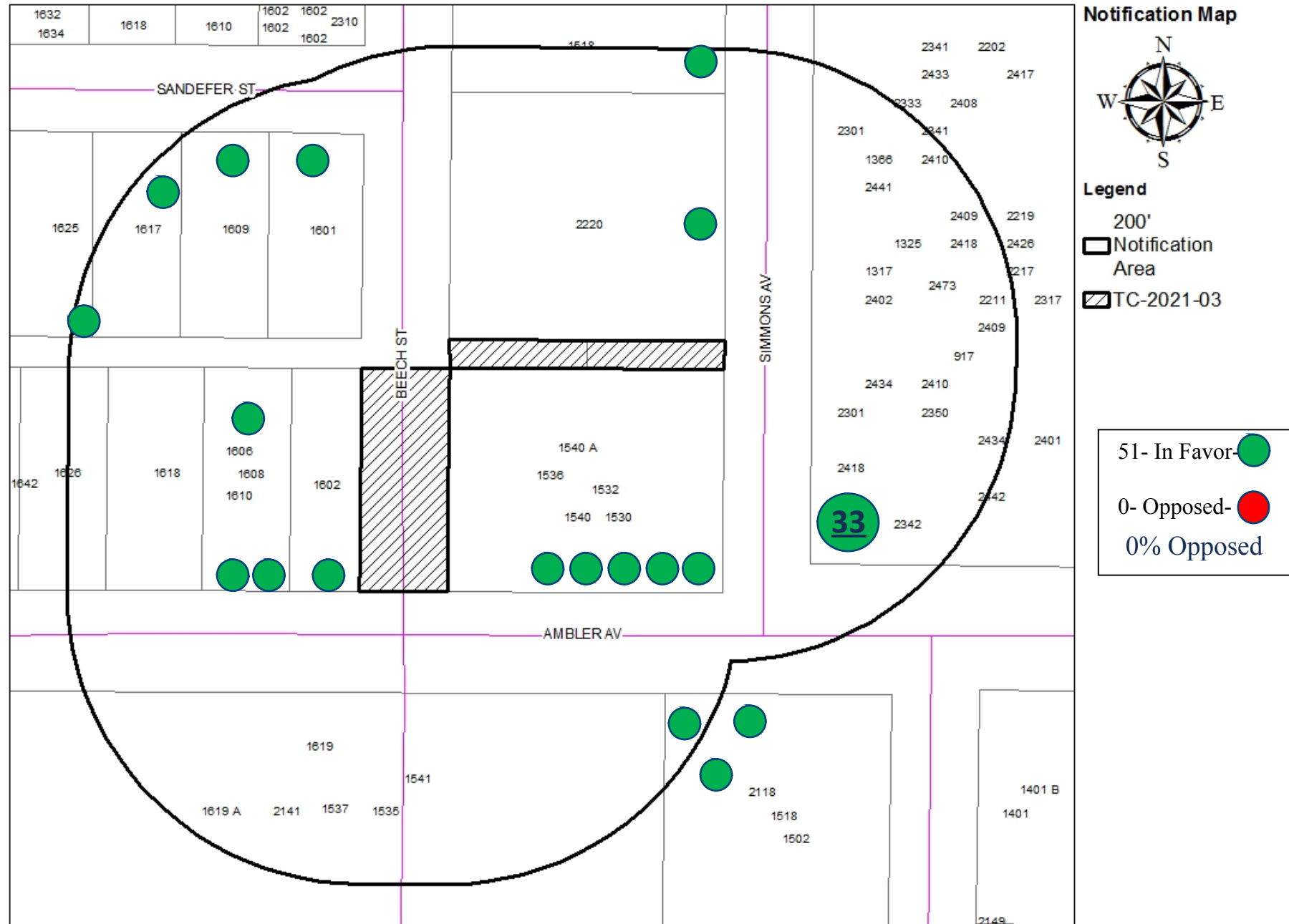


West View of the alleyway



East View of the alleyway

TC-2021-03 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)
- DRC Recommendation: Satisfactory with conditions
- Staff Recommendation: Approval with conditions
- Planning & Zoning Recommendation: Approval

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 2/25/2021

TO: Robert Hanna, City Manager

FROM: Greg McCaffery

SUBJECT: 9. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding Bid No. 2124 to Bontke Brothers, Inc. on Griffith Road Improvements Project (Greg McCaffery)

GENERAL INFORMATION

This Project was advertised as a Public Notice on January 24, 2021, and on January 31, 2021 with a bid opening dated February 9, 2021. This contract includes the reconstruction and widening of Griffith Road, from EN 10th Street through the intersection of Marathon Road. This contract will also include a concrete channel as well as other miscellaneous drainage improvements.

The "Best Value" competitive bid method was used for the evaluation of overall bids.

SPECIAL CONSIDERATIONS

This project has a contract completion time of 100 working days (approx. 5 months, weather permitting)

FUNDING/FISCAL IMPACT

Funding for this project is allocated through 2018A CO Bond and Street Maintenance Fee Funds.

STAFF RECOMMENDATION

Staff recommends a base bid award to Bontke Brothers Co., Inc. for \$1,341,572.00.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Griffith resolution
2. CB2124 TABSHEET
3. Scope of Project
4. PROJECT LOCATION MAP
5. Griffith ppt
6. Bontke-Griffith Rd. contract

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AWARDING
BID TO BONTKE BROTHERS CO., INC., ABILENE, TEXAS**

WHEREAS, the City of Abilene duly advertised and gave such notice, as required by law, for bids for the reconstruction of Griffith Road, from EN 10th Street through the intersection of Marathon Road.; and

WHEREAS, the project includes the reconstruction and widening of Griffith Road, from EN 10th Street through the intersection of Marathon Road. This contract will also include a concrete channel as well as other miscellaneous drainage improvements plus an alternate for concrete pavement.: and

WHEREAS, the City of Abilene has utilized the “Best Value” competitive bidding method in determining the award of the contract; and,

WHEREAS, the following base bids were received and opened on the February 9, 2021:

Bontke Brothers Construction, Inc., Abilene, Texas	\$1,341,572.00
Contract Paving Co. Inc., Tye, Texas	\$2,048,875.00
CK Newberry, LLC, Kenedy, Texas	\$2,279,990.40

WHEREAS, the following alternate bids were received and opened on the
February 9, 2021:

Bontke Brothers Construction, Inc., Abilene, Texas	\$912,120.00
Contract Paving Co. Inc., Tye, Texas	\$1,459,392.00
CK Newberry, LLC, Kenedy, Texas	\$1,581,008.00

WHEREAS, Bontke Brothers, Inc., Abilene, Texas submitted the best value base bid in the amount of \$1,341,572.00 with the bid meeting specifications. Staff recommends awarding the base bid to the best value bidder, Bontke Brothers, Inc., Abilene, Texas.

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

PART 1: That the City Council approves this base bid in the amount of
\$1,341,572.00.

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

ADOPTED this 25th day of February, 2021.

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: ENGR
BID NO.: CB-2124
TIME OF OPENING: 11:00 A.M.
DATE OF OPENING: FEBRUARY 9, 2021

BONTKE BROTHERS
ABILENE, TX

CONTRACT PAVING
TYE, TX

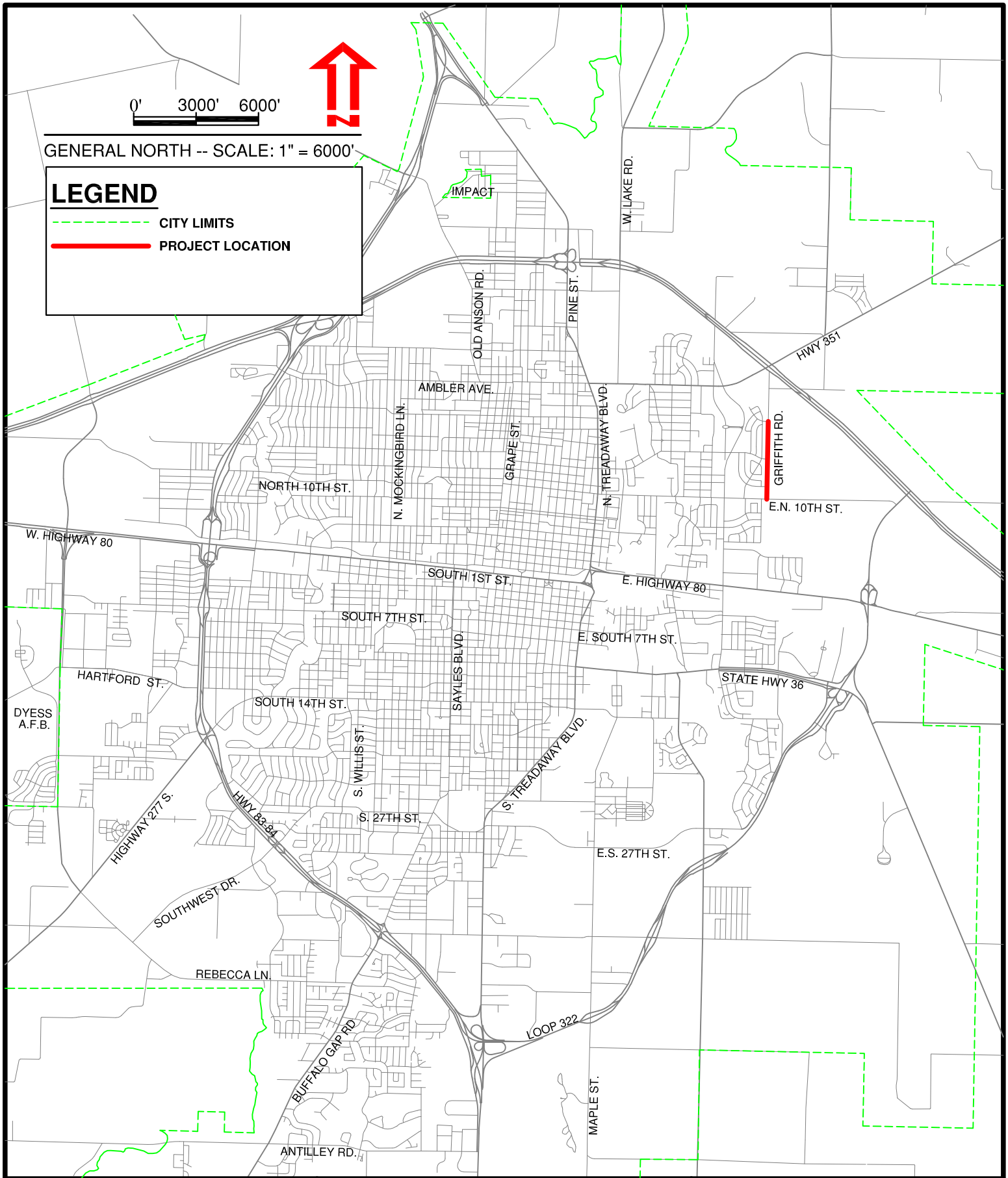
CK NEWBERRY, LLC
KENEDY, TX

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	GRIFFITH ROAD RECONSTRUCTION				1,341,572.00		2,048,875.00		2,279,990.40						
	ADD ALTERNATE #1				912,120.00		1,459,392.00		1,581,008.00						
BASE BID															
DISCOUNT															
TOTAL BID															

*NOTES: INDICATES RECOMMENDED AWARD

SCOPE OF PROJECT

| This construction contract involves full depth asphalt & base removal as well as full reconstruction of Griffith Road, from EN 10th Street through the intersection of Marathon Road to the north. |



Sheet
1
of
1

CITY OF ABILENE, TEXAS
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION

GRIFFITH ROAD RECONSTRUCTION PROJECT

Designed By: C. THOMAS

Drawn By: T. MATTHEWS

Checked By: C. THOMAS

Horizontal Scale: 1"=6000'

Vertical Scale: N.T.S.

Computer File Name:
Project Location Map

Date: OCTOBER 2019

Agenda Item: Griffith Road Improvements Project

**Resolution: Bid Award #CB-2124 Griffith
Road Improvements Project**

(McCaffery)

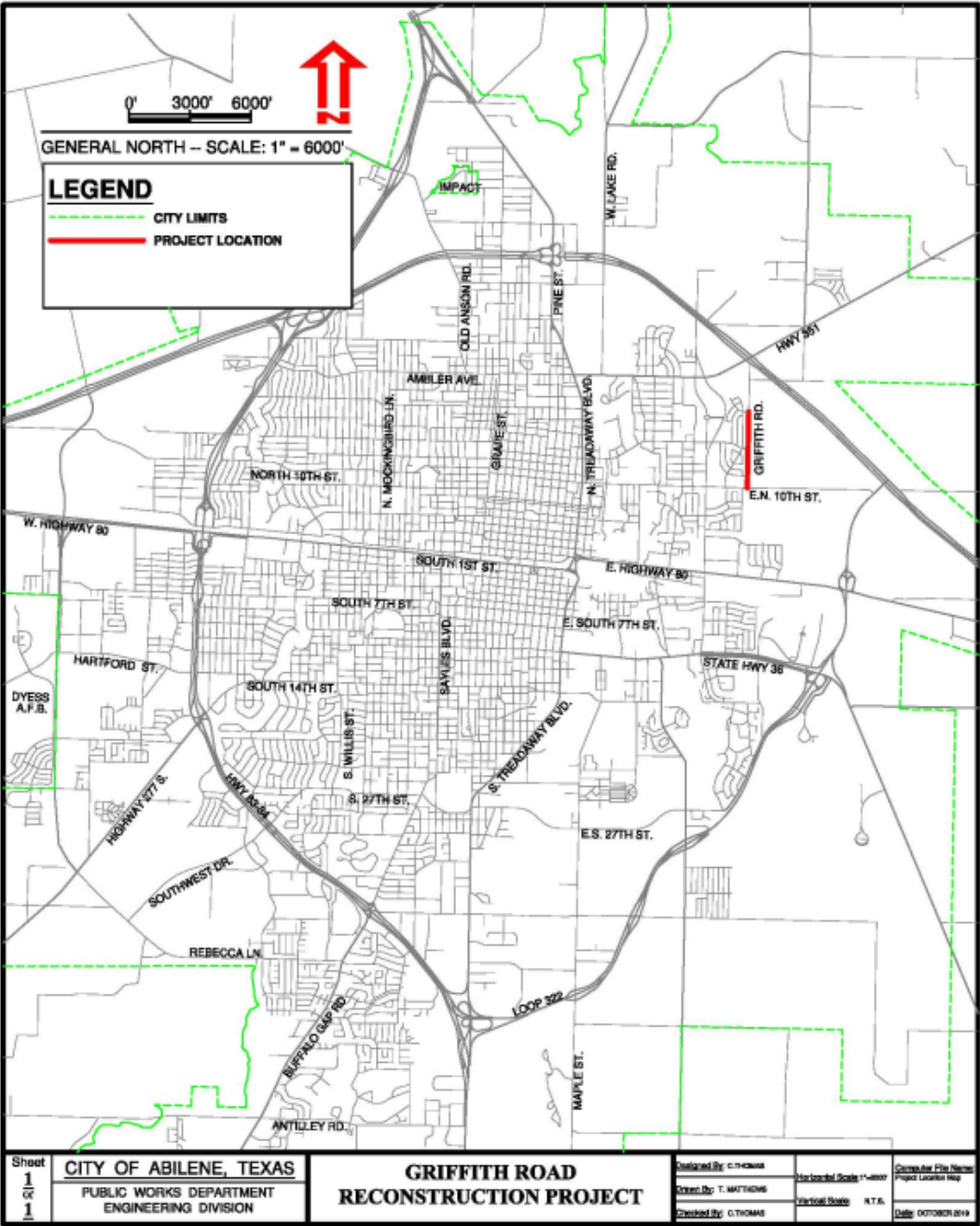


Griffith Road Improvements Project

Streets
Griffith Rd

From
EN 10th St

To
Marathon Rd



Agenda Item:

Griffith Road Improvements Project

- Construction Contract includes the reconstruction of Griffith Road, from EN 10th Street through the intersection of Marathon Road.
- Project Advertised January 24th 2021 & January 31st 2021, Bids Opened February 9th 2021.
- Three bids were received.
- Staff recommends award of contract to Bontke Brothers, Inc. in the amount of \$1,341,572.00



Questions?



CONSTRUCTION CONTRACT

BACKGROUND

THIS CONTRACT, made on the 25th day of February, 2021 is between the City of Abilene, a Municipal Corporation of Taylor and Jones Counties, Texas ("City"), and Bontke Brothers Construction Company, Inc. of the City of Abilene, State of Texas. ("Contractor").

The City recognizes a need for high quality construction work; the Contractor agrees to complete the project in return for payment.

THE AGREEMENT

1. **Work and Consideration.** hereby agrees to commence and complete the construction of Work required in the Contract Documents -- incorporated herein by reference --

GRIFFITH ROAD RECONSTRUCTION

All work to be performed will be completed in conformance with (1) Part I and II of the City of Abilene's Standard Specifications for Construction adopted September, 2006 with the attached amendments in these Contract Documents, and (2) the Technical Specifications and Plans attached to these Contract Documents. Technical Specifications and Plans attached to these Contract Documents control in the event of a conflict.

In consideration of this Work, the City will pay the Contractor the sum of \$1,341,572.00 (One million three hundred forty-one thousand five hundred seventy-two dollars and zero cents).

2. **Timely Work.** The Contractor must begin and fully complete Work in the days stated in the Notice to Proceed. The time allows for normal delays associated with weather conditions, crew coordination, etc. Time is of the essence, and liquidated damages as set forth in the General Conditions (Paragraph 16) apply for late Work.

3. **Payment.** If Performance and Payment Bonds are required, the City will pay Contractor according to the General Conditions (Paragraph 20). If Performance and Payment Bonds are not required, the City will pay Contractor according to the Instructions to Bidders.

4. **No liens.** No mechanic, contractor, subcontractor, supplier, or other person can or will contract for, or in any other manner have or acquire any lien upon the work of this Contract, or the land upon which it is situated. The laws of the State of Texas govern this Contract.

5. **Venue.** Venue for any legal proceeding is Taylor County, Texas.

6. **Indemnity.**

A. Definitions

For the purpose of this section the following definitions apply:

"City" shall mean all officers, agents and employees of the City of Abilene.

"Claims" shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.

"Contractor" includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

"Contractor's employees" shall mean any employees, officers, agents, subcontractors, licensee and invitees of Contractor.

"Damages" shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:

- (i) injury or damage to any property or right
- (ii) injury, damage, or death to any person or entity
- (iii) attorneys fees, witness fees, expert witness fees and expenses, and
- (iv) all other costs and expenses of litigation

"Premise Defects" shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

"Proven" shall mean that a court of competent jurisdiction has entered a final unappealable judgment on a claim adjudging an entity or person liable for a monetary judgment.

"Sole negligence" shall mean negligence of a party that is unmixed with the fault of any other person or entity.

B. Indemnity

The Contractor must indemnify, hold harmless, and defend the City from and against liability for any claims arising out of the Contractor's work and activities conducted in connection with this Contract.

The Contractor is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the City.

Contractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Contractor's employees while in the vicinity where the work is being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Contractor or Contractor's employees.

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects. Responsibility for all such defects is expressly assumed by the Contractor.

The City and Contractor must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Contractor or City. The City has the right to compromise and defend the same to the extent of its own interests.

BOTH CITY AND CONTRACTOR EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE CITY IS PARTICIPATING IN THIS CONTRACT, WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE DAMAGES. THIS CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.

7. **Insurance.** The Special Conditions found in the City of Abilene's Standard Specifications for Construction adopted September, 2006, Part I, Division I, Item 3, contain the insurance requirements of this Contract.

8. **Overcharges.** The Contractor assigns to City any claims for overcharges related to this Contract which arise under antitrust laws of the United States, 15 U.S.C.A. Sec. 1 et seq., as amended.

9. **Contract Interpretation.** Any dispute about the Contract's meaning or application will be interpreted fairly and reasonably, and neither more strongly for or against either party.

10. **Indebtedness to City.** Contractor agrees that no payments owed by him of any nature whatsoever to the City, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

The City will not knowingly award contracts for goods or services to any Bidder in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty or interest. Contractor is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset any debt, claim, demand or account owed by the City to any person, firm or corporation in arrears to the City for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty or interest.

11. **Boycott of Israel.** In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

This section only applies to a contract that: (a) is between a governmental entity and a company with 10 or more full-time employees and (b) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. Additionally, "company" does not include a sole proprietorship.

If this section is applicable, the signatory executing this contract on behalf of company verifies that the company does not boycott Israel and will not boycott Israel during the term of this contract.

12. **Contract Execution.** The Contractor must sign the Contract first, with any necessary attestation and seal. The City Attorney or designee must review the Contract, and approve or disapprove it. If approved, the City's authorized agent will then sign. The City Secretary must keep a signed original in the City Secretary's Office.

13. **Contract Copies.** Each of the two executed copies is an original.

IN WITNESS WHERE OF, the parties hereto have executed this contract:

CONTRACTOR

Name of Contractor:

Bontke Brothers

Michael Bontke
Signature

Michael Bontke
Name - Typed or Printed

VP
Title - Typed or Printed

Business Address:

102 College Dr.
Abilene, TX 79601

325-677-6276
Business Phone No.

75-1331325
Federal Tax I.D.#

ATTEST: (If Corporation)

[Signature]
Corporate Secretary's Signature

Corporate Seal
(if none, write "None")

CITY OF ABILENE

Authorized Signature

APPROVED:

City Attorney

ATTEST:

City Secretary

Seal: |



**City Council
Agenda Memo**

City Council Meeting Date: 2/25/2021

TO: **Honorable Mayor & Members of City Council**

FROM: **Robert Hanna, City Manager**

SUBJECT: **10. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on the Winter Weather State of Emergency Declared by the Mayor (Robert Hanna)**

GENERAL INFORMATION

The February Winter Storm event caused unforeseen damage to many City of Abilene facilities, and measures were immediately necessary to remediate and begin repairs to those facilities. In addition, unanticipated employee services were needed in response to the Winter Storm event. These repairs and services were not budgeted in the 2020-2021 budget.

As a result, in order to meet this emergency, the Mayor signed a Declaration of State of Emergency effective on February 12, 2021, pursuant to Section 21, City of Abilene Charter. As allowed by Section 22, City of Abilene Charter, the Declaration is specifically limited to allow the Mayor to authorize emergency expenditures totaling not more than 10% of the City's current annual budget.

Pursuant to Section 23, City of Abilene Charter, the Declaration of State of Emergency may be terminated by the Mayor or by the vote of a majority of the City Council.

Additionally, pursuant to Section 22, City of Abilene Charter, the Mayor or City Council may expand the emergency powers which may be exercised by the Mayor during the state of emergency.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Declaration of Local Disaster - 02-12-2021
2. Sec__21__Emergency_powers_
3. Winter Weather Emergency Powerpoint

DECLARATION OF LOCAL STATE OF EMERGENCY

WHEREAS, on February 12, 2021, the Mayor of the City of Abilene issued his Declaration of Local Disaster due to the widespread and severe damage and injury due to the February Winter Weather event and extreme cold conditions and wind; and

WHEREAS, on February 12, 2021, the Governor of the State of Texas issued his Proclamation declaring a state of disaster in all 254 counties in the State of Texas due to severe winter weather posing an imminent threat of widespread and severe property damage, injury, and loss of life due to prolonged freezing temperatures, heavy snow, and freezing rain statewide; and

WHEREAS, it is necessary to immediately appropriate budgeted funds for expenditures needed for the repair of City of Abilene facilities and property damaged by the severe winter weather in Abilene, and for continuing emergency services provided by City employees during the severe winter weather in Abilene; and

WHEREAS, Section 21, City of Abilene Charter, provides that a state of emergency shall be deemed to exist when, as the consequences of a major calamity, the normal procedures of the City government are inadequate for the protection of persons or property; and

WHEREAS, Section 21, City of Abilene Charter, provides that a state of emergency may be declared by order of the mayor if a meeting of the council cannot be called within the time available, whenever conditions threaten to render inadequate the normal procedures of the City government for protection of persons or property; and

WHEREAS, Section 22, City of Abilene Charter, provides that during a state of emergency the mayor shall have all the powers which would be vested in the council under the Charter and may exercise those powers to the extent he considers to be reasonable or necessary for the protection of persons or property; and

WHEREAS, the Mayor of the City of Abilene has determined that a state of emergency exists, and the immediate expenditure of budgeted funds are needed for the repair of City of Abilene facilities and property damaged by the severe weather in Abilene, and for continuing emergency services provided by City employees during the severe winter weather in Abilene; and

WHEREAS, Section 23, City of Abilene Charter, provides that the emergency powers of the Mayor shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the state of emergency.

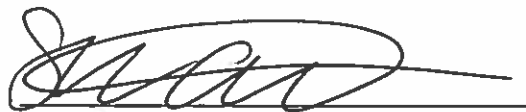
NOW, THEREFORE, BE IT PROCLAIMED, DECLARED AND ORDERED BY THE MAYOR OF THE CITY OF ABILENE, TEXAS:

1. That a local state of emergency is hereby declared for the City of Abilene, Texas pursuant to Section 21 of the City of Abilene Charter.
2. Pursuant to Section 21(f), City of Abilene Charter, the Mayor is empowered to authorize expenditures totaling not more than ten (10) per centum of the City of Abilene's current annual budget for general purposes without budget appropriation therefore.
3. Pursuant to Section 23, City of Abilene Charter, the emergency powers of the Mayor shall be limited to the immediate expenditure of budgeted funds which are needed for the repair of City of Abilene facilities and property damaged by the severe weather in Abilene, and for the continuing expenditures for emergency services provided by City employees during the severe winter weather in Abilene.
4. Pursuant to Section 23, City of Abilene Charter, this state of emergency shall terminate when so ordered by the Mayor, or may be terminated by vote of a majority of the City Council.

DECLARED AND ORDERED this the 12 day of February 2021, in the City of Abilene, Taylor County, Texas, in witness whereof I subscribe my name and cause to be affixed the seal of the City of Abilene.


Anthony Williams, Mayor

FILED with me, the City Clerk of the City of Abilene, this 12th day of February 2021, by Mayor Anthony Williams, whose signature I hereby attest under my hand and the seal of the City of Abilene.


Shawna Atkinson, City Secretary



Sec. 21. Emergency powers.

A state of emergency shall be deemed to exist when, as the consequence of a major calamity, activities of a war-like nature, riots, or insurrection, the normal procedures of the municipal government are inadequate for the protection of persons or property. A state of emergency may be declared by the vote of the council, or by order of the mayor, or, in his absence or disability, the mayor pro tempore, if a meeting of the council cannot be called within the time available, whenever conditions threaten to render inadequate the normal procedures of the municipal government for protection of persons or property.

Sec. 22. Powers of mayor during emergency.

During a state of emergency the mayor, or, in his absence or disability, the mayor pro tempore, shall have all the powers which would be vested in the council under this Charter and may exercise those powers to the extent he considers to be reasonable or necessary for the protection of persons or property. In addition thereto he shall be specifically empowered:

- a. To give orders directly to any city officer or employee as well as through the city manager;
- b. To suspend temporarily or replace any city officer or employee, other than a councilman, when deemed necessary;
- c. To place temporarily any city officers, employees, services, equipment or properties under the direction or control of any office or officers of the county, state or federal governments, including the military services, and the duly constituted officers for the civil defense;
- d. To enter upon cooperative agreements with the proper authorities of county, state or federal governments, or other municipalities, for mutual assistance within the area of an existing or threatened emergency;
- e. To order the evacuation of persons from all or any part of the city and to close any buildings or areas within the city;
- f. To authorize expenditures totaling not more than ten (10) per centum of the city's current annual budget for general purposes without budget appropriation therefor;
- g. To re-establish the seat of the city's government at another place, provided that such place, if outside the city's territorial limits, shall be at the place nearest thereto which is suitable and practical; and,
- h. To summon citizens to serve as special police, with the powers and duties appropriate thereto.

Sec. 23. When emergency powers of mayor to terminate.

The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the state of emergency. The state of emergency shall terminate when so ordered by the mayor, or by the mayor pro tempore in the absence or disability of the mayor, or may be terminated by vote of a majority of the council.

Item 10

Winter Weather State of Emergency Declared by the Mayor



QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 2/25/2021

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: 11. 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. Rosie Tonche v. City of Abilene, Texas; Cause No. 50955-A, In the 42nd Judicial District Court, Taylor County, Texas; filed December 31, 2020
14. 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