



City of Abilene City Council Agenda

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

Anthony Williams, Mayor

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

Notice is hereby given of a meeting of the City Council of City of Abilene to be held on the 21st day of November, 2019, 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 Shane Price

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

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.

3. **Minutes:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving the Minutes from the Regular Meeting Held on November 7, 2019 **(Shawna Atkinson)**
4. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing the Honorable Keith A. Barton as Municipal Court Judge **(Stanley Smith)**

5. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending the Texas A&M Forest Service Lease to Relocate their Leased Area at the Airport. **(Don Green)**
6. **Ordinance (First Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending Chapter 3, "Subdivision Regulations," Article II, "Subdivision Standards," Division I, "Adequate Public Facilities," Section 3.2.1.1, "General Policy," of the Abilene Land Development Code, by amending sections to change initial planning and installation responsibilities of street lights in new developments from the City of Abilene to developers; and setting a public hearing for December 5, 2019. **(Greg McCaffery)**
7. **Ordinance (First Reading) CUP-2019-09:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Hudman Investment Group, agent Phillip Hill, for Conditional Use Permit to allow contractor services in General Commercial (GC) zoning district and located specifically at 118 North Pioneer Drive. **(Mike Warrix)**
8. **Ordinance (First Reading) CUP-2019-10:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Reynaldo and Ixel Smith, for Conditional Use Permit to allow a home-based daycare for more than six children (other than caregivers' own children) in Agricultural Open Space (AO) zoning district and located specifically at 6605 Maple Street. **(Mike Warrix)**
9. **Ordinance (First Reading) Z-2019-27:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Sam Daggubati, agent Lauren Montgomery, to amend the existing Planned Development District Number 116, specifically by amending the graphic site plan (Exhibit B) guiding development on western 6.207 acres of this district including former Anson Jones Elementary School at 2002 Jameson Street. **(Mike Warrix)**
10. **Ordinance (First Reading) Z-2019-28:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Stan Chapman, Ron Fogle, Bobby Bright, Carol Purser and Mesquite Gate Properties to rezone property from Light Industrial (LI) with Historic (H) Overlay, to Central Business (CB) with Historic (H) Overlay located at 802, 818, 826, 834 and 842 North 3rd Street as well as at 324 Mesquite Street **(Mike Warrix)**
11. **Ordinance (First Reading) Z-2019-29:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Three JB Properties to rezone property from a Heavy Industrial (HI) District to a Planned Development (PD) District allowing industrial use but with no site-related or boundary street improvements required by terms of Chapter 3 (Subdivision) in Abilene's Land Development Code, on properties at 749 China Street, 750 Rose Street and 397 South 8th Street **(Mike Warrix)**
12. **Ordinance (First Reading) TC-2019-02:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from, Lone Star Railroad Inc./Jeff Basket, agent John Hill, to abandon all of the 20' wide alley right-of-way (ROW) running north-south beginning at S. 8th Street, and heading north 531' terminating at the ROW of S. 7th Street. Additionally, request to abandon a portion of S. 8th Street, beginning at the easternmost extent of China Street ROW and heading east 300' to the westernmost extent of Southern Switching Railroad ROW, Abilene, Taylor County, Texas **(Mike Warrix)**

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

13. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on authorizing a Professional Services Contract with Enprotec/Hibbs & Todd, Inc. for the Abilene AWIA Risk & Resiliency Assessment & Emergency Response Plan **(Rodney Taylor)**

14. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving an Economic Development Agreement with 401 Pine Associates, Ltd. for the Windsor Hotel **(Robert Hanna)**

EXECUTIVE SESSION

15. **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. City of Abilene, Texas v. Aurora Bumgarner; 104th Judicial District Court, Taylor County, Texas; filed November 17, 2011
2. Chad Carter v. City of Abilene, Texas; Cause No. 10138-D, In the 350th Judicial District Court, Taylor County, Texas, filed June 17, 2014
3. Susan Lewis King & Austin King MD vs Ken Paxton, Attorney General of Texas and the City of Abilene, Cause No. D-1-GN-16-001160, filed March 16, 2016
4. Ruby Flores and Cory Almanza v. Jesus Verastegui, Alfredo Verastegui, Rosalva Verastegui, and City of Abilene, Cause No. 49368-A, 42nd District Court, Abilene, Taylor County, Texas, filed April 13, 2016
5. 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
6. Officer Patrick Sumrall and City of Abilene, Case No. 01-18-000-8653; Appeal of Indefinite Suspension to Arbitration, filed February 6, 2018
7. Tracy Kennedy and Richard Kennedy v. Katie Snell, Richard Perez, Thomas Bryant, John Doe 1, and John Doe 2; Case No. 1:18-cv-162, In the United States District Court, Northern District of Texas, Abilene Division, filed October 16, 2018
8. 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.
9. City of Abilene v. Patrick Sumrall; Cause No. 27,733-B, In the 104th Judicial District Court, Taylor County, Texas, filed May 28, 2019
10. Ovation Services, LLC v. Blanca Cortez, et al.; Case No. 11875-D; In the 350th Judicial District Court, Taylor County, Texas; filed July 15, 2019
11. 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
12. Maria Ramirez v. The City of Abilene; Cause No. 27880-B, In the 104th Judicial District Court, Taylor County, Texas; filed October 22, 2019
13. The State of Texas v. The Unknown Heirs of B.E. Caffey, Senior, et al., Cause No. 6939, Condemnation Proceeding filed in the County Court at Law No. 2, Taylor County, Texas, filed August 20, 2019

B. 551.072 (Deliberations about Real Property)

1. Clyde Water
2. Use of Eminent Domain for Cedar Creek Waterway

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
2. Windsor Hotel

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 meeting notice was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 15th day of November, 2019, at 4:00 p.m.

Shawna Atkinson, City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO:

FROM: Shawna Atkinson, City Secretary

SUBJECT: Minutes: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving the Minutes from the Regular Meeting Held on November 7, 2019 (Shawna Atkinson)

GENERAL INFORMATION

City Council is asked to approve the above-noted minutes.

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None.

STAFF RECOMMENDATION

Staff recommends approval of the item.

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 11-07-2019 Minutes - Regular - Morning



**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO: **Honorable Mayor and Council Members**

FROM: **Stanley Smith, City Attorney**

SUBJECT: **Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing the Honorable Keith A. Barton as Municipal Court Judge (Stanley Smith)**

GENERAL INFORMATION

Section 76 of the City Charter provides that the municipal court shall be presided over by a magistrate who shall be known as the judge of the municipal court. The Judge shall be a competent attorney who is licensed to practice law in the State of Texas and shall be a resident of the city during his term of office.

SPECIAL CONSIDERATIONS

The Judge of the Municipal Court shall be appointed by the Mayor with the approval of the Council for a term of two (2) years. Judge Barton has served as Judge of the Municipal Court since December 5, 1991, and his current appointment as judge ends December 7, 2019.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends the reappointment of the Honorable Keith A. Barton as Judge of the Abilene Municipal Court for an additional two year period.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2019 Resolution Appointing Municipal Court Judge - Keith Barton
2. Appoint Municipal Court Judge

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
REAPPOINTING THE HONORABLE KEITH A. BARTON MUNICIPAL COURT
JUDGE FOR A TERM OF TWO (2) YEARS.**

WHEREAS, Judge Keith A. Barton was originally appointed Municipal Court Judge on December 5, 1991; and,

WHEREAS, Section 76 of the Abilene City Charter provides that the Municipal Court Judge can be appointed for a term of two (2) years; and,

WHEREAS, the City Council of the City of Abilene is of the opinion that Keith A. Barton honorably served his community and should be reappointed for a new two (2) year term as Municipal Court Judge, beginning December 7, 2019.

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

PART 1: That the City Council of the City of Abilene hereby approves the Mayor's appointment of the Honorable Keith A. Barton as Municipal Court Judge for a term of two (2) years beginning on December 7, 2019.

PART 2: That this resolution shall take effect as of December 7, 2019.

ADOPTED this 21st day of November, A.D. 2019.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

**APPOINTMENT OF THE
HONORABLE KEITH A. BARTON AS
JUDGE OF THE ABILENE
MUNICIPAL COURT**





**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending the Texas A&M Forest Service Lease to Relocate their Leased Area at the Airport. (Don Green)

GENERAL INFORMATION

The Texas A&M Forest Service has a lease effective September 1, 2019 on Abilene Regional Airport to support its aerial firefighting operations. The Forest Service requested the ability for larger aircraft to operate at the airport, which can not be accommodated at the existing leased area due to weight restrictions of the concrete ramp. Airport Staff worked with Forest Service and Abilene Aero Staffs to find a new location.

This amendment contains relocation of the leased area to the northwest end of the Terminal Ramp, which can handle larger aircraft weights. The Forest Service will be responsible for the relocation of a section of Airport perimeter fence, a fire hydrant and any other necessary improvements to this new area.

SPECIAL CONSIDERATIONS

Abilene is located ideally for aircraft fire fighting in the region. The Forest Service's ability to operate larger aircraft at Abilene Regional Airport is a public safety benefit to the City and our region.

FUNDING/FISCAL IMPACT

The existing \$5,361.20/yr lease rate will not change.

This new area may result in increased traffic and larger aircraft, therefore, potentially increasing revenue from Fuel Flowage fees for aircraft fuel sales.

STAFF RECOMMENDATION

Staff recommends approval of this resolution.

BOARD OR COMMISSION RECOMMENDATION

The Airport Development Board recommended approval of the amendment to the lease with the Texas A&M Forest Service at its November 6, 2019 meeting.

ATTACHMENTS:

1. Forest Service Lease Amendment Resolution 11-21-19
2. Forest Service Lease Amendment Presentation

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AMENDING
A LAND LEASE WITH TEXAS A&M FOREST SERVICE AT ABILENE REGIONAL AIRPORT.**

WHEREAS, the City of Abilene (City) owns and operates Abilene Regional Airport; and

WHEREAS, the Airport intermittently but frequently has Texas A&M Forest Service aerial firefighting operations; and

WHEREAS, Texas A&M Forest Service (Forest Service) and City agreed to a three-year lease term with two one-year extension options effective September 1, 2019 that includes an annual lease fee of \$5,361.20 per year; and

WHEREAS, Forest Service has requested the City relocate the leased area to accommodate larger aircraft; and

WHEREAS, the City has suitable ground and ramp space available to accommodate this request with certain improvements funded by the Forest Service; and

WHEREAS, the Airport Development Board approved its recommendation to amend the lease at its November 6, 2019 meeting.

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

1. That the City Manager is authorized to amend the lease with Texas A&M Forest Service.
2. That this resolution takes effect immediately upon Council approval.

ADOPTED this 21st day of November 2019.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

Texas A&M Forest Service Airport Land Lease Relocation



- Texas A&M Forest Service has used Abilene Regional Airport to stage and operate contracted firefighting aircraft during times when wildfires are active in our region.
- City Council approved a three-year lease effective September 1, 2019 for land adjacent to the north end of the General Aviation Ramp.
- This concrete ramp in this area will not support the weight of larger aircraft that the Forest service has recently requested be allowed to operate at the airport.
- Airport, Forest Service and Abilene Aero staffs agreed that a portion of land adjacent to the northwest end of the Terminal Ramp would be more compatible.



- The terms of the existing lease will remain unchanged, but the leased premises will change
- The Forest Service will pay nominal rent of \$5,361.20 per year plus fuel flowage fees at the current rate.



Existing Lease Area



Relocated Lease Area:

Parcel Finder

Abilene / Taylor County GIS TCAD Taylor County, TX City of Abilene, TX

Find address or place

Measurement

Sq Feet (US)

Measurement Result

26,193.7 Sq Feet (US)

Clear

Press CTRL to enable snapping

Map data © OpenStreetMap contributors, CC-BY-SA, Imagery © Esri

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11/12/2019 12:27 PM

The screenshot shows a web browser window with multiple tabs. The active tab is 'Parcel Finder' from the City of Abilene. The URL is 'abilene.maps.arcgis.com/apps/webappviewer/index.html?id=c4ca3275de464602aa172a6bdf791bd3'. The application interface has a blue header with the title 'Parcel Finder' and navigation links for 'Abilene / Taylor County GIS', 'TCAD', 'Taylor County, TX', and 'City of Abilene, TX'. Below the header is a search bar with the placeholder text 'Find address or place'. To the left of the map are navigation controls including a home button, a search icon, and a measurement icon. A 'Measurement' window is open, showing a result of '26,193.7 Sq Feet (US)' with a 'Clear' button. The map itself is an aerial view of a residential area with a blue-outlined parcel. A north arrow is visible on the map. At the bottom of the map is a scale bar and coordinate information: '-99.601 32.413 Degrees'. The bottom of the browser window shows the Windows taskbar with various application icons and the system clock displaying '11/12/2019 12:27 PM'.



**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO: Robert Hanna, City Manager

FROM: Greg McCaffery

SUBJECT: Ordinance (First Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending Chapter 3, "Subdivision Regulations," Article II, "Subdivision Standards," Division I, "Adequate Public Facilities," Section 3.2.1.1, "General Policy," of the Abilene Land Development Code, by amending sections to change initial planning and installation responsibilities of street lights in new developments from the City of Abilene to developers; and setting a public hearing for December 5, 2019. *(Greg McCaffery)*

GENERAL INFORMATION

Currently, City of Abilene policy is for the taxpayers to pay for new street light installations at approximately \$5,000 to \$8,000 per street light. This policy of taxpayer-funded new street lights was adopted by City Council on April 22, 2010.

This ordinance amendment will improve efficiency for subdivision development by having all infrastructure installed at once, ideally prior to lot developments and construction of utilities, streets, sidewalks and curbs. This avoids developers and contractors having to cut and trench through newly placed streets and established lots to install streetlight infrastructure and facilities, thereby delivering a better end product for the developer, utility provider and the City.

The City of Abilene issues work orders for 10-20 street lights per year for new developments. Street lights in new developments specifically benefit the developments. Most peer cities require the developer to install and pay for the costs of new street lights within their development.

Reallocating the installation expense of new street lights to the developers will save Abilene

taxpayers approximately \$50,000 to \$100,000 annually.

SPECIAL CONSIDERATIONS

N/A

FUNDING/FISCAL IMPACT

Changing fiscal responsibility from taxpayers to developers will save taxpayers approximately \$50,000 to \$100,000 annually.

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. REV3_Street Lights Ordinance Amendment
2. PowerPoint_Pres_Ord_Amend_Street_Lights

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 3, “SUBDIVISION REGULATIONS,” ARTICLE II, “SUBDIVISION STANDARDS,” DIVISION I, “ADEQUATE PUBLIC FACILITIES,” SECTION 3.2.1.1, “GENERAL POLICY,” OF THE ABILENE LAND DEVELOPMENT CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW AND PROVIDING ADDITIONAL RESPONSIBILITY FOR DEVELOPER

WHEREAS, current Abilene policy, adopted April 22, 2010, is for the taxpayers to pay for new street light installations at approximately \$5,000 to \$8,000 per light, and

WHEREAS, street lights in new developments specifically benefit the developments, and

WHEREAS, most peer cities require the developer to install and pay for the costs of new street lights within their development, and

WHEREAS, there is a need to update the land development code to include relocating the installation expense of new street lights to developers of new subdivisions.

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

PART 1: That Chapter 3, Article II, Section 3.2.1.1 of the Abilene Land Management Code be amended as set out in Exhibit “A”, attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force or effect.

PART 3: That any persons, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine in accordance with Chapter 1 (Section 1-9) of this Code. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. 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 FIRST READING this 21st day of November, 2019.

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 1st day of December, 2019, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 4:30 p.m. on the 5th day of December, 2019, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 5th day of December, 2019.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Section 3.2.1.1. General Policy.

- (a) Adequate Service for Areas Proposed for Development. Land proposed for development in the City and in the City's extraterritorial jurisdiction must be served adequately by essential public facilities and services, limited to water facilities, wastewater facilities, transportation facilities, and drainage facilities, as set forth in this Article of this Chapter. Land shall not be approved for platting or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or off-site.
- (b) Responsibilities of the Developer. The subdivider shall pay all design, engineering, labor, and construction costs for facilities required by this LDC, except to the extent that this section specifically provides for full or partial payment by the City of Abilene. The provisions of this section shall apply to resubdivisions as well as to subdivisions. Specifically, the developer shall be responsible for the following:
- (1) Phasing of development or improvements to ensure provision of adequate public facilities;
 - (2) Extensions of public facilities and roadways (including any necessary on-site and off-site facilities) to connect to existing public facilities;
 - (3) Providing and/or procuring all necessary property interests, including rights-of-way and easements, for the facilities (whether on-site or off-site);
 - (4) Providing proof to the City of adequate public facilities;
 - (5) Making provisions for future expansion of the public facilities as needed to serve future developments, subject to the City's oversize participation policies, if applicable;
 - (6) Providing for all operations and maintenance of the public facilities, or providing proof that a separate entity will be responsible for the operations and maintenance of the facilities;
 - (7) Providing all fiscal security required for the construction of the public facilities;
 - (8) Obtaining approvals from the applicable utility providers other than the City; **and**
 - (9) Complying with all requirements of utility providers, including the City and applicable drainage districts; **and**
 - (10) **Designing, procuring, and installing street lights on all streets within the subdivision and along perimeter streets.**
 - a. **All street lighting installations shall conform to the standards of the City of Abilene.**

- b. Street lights shall be installed at intersections, curves, dead ends, and cul-de-sacs. Also, street lights shall be installed mid-block where spacing will exceed twelve hundred (1,200) feet. For arterials, as applicable, street lights shall be installed at a distance of three hundred (300) feet from each other. For collectors, as applicable, street lights shall be installed at a distance of four hundred (400) feet from each other. For local streets, as applicable, street lights shall be installed at a distance of six hundred (600) feet from each other. For corridors, as applicable, street lights shall be installed at a distance of three hundred (300) feet from each other.
- c. A street light plan shall be submitted during the platting process with proposal for street light placement. The city traffic engineer shall approve the street lighting plan and placement of street lights.
- d. The developer shall select and install all of the lines, poles, luminaries, and lamps required to comply with the approved street light plan.
- e. All street light infrastructures shall be in dedicated utility easements or rights of way.
- f. Installation procedures and acceptable standards for street lights shall be governed by design and specification standards of electric utility company serving the subdivision.
- g. The developer shall be responsible for the cost of street light installation including the cost of service lines to supply electricity to the street lights and all engineering costs not borne by the electrical service provider.
- h. Once satisfactorily installed, approved, and accepted, the street lights shall be dedicated to public use with maintenance of the street lights being provided by the City of Abilene. The electric company providing service to the area shall furnish electric energy to installed and dedicated street lights. The City of Abilene will pay the energy costs of dedicated street lights located within the incorporated city limits.
- i. A street lighting plan shall be developed for subdivisions in the Extra-Territorial Jurisdiction (ETJ), and any utility easements required to execute the plan shall be dedicated for public use. Installation of street lights will not be required; however, in preparation for future street light installation, necessary trenching and installation of the conduit to the location of required street light placement shall be accomplished by the developer, as required by the applicable street lighting plan. Waivers to the requirements of this paragraph for subdivisions in the ETJ shall be submitted with the applicable street lighting plan. The City Engineer may grant such a waiver. If the City Engineer denies the waiver, within 30 calendar days the developer may file a petition for waiver with the City Manager. The City Manager or designee shall grant or deny the waiver within 30 days of filing. If the City Manager or designee denies the waiver, the developer may file a petition for waiver in accordance with Chapter 1, Article 3, Division 4, Petition for Waivers, of this Land Development Code.

- (11) Nothing in this chapter shall be construed to require any dedication or construction that is not explicitly required by the standards within this Article.

Ordinance Amendment – Street Light Installations (First Reading)

(Greg McCaffery)

Street Light System

- City of Abilene currently oversees 9,747 street lights within the City Limits
- Each light costs the City approximately \$135 - \$140 per year to operate
- Historically, street lighting in Abilene has been used for pedestrian, private property safety, and non-vehicle traffic safety purposes

City of Abilene Street Light Policy

	Current	Proposed
Pays for Installation	City of Abilene	Developer
Placement	No Set System	Intersections Curves Dead Ends Cul-de-sacs
Arterial Spacing	No Set System	300 feet
Collector Street Spacing	No Set System	400 feet
Local Street Spacing	No Set System	600 feet
Corridor Street Spacing	No Set System	300 feet
Mid-block	No Set System	If Spacing Exceeds 1200 feet

Developer Street Light Participation

Currently, Abilene policy is for the taxpayers to pay for New Street Light installations, at \$5,000 to \$8,000 per light. This policy of taxpayer-funded new street lights was adopted by City Council on April 22, 2010.

The City issues work orders for 10-20 street lights per year for new developments. Street lights in new developments specifically benefit the developments. Most peer cities require the developer to install and pay for the costs of new street lights within their development.

Reallocating the installation expense of new street lights to the developer would save the Abilene taxpayers approximately \$50,000 to \$100,000 per year.

What are Sister Cities Doing?



Peer Cities Practices

Cities	Carrollton	Grand Prairie	Killeen	Midland	Odessa	San Angelo	Waco	Wichita Falls
Pays for Installation	Developer pays for materials and installation. Arterials: Developer pays 1/3 cost of adjacent properties.	Developer pays all cost of installation	Developer pays for materials, labor, engineering and running lines to electrical feed	Developer pays all up front cost for installation	Developer	City pays for standard wooden street light. Developer pays for electrical feed other pole types.	Developer pays for materials, labor, engineering and running lines to electrical feed	City handles everything in house if wooded poles are used. Developer pays for other types of poles.
Placement	Intersections Curves Cul-de-sacs Hazardous Areas	Intersections Curves	Intersections Curves Cul-de-sacs Spacing > 1200' Dead Ends	Intersections Sharp Curves Cul-de-sacs Spacing > 700'	Not Specified	Intersections Curves Cul-de-sacs Bridges	Intersections 1-mid block	Intersections Cul-de-sacs Spacing > 600'
Arterial and Collector Spacing	Min - 175' Max - 350'	Arterials - 200' to 280' Collectors - 400'	1200' Max Other spacing not specified	Not Specified	250'	150' - 200'	Not Specified	Not Specified
Local Street Spacing	Min - 175' Max - 350'	600'	1200' Max	Not Specified	250'	300' - 600'	Not Specified	Not Specified
Corridor	Min - 175' Max - 350'	200'	1200' Max	Not Specified	250'	150'	Not Specified	Not Specified
Mid-Block	Not Specified	Not Specified	If spacing exceeds 1200'	If spacing > 700'	Not Specified	300'	1 mid-block light	If > 600'

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: Ordinance (First Reading) CUP-2019-09: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Hudman Investment Group, agent Phillip Hill, for Conditional Use Permit to allow contractor services in General Commercial (GC) zoning district and located specifically at 118 North Pioneer Drive. (Mike Warrix)

GENERAL INFORMATION

The applicant is requesting a Conditional Use Permit to allow contractor services within General Commercial (GC) Zoning.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of this request by a vote of 5 -0.

AYES: Lankford, Bixby, Rosenbaum, Noonan, Famble

NAYS: None

ATTACHMENTS:

1. CUP-2019-09 Ordinance cover
2. CUP-2019-09 Council Ord Exhibit
3. CUP-2019-09 staff report
4. CUP-2019-09 Waiver
5. CUP-2019-09 Council Presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY APPROVING A CONDITIONAL USE PERMIT (CUP) AFFECTING CERTAIN PROPERTY; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

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

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by approving a Conditional Use Permit (CUP) as set out in 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 21st day of November A.D. 2019.

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 18th day of October, 2019, 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 p.m. on the 5th day of December, 2019, 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 5th day of December, A.D. 2019.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ZONING CASE CUP-2019-09

STAFF REPORT



REQUEST: Conditional Use Permit

APPLICANT:

Owner: Hudman Investment Group, LLC

Agent: Phillip Hill

HEARING DATES:

P & Z Commission: November 5, 2019

City Council 1st Reading: November 21, 2019

City Council 2nd Reading: December 5, 2019

LOCATION:

118 N. Pioneer Drive

Legal description: Lot 1 Continuation, Block N of Park Plaza Section 1

PROPOSAL AND REQUESTED ACTION:

The applicant is requesting a Conditional Use Permit to allow contractor services within General Commercial (GC) Zoning.

BACKGROUND:

In June of 1958, a building permit was issued to construct an office building at this location. Since that time the building has served a wide range of uses which include a beauty school, recreation center, paint store, vet clinic and most recently a business records management company. The subject property has been zoned General Commercial (GC) since at least 1974. Diamondback Painting LLC is seeking to utilize this location for contractor services, this use is permitted in General Commercial (GC) zoning with the approval of a Conditional Use Permit. Diamondback Painting wishes to utilize the existing building as a warehouse to store paint and painting supplies. The building will also serve as an office for clients to walk in for project bids or to pay for services.

ANALYSIS:

Criteria Analysis:

Staff has reviewed the request based upon the factors established for such review in Section 1.4.3.1, Criteria for Approval, of the Land Development Ordinance. These factors are identified and addressed below:

1. *The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan.*

Yes, the Comprehensive Plan designates the property to be located in close proximity to a "Major Commercial Business Center." The Comprehensive Plan details this area to "Provide the highest level of commercial, service, and employment concentration outside of downtown."

2. ***The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations.***

Yes, General Commercial (GC) Zoning is intended to provide a wide range of retailing activities, personal and business services, and other commercial activities. General Commercial (GC) district regulations are designed to permit development of commercial activities which are generally not appropriate within other commercial districts, such as NR and CB districts. (Section 2.3.3.9)

3. ***The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development-related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods.***

Yes, the proposed use will be compatible with and preserve the character and integrity of adjacent developments and neighborhood.

4. ***The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood.***

Yes, the proposed use will not generate pedestrian and vehicular traffic that will be hazardous or conflict with existing and anticipated traffic.

5. ***The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.***

No, the proposed use will not incorporate roadway adjustments, traffic control devices, mechanisms and access restrictions. However, there should be no increased traffic generated by the proposed use of the site.

6. ***The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties.***

The use of this property as a "Contractor Services" will be similar intensity as the previous uses found at this facility. This being said, it should not pose any adverse effects or visual impacts in comparison to what currently exist.

7. ***The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.***

Yes, the proposed use meets the standards for the zoning district.

Comprehensive Planning Analysis

The subject property is located within General Commercial (GC) zoning classification. According to the Land Development Code (Section 2.3.3.9), General Commercial (GC) zoning is designed to provide a wide range of retail activities, personal and business services, and other commercial activities. General Commercial (GC) Zoning is designed to allow

development of commercial activities which are generally not appropriate within other commercial districts, such as Neighborhood Retail (NR) and Central Business (CB). Furthermore, the lot is located near residential zoning and the intersection of two minor arterial streets (N. Pioneer Dr. and N. 1st St). According to the Land Development Code, good automobile and pedestrian accessibility such as this are essential within General Commercial (GC) zoning.

Existing Land Use

Location	Zoning	Existing Land Use
North	GC	Self-Storage
East	GC	Offices
South	GC	Automotive Sales
West	GC	Warehouse

STAFF RECOMMENDATION:

Staff recommends approval

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval by a vote of five to zero on November 5, 2019.

NOTIFICATION:

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

Owner	Situs	Response
4242 N 1ST LLC	4236 N 1ST ST	
4242 N 1ST LLC	4226 N 1ST ST	
4242 N 1ST LLC	4222 N 1ST ST	
4242 N 1ST LLC	4242 N 1ST ST	
4242 N 1ST LLC	4230 N 1ST ST	
AA ALPINE STORAGE ABILENE LLC	4220 N 1ST ST	
AA ALPINE STORAGE ABILENE LLC	4216 N 1ST ST	
AA ALPINE STORAGE ABILENE LLC	141 N PIONEER DR	
AA ALPINE STORAGE ABILENE LLC	125 N PIONEER DR	
AA ALPINE STORAGE ABILENE LLC	133 N PIONEER DR	
ALLSUPS CONVENIENCE STORE	102 N PIONEER DR	
CHAMBERLAIN TRUST	4502 N 1ST ST	
CORPIAN GARY LEE	4343 N 1ST ST	
G LAUGHLIN PARTNERS	490 N PIONEER DR	
G LAUGHLIN PARTNERS	490 A N PIONEER DR	
GOISHEN & SCHECHTER INC	4507 N 2ND ST	
GOISHEN & SCHECHTER INC	4617 N 2ND ST	
GOISHEN & SCHECHTER INC	4623 N 2ND ST	
GOISHEN & SCHECHTER INC	4609 N 2ND ST	
GOISHEN & SCHECHTER INC	4619 N 2ND ST	
GOISHEN & SCHECHTER INC	4503 N 2ND ST	
GOISHEN & SCHECHTER INC	4513 N 2ND ST	
GOISHEN & SCHECHTER INC	4621 N 2ND ST	
GOISHEN & SCHECHTER INC	4601 N 2ND ST	
GOISHEN & SCHECHTER INC	4625 N 2ND ST	
GOISHEN & SCHECHTER INC	4511 N 2ND ST	
GOISHEN & SCHECHTER INC	4603 N 2ND ST	
GOISHEN & SCHECHTER INC	4501 N 2ND ST	
GOISHEN & SCHECHTER INC	4605 N 2ND ST	
GOISHEN & SCHECHTER INC	4615 N 2ND ST	
GOISHEN & SCHECHTER INC	4611 N 2ND ST	
GOISHEN & SCHECHTER INC	4607 N 2ND ST	
GOISHEN & SCHECHTER INC	4627 N 2ND ST	
GOISHEN & SCHECHTER INC	4613 N 2ND ST	
GOISHEN & SCHECHTER INC	4629 N 2ND ST	
GOISHEN & SCHECHTER INC	4505 N 2ND ST	
GOISHEN & SCHECHTER INC	4631 N 2ND ST	
GOISHEN & SCHECHTER INC	4509 N 2ND ST	
HUDMAN INVESTMENT GROUP LLC	118 N PIONEER DR	
JACKSON HULL & CO INC	100 N JEFFERSON DR	
R2J2 VILLAGE WEST	201 N JEFFERSON DR APT B	
R2J2 VILLAGE WEST	201 N JEFFERSON DR APT A	
R2J2 VILLAGE WEST	201 N JEFFERSON DR APT D	
R2J2 VILLAGE WEST	201 N JEFFERSON DR APT C	
R2J2 VILLAGE WEST	125 N JEFFERSON DR APT A	
R2J2 VILLAGE WEST	125 N JEFFERSON DR APT C	
R2J2 VILLAGE WEST	125 N JEFFERSON DR APT D	
R2J2 VILLAGE WEST	125 N JEFFERSON DR APT B	
R2J2 VILLAGE WEST	133 N JEFFERSON DR APT C	
R2J2 VILLAGE WEST	133 N JEFFERSON DR APT A	
R2J2 VILLAGE WEST	133 N JEFFERSON DR APT B	
R2J2 VILLAGE WEST	133 N JEFFERSON DR APT D	
THOMAS FREDDY LEE JR	4498 N 1ST ST	
YOCOM MATTHEW A	4300 N 1ST ST	

Case # CUP-2019-09
Updated: October 10, 2019





Development Application

Planning

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

Project Name: _____
 Address: 118 N Pioneer No. of lots: _____ Acreage: .38
 Legal Description: Park Plaza Sec 1, Block N, Lot 1
 Subdivision Name: Park Plaza Block: N Lot: 1
 Current Zoning: GC Proposed Zoning (if applicable): _____

OWNER AND AUTHORIZATION

Owner Name: Hudman Investment Group, LLC
 Address: 717 Bacalita Farms Rd Abilene, TX 79602
 City, State, Zip: Abilene, TX, 79602 Fax: _____
 Phone: 325-439-8102 Email: hudmaninvestmentgroup@gmail.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) Phillip Hill will act as my agent before the Planning and Zoning Commission.

Agent Name: Phillip Hill
 Address: 5849 Buffalo Gap Rd Ste B-2
 City, State, Zip: Abilene Texas 79606 Fax: _____
 Phone: 325-669-5153 Email: phillhillrealtor@gmail.com

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

Signature Owner: _____ Date: 10/10/19

FOR OFFICE USE ONLY

Received: CS Fee: \$ 1,500 Receipt No.: 0001047485
 Case No.: CUP-2019-01 Reviewed By: Jared Smith



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.

Diamondback Painting LLC has this property under contract to purchase. This will be a contractor service type business. To do so they will need a conditional use permit. The property will be used for paint and painting supplies warehousing. As well as office staff including a project manager, bookkeeper, person in charge of marketing, as well as the owner. Persons will have the ability to come in to pay for services or to recieve bids for painting services.

City of Abilene, Texas Department of Planning and Dvlpmnt. Services
memorandum

to: file on Conditional Use Permit case number CUP-2019-09
from: Mike Warrix, Director of Planning and Development Services
date: October 25 2019
subject: application for permission to use property at 118 North Pioneer Drive (in General Commercial zoning district) for building contractor services

Property at 118 North Pioneer Drive has long been occupied, in its entirety, by a commercial building and adjacent pavement. This pavement is suitable for customer and employee parking as well as truck loading and unloading. Practically no unimproved (grass-covered) surfaces remain on this site.

Planned occupancy of these existing facilities, by a contractor service business, is **not** expected to result in any substantial alteration to the existing appearance or utility of this property.

As a result, **no site plan or graphic concept plan of proposed development will be necessary**, in conjunction with this requested Conditional Use Permit.



Mike Warrix,
Director of Planning and Development Services,

Case: CUP-2019-09
Applicant: Hudman Investment Group
Agent: Phillip Hill, Realtor
Request: Conditional Use Permit for
contractor services
Location: 118 N. Pioneer Drive
Notification: 0 in Favor, 0 Opposed
Planning & Zoning Approval: November 5, 2019



CUP-2019-09 ZONING MAP



Permitted Uses in GC Zoning

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





- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Consistent with General Land Use and Zoning Character of Immediate Area (Section 2.3.3.9)
- Reviewed Pursuant to Section 1.4.3.1 of Land Development Code (Criteria for Approval)
- Staff Recommendation: **Approval**
- Planning & Zoning Recommendation: **Approval**



CUP-2019-09 NOTIFICATION AREA MAP



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: Ordinance (First Reading) CUP-2019-10: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Reynaldo and Ixel Smith, for Conditional Use Permit to allow a home-based daycare for more than six children (other than caregivers' own children) in Agricultural Open Space (AO) zoning district and located specifically at 6605 Maple Street. (Mike Warrix)

GENERAL INFORMATION

The applicant is requesting a Conditional Use Permit to allow a home-based daycare for more than six children (other than caregivers' own children) in Agriculture Open Space (AO) Zoning.

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.

AYES: Lankford, Bixby, Rosenbaum, Noonan, Famble

NAYS: None

ATTACHMENTS:

1. CUP-2019-10 Ordinance cover
2. CUP-2019-10 Council Ord Exhibit
3. CUP-2019-10 Council staff report
4. CUP-2019-10 CUP Waiver
5. CUP-2019-10 Council Presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY APPROVING A CONDITIONAL USE PERMIT (CUP) AFFECTING CERTAIN PROPERTY; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

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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 21st day of November A.D. 2019.

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 18th day of October, 2019, 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 5th day of December, 2019, 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 5th day of December, A.D. 2019.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Conditional Use Permit (CUP) to allow a home based daycare for more than six children (other than caregiver's own children) in Agriculture Open Space (AO) Zoning.

Legal description:

Legal description: Lot 16 in Continuation No. 2 of Kings Hill Subdivision and an additional 0.94 acre directly to north and out of northwest quarter of Lunatic Asylum Lands Section 8 in Abilene, Taylor County, Texas



Location: 6605 Maple Street

-END-

ZONING CASE CUP-2019-10

STAFF REPORT



REQUEST: Conditional Use Permit

APPLICANT:

Owner: Reynaldo & Ixel Smith

HEARING DATES:

P & Z Commission: November 5, 2019

City Council 1st Reading: November 21, 2019

City Council 2nd Reading: December 5, 2019

LOCATION:

6605 Maple St.

Legal description: Lot 16 in Continuation No. 2 of Kings Hill Subdivision and an additional 0.94 acre directly to north and out of northwest quarter of Lunatic Asylum Lands Section 8 in Abilene, Taylor County, Texas

PROPOSAL AND REQUESTED ACTION:

The applicant is requesting a Conditional Use Permit to allow a home-based daycare for more than six children (other than caregivers' own children) in Agriculture Open Space (AO) Zoning.

BACKGROUND:

The subject property was annexed into the City of Abilene in 2009 at which time the property was placed into the present day default zoning of Agricultural Open Space (AO). In July of 2010, a building permit was issued to construct a single family residence at this location. The homeowners are applying for a Conditional Use Permit to allow more than six children to be placed in their care at the currently existing home based day care operation.

ANALYSIS:

Criteria Analysis:

Staff has reviewed the request based upon the factors established for such review in Section 1.4.3.1, Criteria for Approval, of the Land Development Ordinance. These factors are identified and addressed below:

1. *The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan.*

Yes, the proposed use will promote the Comprehensive Plan's objective of allowing a mixture of land uses integrated within residential districts which will shorten automobile trips and promote pedestrian and bicycle accessibility. Additionally, it will achieve the Comprehensive Plan's goal for neighborhoods by allowing access to public services which benefit surrounding residents.

2. *The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations.*

Yes, home based daycare operations are permitted within Agricultural Open Space (AO) Zoning. Such use is permissible by right for operations with 6 children or less and permitted with the approval of a Conditional Use Permit if the operation is to exceed 6 children (Section 2.4.3.2)

3. *The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development-related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods.*

Yes, the proposed use will be compatible with and preserve the character and integrity of adjacent developments and neighborhood.

4. *The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood.*

Yes, the proposed use will not generate pedestrian and vehicular traffic that will be hazardous or conflict with existing and anticipated traffic.

5. *The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.*

No, the proposed use will not incorporate roadway adjustments, traffic control devices, mechanisms and access restrictions. However, it should be noted that Maple Street is considered a major arterial and is suitable to handle the possible increase in vehicle traffic.

6. *The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties.*

The use of this property as a “Day Care Operation – Home Based” should not pose any adverse effects or visual impacts in comparison to what currently exist.

7. *The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.*

Yes, the proposed use meets the standards for the zoning district.

Comprehensive Planning Analysis

The subject property is located within Agricultural Open Space (AO) zoning classification. According to the Land Development Code (Section 2.3.2.1), this zoning is designed to allow some dwelling and accessory uses, as well as conditional uses (such as this) as outlined in the Land Use Matrix (2.4.2.1). This lot is located within a residential area and the proposed use will be an intensity which should not pose any adverse effects or visual impacts that will negatively affect the neighboring residences. Furthermore, the lot is located along Maple Street which is considered a major arterial road suitable to handle a possible increase in vehicle traffic.

Existing Land Use

Location	Zoning	Existing Land Use
North	PD 105	Single Family Residences
East	RS-6	Single Family Residences
South	AO	Single Family Residences
West	AO	Lake Kirby Park

STAFF RECOMMENDATION:

Staff recommends approval

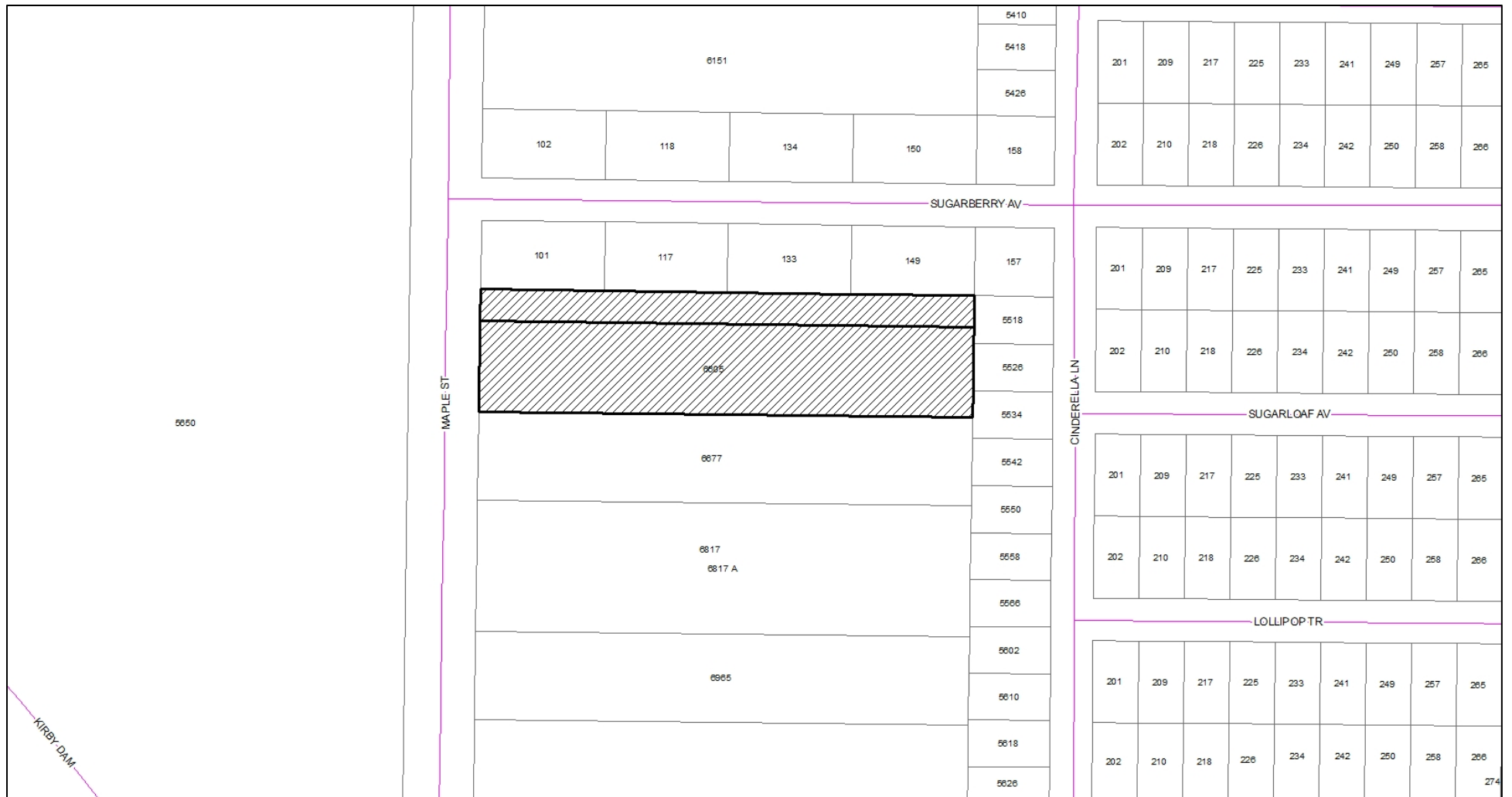
PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval by a vote of five to zero on November 5, 2019.

NOTIFICATION:

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

Owner	Situs	Response
AMERSON JACK R JR	5542 CINDERELLA LN	
BALLARD MINDY L	150 SUGARBERRY AV	
BRADFORD AIMEE	5526 CINDERELLA LN	
BUTCHER SPENCER A & KATHY L	6817 A MAPLE ST	
BUTCHER SPENCER A & KATHY L	6817 MAPLE ST	
CANNON STEVEN J & CALLI D	158 SUGARBERRY AV	
CITY OF ABILENE	5650 MAPLE ST	
CONN WAYNE STEPHEN	101 SUGARBERRY AV	
COPELAND DEREK T & KAITLYN R	5518 CINDERELLA LN	
CUSTER ROBERT J & SHERYL L	5534 CINDERELLA LN	Opposed
FEDERAL HOME LOAN MORTGAGE CORP	201 SUGARBERRY AV	
GALLOW MARVIN A JR	117 SUGARBERRY AV	
HALFMANN GARY J & KIMBERLY D	6677 MAPLE ST	In Favor
HARRIS RANDY & BRENDA L	133 SUGARBERRY AV	
HASELL DEREK	5558 CINDERELLA LN	
KELLNER SHARON	201 SUGARLOAF AV	
KIMIONAKIS MICHAEL	118 SUGARBERRY AV	
ROBERTS CHARITY	202 SUGARLOAF AV	
SANBORN DORIS J	157 SUGARBERRY AV	
SCHILZ NATHANIEL FREDERICK & TONI	134 SUGARBERRY AV	
SMITH IXEL		
SMITH REYNALDO & IXEL	6605 MAPLE ST	
STOGSDILL CHRISTIAN E &	5550 CINDERELLA LN	
THORNTON TIMOTHY J	149 SUGARBERRY AV	
WIDENER JEFFREY A	102 SUGARBERRY AV	In Favor





Development Application

Planning

☒ Conditional Use

☐ Easement Release

☐ Rezoning

☐ Other

☐ PDD

☐ Street Name Change

☐ Thoroughfare Abandonment

☐ PDD Amendment

Other: _____

Project Name: Ixel Daycare
 Address: 6605 Maple St No. of lots: 2 Acreage: 3.294
 Legal Description: HOME BASE DAYCARE operation
 Subdivision Name: Kings Hills Block: _____ Lot: 16, Cont 2
 Current Zoning: A0 Proposed Zoning (if applicable): _____

OWNER AND AUTHORIZATION

Owner Name: REYNALDO & Ixel Smith
 Address: 6605 Maple St
 City, State, Zip: Abilene TX 79602 Fax: (325) 232-9081
 Phone: (325) 320-4340 Email: ixel.smith@gmail.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) _____ will act as my agent before the Planning and Zoning Commission.

Agent Name: _____
 Address: _____
 City, State, Zip: _____ Fax: _____
 Phone: _____ Email: _____

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: X Reynaldo Smith Date: 4 Oct 19

FOR OFFICE USE ONLY

Received: 10/4/2019 Fee: \$ 1500 Receipt No.: 0001047487
 Case No.: CVP-2019-10 Reviewed By: Sarah Smith

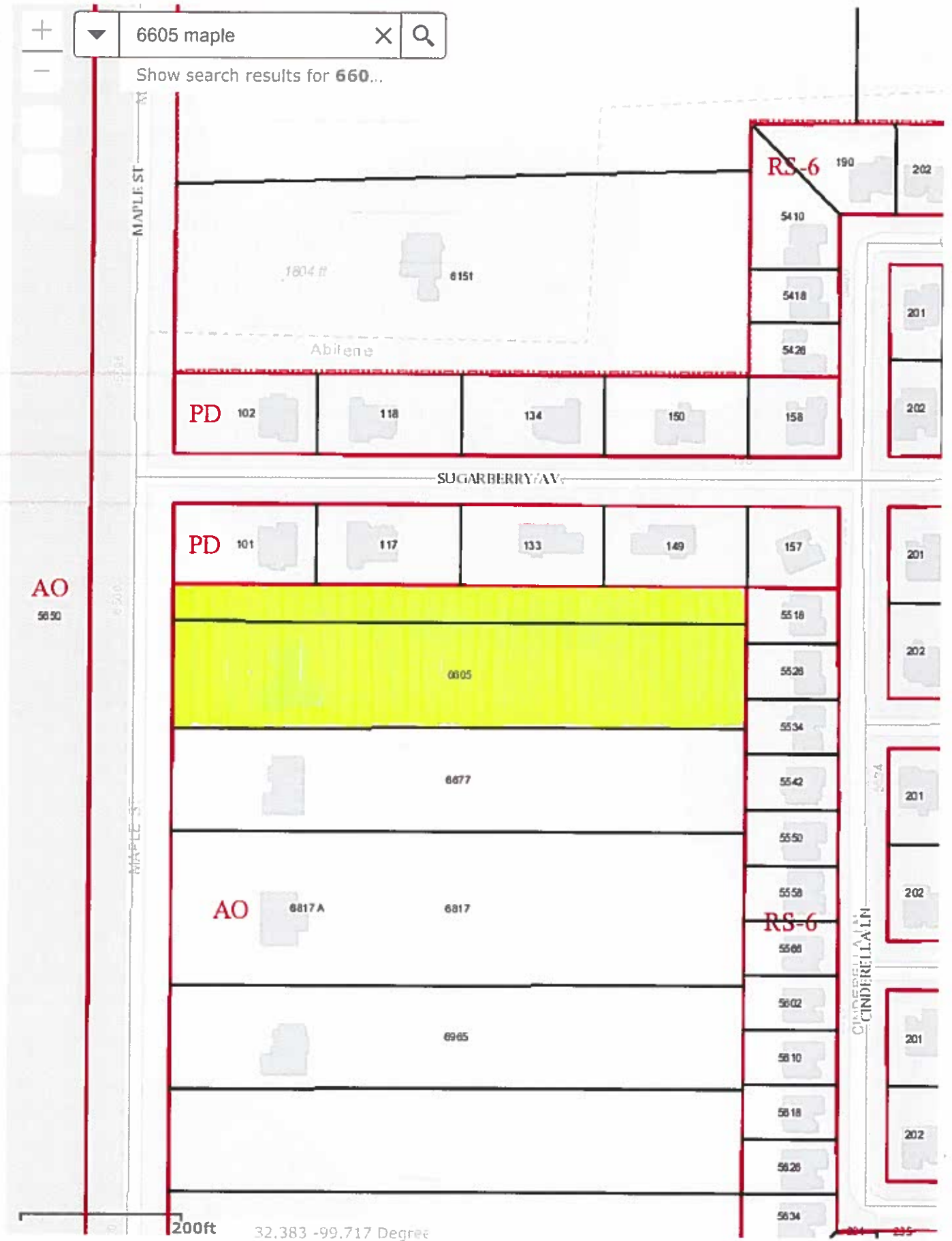


Development Application

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.

My home is currently used partially for providing child care service in the community. I have been caring for children at current location 6605 Maple st for over 10 yrs. I provide care for Dyess & local community families who need child care service. I meet all Dyess & local registered requirements also continued training courses for additional requirements. I'm currently working on Day Care accreditation licensing and currently in the right star program. Please consider me for a home care license provider in the local Abilene community.



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

NOV 1 AM 10:08

CASE #: CUP-2019-10

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: CUSTER ROBERT J & SHERYL L

Address: 5534 CINDERELLA LN

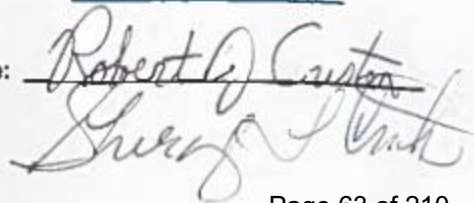
Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature:



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

CASE #: CUP-2019-10

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: WIDENER JEFFREY A
Address: 102 SUGARBERRY AV

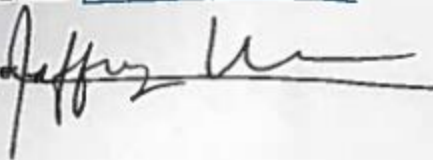
Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒
Additional Comments:

I am opposed ☐

Signature



RE: Rezoning Application Number CUP-2019-10

It is unfortunate that I am out of town during this public hearing. However, being a resident within notification boundary adjacent to proposed conditional use permit, I want to voice my opinion regarding my approval or denial.

My family and I have lived next to the Smiths for many years. During that time, they have operated their in-home day care very professionally and have never given us a reason not to support their services. We have not had children under their care, but I would highly recommend them to anyone looking for an at home daycare provider.

If I would have any concerns regarding increased child enrollment at their home, it would be that there is very limited vehicular access on their driveway. Between a restrictive driveway and excessive personal vehicles, I would recommend a site evaluation be conducted to accommodate a safer loading and unloading of children on premises.

All-in-all, I voice my approval of the proposed Conditional Use Permit.

Sincerely,



Gary Halfmann
6677 Maple St.
Abilene, TX. 79602

City of Abilene, Texas Department of Planning and Dvlpmnt. Services
memorandum

to: file on Conditional Use Permit case number CUP-2019-10
from: Mike Warrix, Director of Planning and Development Services
date: October 23 2019
subject: application for permission to use property at 6605 Maple Street, for home-based day care of more than 6 children (other than caregivers' own children)

Since 2010, property at 6605 Maple Street has been occupied by a single-family residence on 2+ acres of land in an Agricultural Open Space (AO) zoning district.

As now planned, expanded use of this property for home-based day care will **not** require enlargement of this residence nor any other improvements located thereon.

As a result, **no site plan or graphic concept plan of proposed development will be necessary**, in conjunction with this requested Conditional Use Permit.



Mike Warrix,
Director of Planning and Development Services,

Case: CUP-2019-10
Applicant: Ixel Day Care
Agent: Reynaldo & Ixel Smith
Request: Conditional Use Permit to allow a home-based daycare for **more than six children** (other than caregivers' own children)
Location: 6605 Maple Street
Notification: 2 in Favor, 1 Opposed
Planning & Zoning Approval: November 5, 2019



CUP-2019-10 ZONING MAP



Permitted Uses in AO Zoning

RESIDENTIAL USES:

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

ACCESSORY AND INCIDENTAL USES:

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

CULTURAL AND RECREATIONAL USES:

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

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

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

EDUCATIONAL AND RELIGIOUS USES:

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

SERVICE

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

TRADE – RETAIL USES

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

TRANSPORTATION, COMMUNICATION AND UTILITIES:

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

RESOURCE PRODUCTION AND EXTRACTION USES:

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

****Conditional Use Permit to allow a home-based daycare for **more than six children** (other than caregivers' own children) in Agricultural Open Space (AO) zoning district**

LEGEND

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

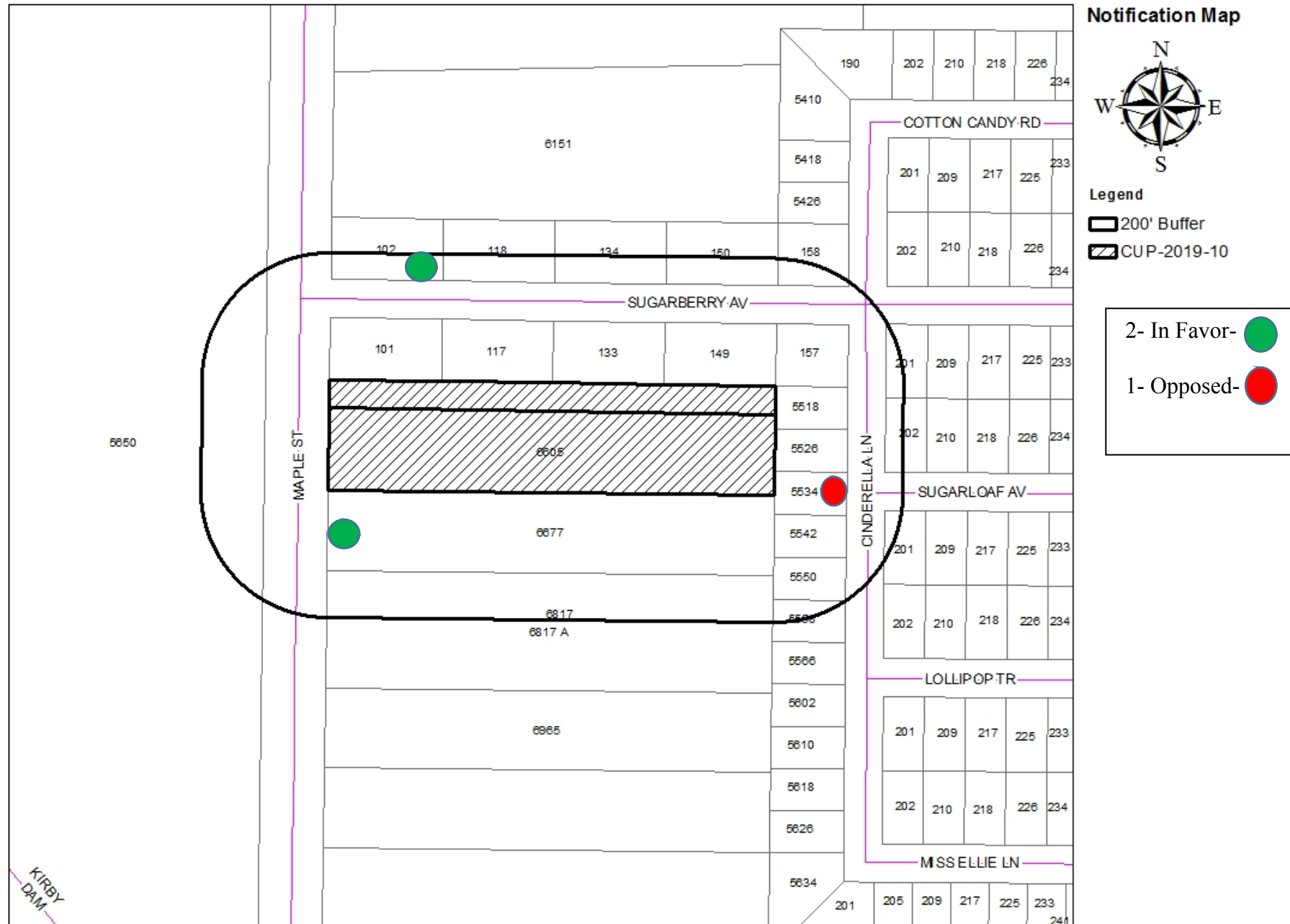




- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Consistent with General Land Use and Zoning Character of Immediate Area (Section 2.3.3.2)
- Reviewed Pursuant to Section 1.4.3.1 of Land Development Code (Criteria for Approval)
- Staff Recommendation: **Approval**
- Planning & Zoning Recommendation: **Approval**



CUP-2019-09 NOTIFICATION AREA MAP



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO: Mike Warrix, Director

FROM: Cheryl Sawyers, Planning Services Manager

SUBJECT: Ordinance (First Reading) Z-2019-27: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Sam Daggubati, agent Lauren Montgomery, to amend the existing Planned Development District Number 116, specifically by amending the graphic site plan (Exhibit B) guiding development on western 6.207 acres of this district including former Anson Jones Elementary School at 2002 Jameson Street. *(Mike Warrix)*

GENERAL INFORMATION

The property is the subject of potential development for “Quick Trip” fuel sales/convenience groceries store. Although fuel sales and convenience groceries are permissible uses in the most recent amendment to Planned Development 116, the exhibit illustrates only a small portion of this lot to be utilized as such. The use of approximately 6.207 acres of vacant land west of the former Anson Jones Elementary for strictly fuel sales and convenience groceries necessitates another amendment to Planned Development 116. This amendment shall provide an updated graphic concept plan illustrating this lot to be utilized only by fuel sales/convenience groceries.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval, contingent on development adhering to standards outlined within the Planned Development Ordinances.

BOARD OR COMMISSION RECOMMENDATION

The Planning & Zoning Commission recommends approval by a vote of 5 - 0.

AYES: Lankford, Bixby, Rosenbaum, Noonan, Famble

NAYS: None

ATTACHMENTS:

1. Z-2019-27 P&Z-recomm. PD ordin
2. Z-2019-27 Council Staff Report
3. Z-2019-27 Council Presentation

ORDINANCE NO. [REDACTED]

Comment [RGG1]: Page: 1
To be filled in by the City Secretary's
office.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE AND CONCERNING PD-116, A PLANNED DEVELOPMENT DISTRICT, AS WELL AS ORDINANCE NUMBERS 5-2007 AND 29-2013; 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 I: That the Land Development Code of the City of Abilene is hereby amended by repealing Ordinance Numbers 5-2007 and 29-2013 concerning PD 116 (a Planned Development District) and replacing them with terms and conditions set out in accompanying Exhibit "A" and Exhibit "B" concerning the same said PD 116, 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 Two Thousand Dollars (\$2,000.00). Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING the 21st day of November, A.D. 2019.

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 18th day of October, 2019, 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 5th day of December, 2019, 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 5th day of December, A.D. 2019.

ATTEST:

Shawna Atkinson
City Secretary

Anthony Williams,
Mayor

APPROVED:

Stanley Smith,
City Attorney

ORDINANCE NO. _____

Exhibit "A"

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

PART 2: Development Specifications. All use and development within this Planned Development District must be undertaken in compliance with the Land Development Code of the City of Abilene, except as otherwise specifically provided herein.

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

PART 4: Zoning. That the Land Development Code of the City of Abilene is hereby further amended by changing the zoning district boundaries, as hereinafter set forth, from Residential Single-Family (RS-6) District, to Planned Development (PD) District Number 116.

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

PART 5: Legal Description. The legal description of this Planned Development (PD) District Number 116 includes all of Block 1 in J.B. Collins Subdivision of Part of Block 26, North Park Addition to the City of Abilene, Taylor County, Texas.

PART 6: Purpose. The purpose of this Planned Development District is to facilitate redevelopment of a former elementary school site, allowing a limited range of retail trade activities, lodging facilities and residences (including multi-family residential buildings up to 3 stories high) as well as a variety of uses associated with an Indian Cultural Center.

PART 7: Specific Modifications: The use and development of this Planned Development District shall generally be subject to applicable requirements of the General Retail (GR) zoning classification, except as modified below:

I. PERMITTED USES

- A. Use of western approximately 6.207 acres of this Planned Development District shall be limited to convenience groceries and fuel sales.
- B. Use of remaining eastern approximately 4.124 acres of this Planned Development District shall be limited to:
 - hotel and motel buildings (up to 3 stories high);
 - multi-family residential buildings (up to 3 stories high);
 - two-family residences;
 - one-family residences;

places of worship;
museums;
medical clinic;
gift, novelty and souvenir sales;
restaurants, standard and fast-food (no drive-thru window);
bed-and-breakfast;
park and/or playground;
ballfields (noncommercial);
gymnasium;
youth organizations and centers.

II. SITE DEVELOPMENT

- A. Subdivision (inc. Resubdivision) of Land and Improvement of Related Public Facilities.** Subdivision and resubdivision of land in this Planned Development District shall be undertaken in conformance with Subdivision Regulations applicable at the time of subdivision or resubdivision. Amendment of this ordinance shall not be necessary for resubdivision; however, all above-described regulations regarding the use of land identified therein shall remain applicable to that land, unless such regulations are modified by amendment to this ordinance.
- B. Graphic Concept Plan.** Use and development of land in the western approximately 6.207 acres of this Planned Development District shall generally conform to that shown on plan sheet attached as Exhibit "B" to this ordinance.
- C. Site Development Standards.** Except as otherwise specified in this Subpart II, development of property in this entire Planned Development District shall comply with applicable standards of Chapter 4 (Site Development Standards) in Abilene's Land Development Code and as if the subject property remains in a General Retail zoning district.
- D. Signage.** Signage within this Planned Development District shall generally comply with provisions and limitations of Sign Regulations adopted by the City of Abilene and which are generally applicable to General Retail zoning districts, except as modified below:
- 1) Freestanding signs:
 - (a) Pole signs shall only be allowed to face in the direction of West Stamford Street, the eastbound frontage road for Interstate Highway 20.
 - (b) Monument signs shall be allowed along other street frontages with a maximum height of six feet (6') and a maximum allowable area of 60 square feet.
 - 2) Wall signs:
 - (a) Wall signage may not exceed ten percent (10%) of the area of any wall onto which such signs are attached.
 - 3) Banners:
 - (a) Banners shall only be located flat (or flush) against the face of a building and shall count toward the maximum allowable wall-mounted signage; however,

freestanding banners may be allowed for “grand opening” events but shall be in place for no more than 30 days from issuance of a Certificate of Occupancy for a building and/or use.

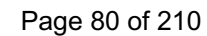
- 4) Prohibited signs:
- (a) portable signs;
 - (b) off-site advertising;
 - (c) streamers, pennants, balloons and other similar devices (including all air-inflated devices); and
 - (d) temporary signs and freestanding banners, except those specifically for “grand opening” events and in place for no more than 30 days from issuance of a Certificate of Occupancy for a building and/or use.

E. Landscaping and Land Use Buffer. In addition to landscaping generally required by Abilene’s Land Development Code, a masonry wall shall be required on the western 6.207 acres of this Planned Development District and specifically at or near the property line adjacent to Jameson Street, except where this property line is otherwise intersected by an approved driveway approach or sidewalk. Said masonry wall shall be at least six feet (6’) high with articulated segments offset at least two feet (2’) from one another and spaced at no more than fifty-foot-foot intervals.

F. Building Setbacks. New buildings (except for open-sided carports and/or porches) must be set back a minimum of 45 feet from the property boundary adjacent to right-of-way for Jameson Street.

G. Driveway Approaches (Ingress and Egress). Only one driveway access shall be permitted to and from Jameson Street, along the western approximately 6.207 acres of this Planned Development District. That one driveway approach shall be no more than 24 feet wide, measured at the driveway’s “throat” width along the property line. Signage must be placed at this one allowed driveway access to and from Jameson Street, to indicate that “NO TRUCK TRAFFIC PERMITTED.”

H. Minimum Parking Required. On the eastern approximately 4.124 acres of this Planned Development District, existing on-street angled parking may be counted toward minimum parking required (for new uses there) but only with approval of a street use license for such.



ZONING CASE Z-2019-27

STAFF REPORT



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

APPLICANT:

Owner: Sam Daggubati

Agent: Lauren Montgomery, of JGH Consultants

HEARING DATES:

P & Z Commission: November 5, 2019

City Council 1st Reading: November 21, 2019

City Council 2nd Reading: December 5, 2019

LOCATION:

2002 Jameson Street, including the vacant land covering the western portion of this lot.

Legal description: Block 1 of J.B. Collins Subdivision of Part of Block 26, North Park Addition to Abilene, Taylor County, Texas.

BACKGROUND:

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

Planned Development District 116 (PD 116) was approved in 2007. This original Planned Development District was amended in 2013 to include a graphic concept plan which included a mixture of uses. The amendment distinctly states all development must occur as shown on the provided site plan exhibit. This exhibit shows proposed hotel/motel buildings, multi-family residential, two-family residences and single-family residences as well as convenience groceries and fuel sales.

PROPOSAL AND REQUESTED ACTION:

The property is the subject of potential development for “Quick Trip” fuel sales/convenience groceries store. Although fuel sales and convenience groceries are permissible uses in the most recent amendment to Planned Development 116, the exhibit illustrates only a small portion of this lot to be utilized as such. The use of approximately 6.207 acres of vacant land west of the former Anson Jones Elementary for strictly fuel sales and convenience groceries necessitates another amendment to Planned Development 116. This amendment shall provide an updated graphic concept plan illustrating this lot to be utilized only by fuel sales/convenience groceries.

APPLICATION REVIEW:

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

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

The subject property is located near the intersection of Interstate Highway 20 and Old Anson Road. The Comprehensive Plan and traditional planning considers intersections of freeways and major arterial roads to be appropriate for retail purposes. Situating retail uses in this location also achieves the Comprehensive Plan's goal of promoting a mixture of land use, creating an appropriate blend of residential, retail, and employment activities.

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

City Council has previously approved a Planned Development to allow fuel sales and convenience groceries to be located within this lot. However, previously the site plan exhibit provided with the Planned Development Ordinances illustrates a multi-family residential complex effectively providing a land use buffer between these uses and the existing single family residences located south of Jameson Street. The use as fuel sales and convenience groceries will be appropriate in the immediate area of the subject property, however it is worth noting that potential nuisances associated with long haul truck traffic will be mitigated by development standards outlined in the newest Planned Development Ordinance amendments in an effort to protect the residences south of Jameson Street. Furthermore there is an existing fuel sales station adjacent the subject property across Old Anson Road.

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

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

The subject property has access to existing sewer and water mains. Therefore water and sewer capacity should not be a limiting factor to the development of this property. In addition the lot is located at the intersection of a major arterial road and Interstate 20 optimizing access to future development.

STAFF COMMENTS:

As described above properties located at the intersections of major arterial roads and expressways such as this are traditionally appropriate for retail use. Locations like this optimize public access and exposure necessary for success. Furthermore, this location will promote the Comprehensive Plan's objective of creating a mixture of land use that will shorten automobile trips while increasing pedestrian and bicycle accessibility. Additionally, the subject property falls within the Neighborhood Empowerment Zone. The Neighborhood Empowerment Zone seeks to promote redevelopment in areas of town that suffers from economic distress. There are concerns regarding possible nuisances associated with long haul truck traffic utilizing Jameson Street as well as the potential adverse visual impact of having a fuel sales/convenience grocery store in such close proximity to existing residences south of Jameson Street. The Planned Development Ordinances will outline development standards which will incorporate substantial land use buffering to screen this development from the existing residences as well as prohibit long haul truck traffic from traversing Jameson Street.

STAFF RECOMMENDATION:

Staff recommends approval, contingent on development adhering to standards outlined within the Planned Development Ordinances.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning & Zoning Commission recommended approval by a vote of five to zero on November 5, 2019.

NOTIFICATION:

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

Owner	Situs	Response
ALANIZ FERNANDO & CRYSTAL C	2002 COLLINS AV	
ALLSUPS CONVENIENCE STORES INC		
ALLSUPS CONVENIENCE STORES INC	2101 W STAMFORD ST	
ASSEMBLY OF GOD CHURCH	1902 JAMESON ST	
ASSEMBLY OF GOD CHURCH	1918 JAMESON ST	
BEASON DRENDA	2026 COLLINS AV	
BENGIS ERIC & JOANNA	2133 JAMESON ST	
BENGIS ERIC & JOANNA	2057 JAMESON ST	
BENGIS ERIC D & JOANNA I	2101 JAMESON ST	
BENNETT MELISSA A	1917 JAMESON ST	
CASTILLO RAMON R	1942 COLLINS AV	
CITY OF ABILENE	1909 W STAMFORD ST	
COOPER SHIRLEY J MYERS	1957 JAMESON ST	
DAGGUBATI SAM	2002 JAMESON ST BLDG C	
DAGGUBATI SAM	2002 JAMESON ST BLDG F	
DAGGUBATI SAM	2002 JAMESON ST BLDG E	
DAGGUBATI SAM	2002 JAMESON ST BLDG A	
DAGGUBATI SAM	2002 JAMESON ST BLDG B	
DAGGUBATI SAM	2002 JAMESON ST BLDG D	
DAGGUBATI SAM	3238 VICTORIA ST	
DAWKINS MILES A	2041 JAMESON ST	Opposed
DULANEY DEANNE J	1901 JAMESON ST	
FAIRCHILD KENT E & MARY A	2109 JAMESON ST	
FLORES ANDRES & MARY R	2066 COLLINS AV	
GONZALES OSCAR JR & TRACIE	2141 JAMESON ST	
GRAHAM STREET CHURCH OF CHRIST	2010 COLLINS AV	
HINOJOSA HOMER JR	1926 COLLINS AV	
JGN PROPERTIES LLC SERIES B	1933 JAMESON ST	
JOHNSON BOB J	1950 COLLINS AV	
JUAREZ EDWARD C & ELIZABETH D	2102 COLLINS AV	
JUAREZ EVERETT	2050 COLLINS AV	
LYALL DANIEL &	1949 JAMESON ST	
MARTIN JACKIE G JR	2033 JAMESON ST	
MARTIN PAUL G	2025 JAMESON ST	
MARTINEZ VELIA RODRIGUEZ	2049 JAMESON ST	
MC KEEVER SANDRA K	1925 JAMESON ST	

MC KEEVER SANDRA KAY	1941 JAMESON ST	
MC KINNON JOHNNY R	2009 JAMESON ST	
MERRIAM GARY WAYNE	2018 COLLINS AV	
NIETO JESSE JR	2001 JAMESON ST	Opposed
NIETO MELANIE MARIE	2017 JAMESON ST	
PAMPA INVESTMENT GROUP LP	3102 OLD ANSON RD	
PEREZ RODOLFO JR & ALISHA	2034 COLLINS AV	
RAMEY KENNETH D	2110 COLLINS AV	
RAMEY KENNETH D	2118 COLLINS AV	
SHAW SHAWNA	1958 COLLINS AV	
SNEARLY TOM	1909 JAMESON ST	
SOBHANI BOBACK	1918 COLLINS AV	
STONEHENGE INVESTMENTS LLC	1934 COLLINS AV	
STONEHENGE INVESTMENTS LLC	2042 COLLINS AV	
TORRES ISAAC &	2058 COLLINS AV	
VALERIO MARY LINDA	2125 JAMESON ST	Opposed
WEST KELLY D	2117 JAMESON ST	Opposed

ATTACHMENTS:

- Application
- Site Plan Exhibit
- PowerPoint



Development Application

Planning

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

Project Name: QuikTrip Number 7084
Address: 2002 Jameson Street No. of lots: 1 Acreage: 6.207
Legal Description: See attached legal description
Subdivision Name: J.B Collins Subdivision Block: _____ Lot: _____
Current Zoning: Planned Development District 116 Proposed Zoning (if applicable): _____

OWNER AND AUTHORIZATION

Owner Name: Sam Daggubati
Address: 1309 Hickory Street
City, State, Zip: Abilene, Texas 79601 Fax: _____
Phone: 325-673-1322 Email: drsdaggubati@gmail.com

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

Agent Name: Lauren Montgomery
Address: 4447 North Central Expressway, Suite 110
City, State, Zip: Dallas, Texas 75205 Fax: _____
Phone: 214.478.5414 Email: lauren@jghconsultants.com

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

Signature Owner: S. Daggubati Date: 9-12-19

FOR OFFICE USE ONLY

Received: 9-18-19 Fee: \$ 1000.00 Receipt No.: _____
Case No.: Z-2019-27 Reviewed By: Jared Smith



Development Application

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

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

The application is being submitted on behalf of QuikTrip Corporation for an amendment to the existing Planned Development District to permit motor vehicle and diesel fuel sales on a 6.207 acre tract of land at the southeast corner of Old Anson Road and Interstate Highway 20. Currently the site is undeveloped with an unoperating school adjacent to the site. The request does not encompass the school site. Other adjacent properties are motor vehicle fueling stations and single family residential. The applicant has proposed a 8,292 square foot one story building approximately 20 feet in height with ten motor vehicle fueling pumps, seven fuel pumps for transport vehicle fueling. To buffer adjacent land uses, the applicant has proposed a Type B landscape buffer along Jameson Street, as defined by Section 4.2.4.2 of the City of Abilene Zoning Code, with landscape and hardscape elements. Primary access into the site would be from Old Anson and the Interstate 20 Service Road for motor vehicles and the Interstate 20 Service Road for transport vehicles.

About QuikTrip, QuikTrip is a privately held company headquartered in Tulsa, Oklahoma. Founded in 1958, QuikTrip has over 800 stores in 11 states. With over 20,000 employees, and a growth strategy that promotes from within, Fortune has ranked QuikTrip on the list of Best Companies To Work For for fourteen years. Each new QuikTrip creates an average of 22 jobs per store, with the starting salary for clerks averaging \$13.92 per hour after 36 months of employment. The average store manager earns \$80,000 per year, with entry level pay for assistant store managers starting at \$45,000 per year. A strong corporate citizen, QuikTrip contributes 5% of its profits to charitable organizations in the communities which it operates. Every QuikTrip store is a designated Safe Place where at risk youth can come in, receive food and drink, and wait for a volunteer from a Safe Place agency partner to connect them to help. QuikTrip is a proud supporter of military members, employees and customers. As a partner with Folds of Honor QuikTrip provides scholarships to military families in the cities where QuikTrip operates stores, commissaries and distribution warehouses. Security at a QuikTrip facility is widely considered to be the best in the industry due to the surveillance systems paired with the commitment to providing a safe and secure operation.



-END-

CONCEPTUAL SITE PLAN

OFFICE / COMMERCIAL	(existing)	6,000 SF.	1 STORY
HOTEL	(proposed)	82 ROOMS	3 STORIES
EXTENDED STAY	(existing)	41 ROOMS	1 STORY
CONVENIENCE / FOOD COURT	(proposed)	9,900 SF.	1 STORY
APARTMENTS	(proposed)	60 UNITS (20 du./bldg.)	3 STORIES
COMMUNITY CENTER	(existing)	18,000 - 19,000 SF. (approx)	1 STORY

THE CONCEPTUAL SITE PLAN SHOWS GENERAL LOCATION OF BUILDINGS, PARKING, VEHICULAR CIRCULATION AND OTHER PROPOSED SITE IMPROVEMENTS. THE ACTUAL BUILDING LOCATIONS, DIMENSIONS, AND THE LAYOUT OF THE SITE MAY VARY AS THE DEVELOPMENT PROGRAM IS REFINED.

Dr. Sam Daggubatti
Abilene, Texas

ANSON JONES SCHOOL SITE ABILENE, TEXAS

	CLIENT	NA
	DATE	06.18.2013
	SCALE	1" = 60'
	DESIGN	
	APPROVAL	1

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NOTES

1. SIGNAGE WILL BE PLACED ON JAMESON STREET TO INDICATE "NO TRUCK TRAFFIC PERMITTED"
2. DRIVEWAYS ON W20 FRONTAGE ROAD ARE CONTINGENT ON TxDOT APPROVAL.

SITE DATA (QUIKTRIP STORE)

PROPOSED/EXISTING ZONING: PDD-116
PROPOSED USE: FUEL SALES

SITE AREA INFORMATION

GROSS AREA: 6.207 AC (270,378 SF)
NET AREA: 6.207 AC (270,378 SF)
QUIKTRIP BUILDING: 6,292 SF
PARCEL COVERAGE: 3.1%
PARKING REQUIRED: RETAIL=1 SPACE/500 SF=17 INCL. 1 ACCESSIBLE
PARKING PROVIDED: 76 INCL. 3 ACCESSIBLE

MAX. BUILDING HEIGHT: 1-STORY; 20'-0"

BEING A 3.07 ACRE TRACT OF LAND IN THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS PART OF THE REMAINING PORTION OF BLOCK NO. 1 OF THE 1/2 SECTION 36, NORTH 1/2 ADDITION TO THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS ACCORDING TO THE PLAT RECORDED IN VOLUME 2, PAGE 377 OF THE DEED RECORDS OF TAYLOR COUNTY, TEXAS BEING PART OF THE REMAINING PORTION OF THAT CALLED 32 ACRE TRACT OF LAND DESCRIBED IN A DEED TO TAYLOR COUNTY, TEXAS, DATED 5.27.1906, TRACT 32 LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BE BEGINNING AT 8 1/4 INCH BARS 1/2 SECTION 36, NORTH 1/2 ADDITION TO THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS, AND A CORNER 1/2 SECTION 36, NORTH 1/2 ADDITION TO THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS, BEING THE SOUTH LINE OF INTERSTATE HIGHWAY NO. 20 (VARIABLE WIDTH RIGHT OF WAY) OF 1945;

THENCE ALONG THE COMMON LINE BETWEEN THE REMAINING PORTION OF SAID BLOCK NO. 1, AND A CALLED 1/2 ACRE MORE OR LESS TRACT OF LAND DESCRIBED IN A DEED TO THE STATE OF TEXAS RECORDED IN VOLUME 572, PAGE 583 OF THE DEED RECORDS OF TAYLOR COUNTY, TEXAS, SAID POINT BEING LOCATED AT THE INTERSECTION OF THE NORTHWEST CORNER OF SAID BLOCK NO. 1, AND THE SOUTH LINE OF INTERSTATE HIGHWAY NO. 20 (VARIABLE WIDTH RIGHT OF WAY);

THENCE ALONG THE COMMON LINE BETWEEN THE REMAINING PORTION OF SAID BLOCK NO. 1, AND A CALLED 1/2 ACRE TRACT, SAID BEING THE SOUTH LINE OF SAID INTERSTATE HIGHWAY NO. 20, THE FOLLOWING COURSES AND DISTANCES:

NORTH 88 DEGREES 36 MINUTES 56 SECONDS EAST, 55.86 FEET TO A 1/2 INCH STEEL ROD SET WITH CAP STAMPED "1529 SURVEY" FOR CORNER SAID POINT BEING LOCATED AT THE INTERSECTION OF A CURVE TO THE RIGHT FROM WHICH A 1/2 INCH BARS 1/2 SECTION 36, NORTH 1/2 ADDITION TO THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS, BEING THE SOUTH LINE OF INTERSTATE HIGHWAY NO. 20 (VARIABLE WIDTH RIGHT OF WAY);

THE CURVE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 435.52 FEET, WITH A RADIUS OF 5984.88 FEET, WITH A CHORD BEARING OF NORTH 27 DEGREES 23 MINUTES 27 SECONDS EAST, WITH A CHORD LENGTH OF 435.41 FEET TO A 1/2 INCH STEEL ROD SET WITH CAP STAMPED "1529 SURVEY" FOR CORNER;

SOUTH 88 DEGREES 36 MINUTES 56 SECONDS WEST, 488.82 FEET TO A 1/2 INCH STEEL ROD SET WITH CAP STAMPED "1529 SURVEY" FOR THE NORTHEAST CORNER OF THIS DESCRIBED TRACT FROM WHICH A 1/2 INCH BARS 1/2 SECTION 36, NORTH 1/2 ADDITION TO THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS, BEING THE SOUTH LINE OF INTERSTATE HIGHWAY NO. 20 (VARIABLE WIDTH RIGHT OF WAY);

THENCE SOUTH 88 DEGREES 36 MINUTES 56 SECONDS WEST, 548.86 FEET TO CORNER SAID BLOCK NO. 1, AND A CALLED 1/2 ACRE TRACT, AND ALONG THE EAST LINE OF THIS DESCRIBED TRACT TO A 1/2 INCH STEEL ROD SET WITH CAP STAMPED "1529 SURVEY" FOR THE SOUTHWEST CORNER OF THIS DESCRIBED TRACT, SAID POINT BEING LOCATED IN THE COMMON LINE BETWEEN SAID BLOCK NO. 1, AND JAMESON ST. (80' RIGHT OF WAY);

THENCE SOUTH 88 DEGREES 36 MINUTES 56 SECONDS WEST, 705.33 FEET ALONG THE COMMON LINE BETWEEN SAID BLOCK NO. 1, AND JAMESON ST. SAID BEING THE SOUTH LINE OF SAID INTERSTATE HIGHWAY NO. 20 (VARIABLE WIDTH RIGHT OF WAY) TO A 1/2 INCH STEEL ROD SET WITH CAP STAMPED "1529 SURVEY" FOR THE SOUTHWEST CORNER OF SAID BLOCK NO. 1, AND A CALLED 1/2 ACRE TRACT, SAID POINT BEING LOCATED AT THE INTERSECTION OF THE NORTH LINE OF JAMESON ST. AND THE NORTHEAST CORNER OF SAID BLOCK NO. 1;

THENCE NORTH 88 DEGREES 36 MINUTES 56 SECONDS EAST, 55.86 FEET ALONG THE COMMON LINE BETWEEN SAID BLOCK NO. 1, AND OLD JAMESON RD. SAID BEING THE WEST LINE OF SAID 32 ACRE TRACT TO THE POINT OF BEGINNING AND CONTAINING 375.19 SQUARE FEET, OR 0.867 ACRES OF LAND;

BEARING, DISTANCES, AND BEARINGS ARE GIVE BASED UPON PLANE COORDINATE SYSTEM, 1983, NAD 83, NORTH CENTRAL, ZONE 4303.

INTERSTATE HIGHWAY NO. 20 FRONTAGE ROAD
(VARIABLE WIDTH RIGHT OF WAY)

ORDINANCE NO. _____

EXHIBIT "B"
PD 116: graphic concept plan

SCALE: 1"=100'



approximate scale: 1"=100'

40 20 0 40 80



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

[Planning]

2 messages

Cristina Nieto <cnieto@hawley.esc14.net>
To: planning@abilenetx.gov

Tue, Nov 5, 2019 at 8:21 AM

I am opposed of the case# Z-2019-27
My address is 2001 Jameson St
Jesse JR Nieto

--

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/CAEDiCcQo2FRht5iT%2B1jQnRK8HeSqaL8z1gbNfhfaad%2BoRzY0ZA%40mail.gmail.com>.

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

Tue, Nov 5, 2019 at 8:22 AM

Keep this for the record. I'll update the ppt.

[Quoted text hidden]

--



Zack Rainbow
Assistant Director/ Historic Preservation Officer
Planning & Development Services
Physical Address: 555 Walnut Street, Suite 110
Abilene, Texas 79601-5254
Mailing Address: Post Office Box 60
Abilene, Texas 79604-0060
(325) 676-6234 (Office)

OCT 31 AM 10:45

CASE #: Z-2019-27

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: DAWKINS MILES A
Address: 2041 JAMESON ST

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

Email: planning@abilenetx.gov

I am in favor ☐

I am opposed ☒

Additional Comments:

Signature:

Miles A Dawkins
Patsy H. Dawkins

*I trust Mr. Dagubati would not
like to live with a gas station
in his front yard.*

For the Planning and Development Commission
Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2019-27

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: WEST KELLY D

Address: 2117 JAMESON ST

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

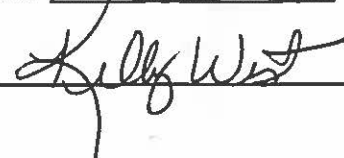
Email: planning@abilenetx.gov

I am in favor ☐

I am opposed ☒

Additional Comments:

Signature: _____



For the PLANNING AND DEVELOPMENT SERVICES
Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2019-27

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: VALERIO MARY LINDA

Address: 2125 JAMESON ST

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

Email: planning@abilenetx.gov

I am in favor ☐

I am opposed ☒

Additional Comments:

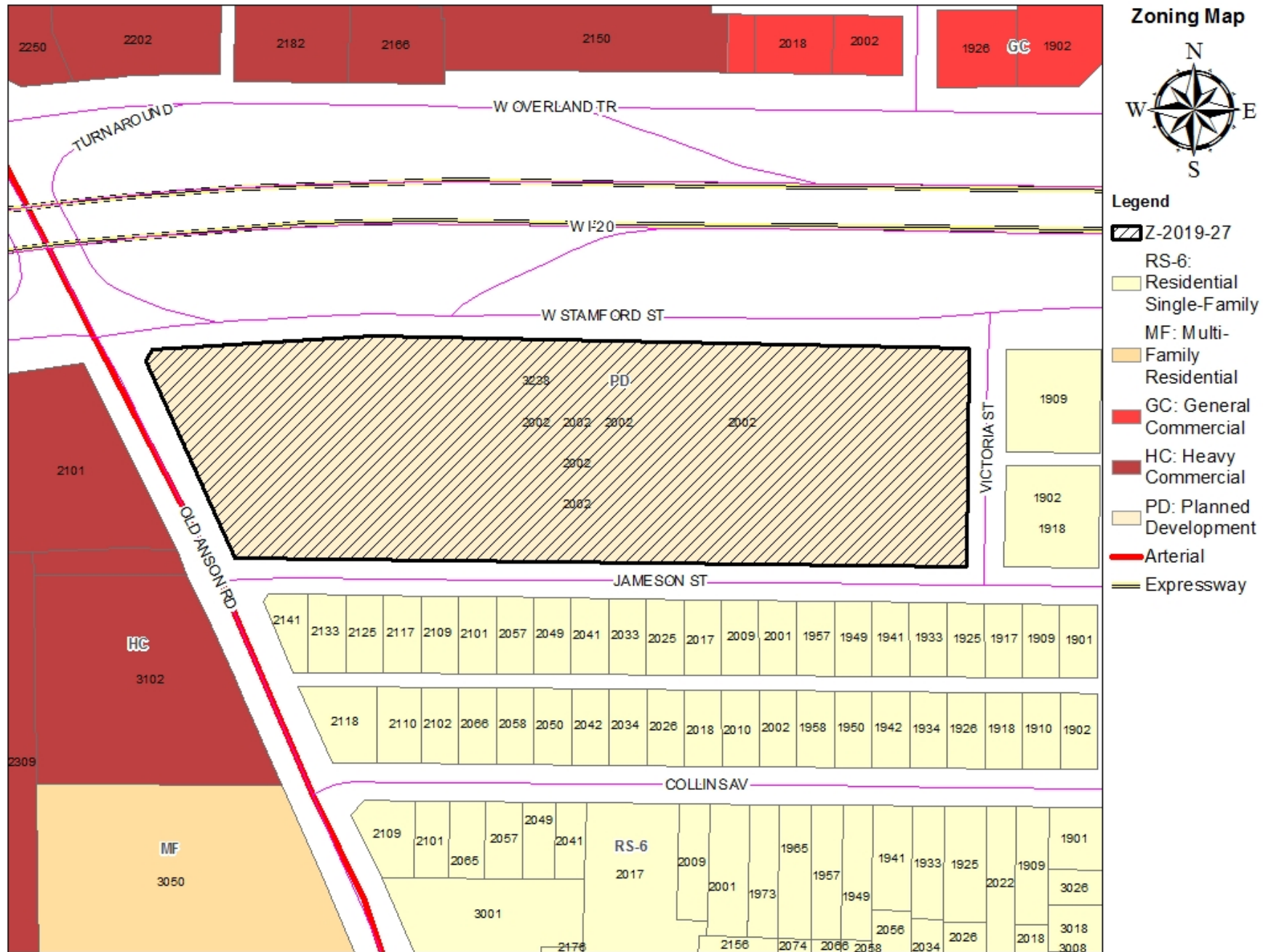
Signature:

Mary Linda Valerio

Case: Z-2019-27
Applicant: Sam Daggubati
Agent: Lauren Montgomery, Consultant
Request: Amend PDD 116
Location: 2002 Jameson Street
Notification: 0 in Favor, 4 Opposed
Planning & Zoning Approval: November 5, 2019



Z-2019-27 ZONING MAP





—END—

ORDINANCE NO. 29-2013
EXHIBIT "B"

CONCEPTUAL SITE PLAN

OFFICE / COMMERCIAL	(existing)	6,000 SF.	1 STORY
HOTEL	(proposed)	82 ROOMS	3 STORIES
EXTENDED STAY	(existing)	41 ROOMS	1 STORY
CONVENIENCE / FOOD COURT	(proposed)	9,900 SF.	1 STORY
APARTMENTS	(proposed)	60 UNITS (20 du./bldg.)	3 STORIES
COMMUNITY CENTER	(existing)	18,000 - 19,000 SF. (approx)	1 STORY

THE CONCEPTUAL SITE PLAN SHOWS GENERAL LOCATION OF BUILDINGS, PARKING, VEHICULAR CIRCULATION AND OTHER PROPOSED SITE IMPROVEMENTS. THE ACTUAL BUILDING LOCATIONS, DIMENSIONS, AND THE LAYOUT OF THE SITE MAY VARY AS THE DEVELOPMENT PROGRAM IS REFINED.

Mr. Sam Daggubatti
Abilene, Texas

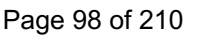
ANSON JONES SCHOOL SITE
ABILENE, TEXAS



ILM DESIGN GROUP, LLC
1250 GERMANTOWN PKW. SUITE 302
PLYMOUTH MEETING, PA 19462
p: 610.277.9900 f: 610.277.9902
email: info@ilmdesigngroup.com

Drawn	NA
Date	06.18.2013
Scale	1" = 60'
Sheet	1







2002 Jameson Street from northwest corner



Neighboring Property to the east



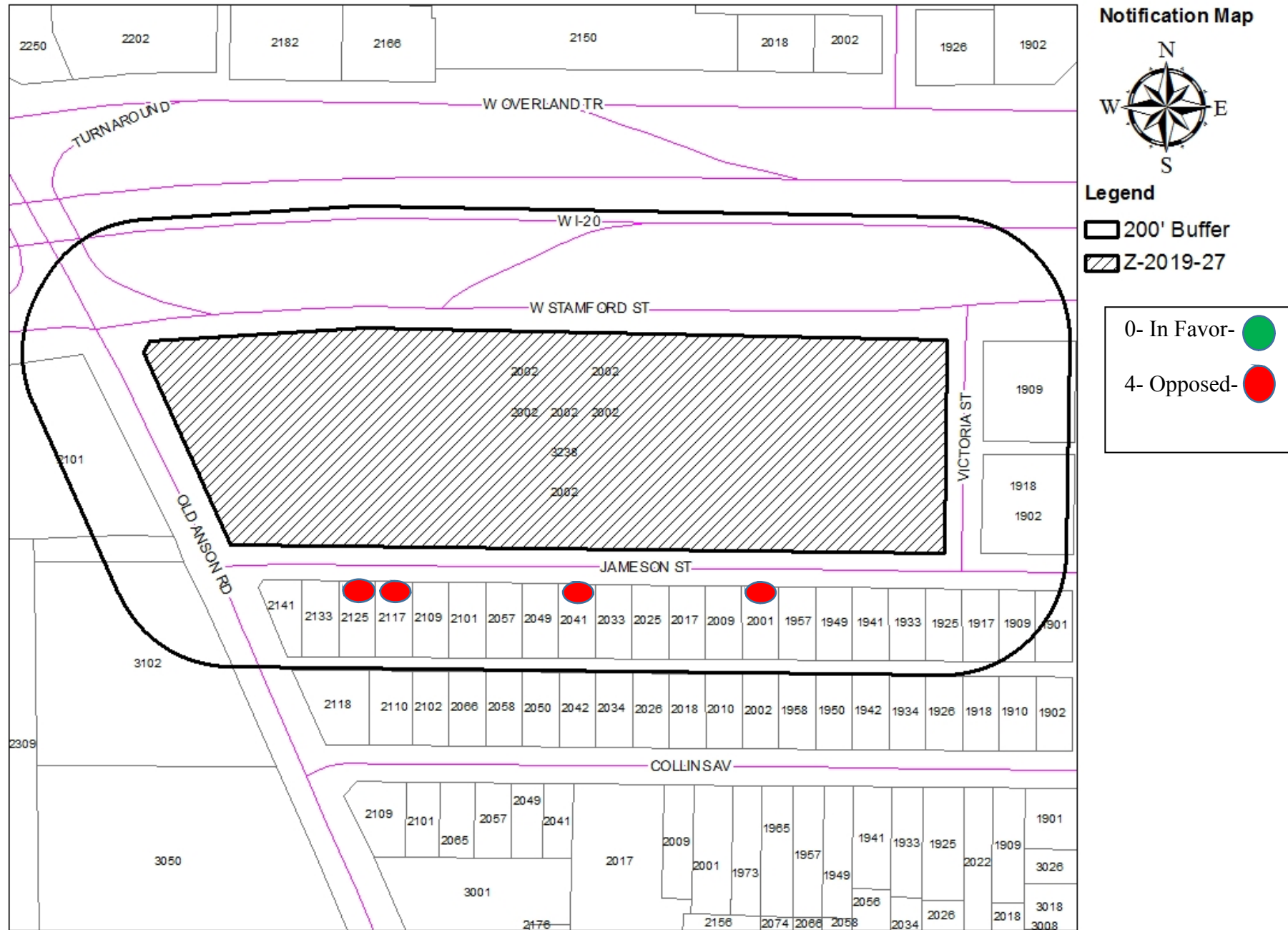
Jameson Street looking east



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



Z-2019-27 NOTIFICATION AREA MAP



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: Ordinance (First Reading) Z-2019-28: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Stan Chapman, Ron Fogle, Bobby Bright, Carol Purser and Mesquite Gate Properties to rezone property from Light Industrial (LI) with Historic (H) Overlay, to Central Business (CB) with Historic (H) Overlay located at 802, 818, 826, 834 and 842 North 3rd Street as well as at 324 Mesquite Street (Mike Warrix)

GENERAL INFORMATION

The applicant is requesting to rezone from Light Industrial (LI) and Light Industrial/Historical to Central Business (CB) and Central Business/Historical (CB/H) in order to utilize the locations for uses consistent with CB zoning. The current use of the property is printing, publishing and reproduction, which is allowed in both CB and LI zoning districts.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning & Zoning Commission recommends approval by a vote of 5 - 0.

AYES: Lankford, Bixby, Rosenbaum, Noonan, Famble

NAYS: None

ATTACHMENTS:

1. Z-2019-28 Ordinance_cover
2. Z-2019-28 Council Ord Exhibit
3. Z-2019-28 Council Staff Report
4. Z-2019-28 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 21st day of November, 2019.

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 18th day of October, 2019, 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 5th day of December, 2019, 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 5th day of December, 2019.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Rezone seven tracts of land from a Light Industrial (LI) and Light Industrial/Historical (LI/H) to a Central Business (CB) and Central Business/Historical (CB/H) District.

Legal description (s):

All of Original Townsite Abilene TIF #1, Block 19, Lot W25 LT 6 & S29 of W25 of LT 5

All of Original Townsite Abilene TIF #1, Block 19, Lot E25 W50 LT 6 & S44.25 E25 W50 LT 5

All of Original Townsite Abilene TIF #1, Block 19, Lot E25 W50 LT 5 & N10 W25 LT4

All of Original Townsite Abilene TIF #1, Block 19, Lot E90 LT 6 & S34 E90 LT5

All of Original Townsite Abilene TIF #1, Block 19, Lot S40 of W25 LT 4 & N21' of W25 of LT5

All of Original Townsite Abilene TIF #1, Block 19, Lot E90 LT4 & N16 E90 LT5



Located at 818, 802, 826, 834, & 842 N. 3rd St. and 324 Mesquite St.

-END-

ZONING CASE Z-2019-28

STAFF REPORT



REQUEST: Rezoning

APPLICANT:

Owner: Stan Chapman

HEARING DATES:

P & Z Commission: November 5, 2019

City Council 1st Reading: November 21, 2019

City Council 2nd Reading: December 5, 2019

LOCATION:

- 818, 802, 826, 834, & 842 N. 3rd St.
- 324 Mesquite St.

Legal description(s):

- All of Original Town Abilene TIF #1, Block 19, Lot W25 LT 6 & S29 of W25 of LT 5
- All of Original Town Abilene TIF #1, Block 19, Lot E25 W50 LT 6 & S44.25 E25 W50 LT 5
- All of Original Town Abilene TIF #1, Block 19, Lot E25 W50 LT 5 & N10 W25 LT4
- All of Original Town Abilene TIF #1, Block 19, Lot E90 LT 6 & S34 E90 LT5
- All of Original Town Abilene TIF #1, Block 19, Lot S40 of W25 LT 4 & N21' of W25 of LT5
- All of Original Town Abilene TIF #1, Block 19, Lot E90 LT4 & N16 E90 LT5

PROPOSAL AND REQUESTED ACTION:

The applicant is requesting to rezone from Light Industrial (LI) and Light Industrial/Historical to Central Business (CB) and Central Business/Historical (CB/H) in order to utilize the locations for uses consistent with CB zoning. The current use of the property is printing, publishing and reproduction, which is allowed in both CB and LI zoning districts.

APPLICATION REVIEW:

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

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

The Future Land Use and Development Plan Map of the Comprehensive Plan designates this general area as a mixture of Central Business (CB) and Light Industrial (LI) along Walnut St., Mesquite St., and N. 3rd St. The district is intended to provide space and facilities for financial, administrative, commercial, residential and business services, as well as limited light manufacturing activities, but is designed to discourage warehousing and manufacturing and other uses which tend to generate heavy traffic or require open storage of materials. This proposed zone change promotes the Comprehensive Plan's goal of achieving a mixture of land uses that will encourage a variety of activities, shorten automobile trips and promote pedestrian and bicycle accessibility. Furthermore, the zone change will allow for a much wider variety of uses which will encourage the Comprehensive Plan's objective of infill within the central business district.

(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 variety of uses permitted by the proposed zone change would be appropriate in the immediate area. Rezoning this property will provide an opportunity for a wide range of uses, while reducing the intensity of activities that would typically be found within the currently existing Light Industrial (LI) zoning.

The subject lots have been Light Industrial since at least 1974. The lot to the west is currently zoned Central Business (CB) and the lots to the north, south, and east are currently zoned Light Industrial (LI).

	Zoning	Existing Land Use
North	LI	Light Industrial (Post Office)
South	LI	Light Industrial (Parking Lot)
East	LI	Light Industrial (Office)
West	CB	Central Business (Hardware Retail)

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

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

STAFF COMMENTS:

According to the Future Land Use and Development Plan Map of the Comprehensive Plan, this location is designated to provide a mix of residential and commercial uses. Central Business (CB) zoning will promote a greater mix of business and residential use. This will achieve the Comprehensive Plan's objective of creating a mix of land use that will encourage a variety of activities, encourage infill development, and provide space for businesses, residential, and light manufacturing. Additionally, the subject properties are located within the Neighborhood Empowerment Zone (78-2018), a zone designed to promote redevelopment in "economically distressed" areas. Furthermore, Central Business (CB) zoning will serve as an appropriate transitional zoning from Light Industrial (LI).

STAFF RECOMMENDATION:

Staff recommends approval of the request. The rezoning request complies with Section 1.4.1.4 (Criteria for Approval). It is consistent with the General Land Use and zoning character of the immediate area (Section 2.3.3.7 Central Business District), and with the Comprehensive Plan and Future Land Use and Development Plan Maps.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning & Zoning Commission recommended approval by a vote of five to zero on November 5, 2019.

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
ABILENE ARRANGEMENT LLC	357 WALNUT ST	
ABILENE ARRANGEMENT LLC	357 A WALNUT ST	
ABILENE ARRANGEMENT LLC	389 WALNUT ST	
ABILENE MAJESTIC LLC SERIES G	741 N 3RD ST	
BAILEY BOB	334 MESQUITE ST	
BRIGHT BOBBY & JENNIE	317 WALNUT ST	
BRIGHT BOBBY & JENNIE	333 WALNUT ST	
BRIGHT BOBBY & PURSER CAROL		
CHAPMAN STANLEY B &	842 N 3RD ST	
DURHAM-COPELAND PARTNERSHIP	289 WALNUT ST	
DURHAM-COPELAND PARTNERSHIP	853 N 3RD ST	In Favor
DURHAM-COPELAND PARTNERSHIP	289 B WALNUT ST	
FOGLE RON	834 N 3RD ST	In Favor
MESQUITE GATE PROPERTIES LLC	802 N 3RD ST	
MESQUITE GATE PROPERTIES LLC	818 N 3RD ST	
MESQUITE GATE PROPERTIES LLC	826 N 3RD ST	
MESQUITE GATE PROPERTIES LLC	324 MESQUITE ST	
NIBLO EVELYN THOMAS	342 MESQUITE ST	
PAK HARRIS ENTERPRISES LTD	370 MESQUITE ST	
UNITED STATES POSTAL	202 MESQUITE ST	
WEST TEXAS UTILITIES CO	301 MESQUITE ST	

ATTACHMENTS:

- Application
- PowerPoint





Development Application

Planning

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

Project Name: _____

Address: 842, 826, 802 N 3rd St + 324 Mesquite No. of lots: _____ Acreage: _____

Legal Description: _____

Subdivision Name: _____ Block: _____ Lot: _____

Current Zoning: Light Industrial Proposed Zoning (if applicable): Commercial

OWNER AND AUTHORIZATION

Owner Name: Stan Chapman

Address: 802 N 3rd

City, State, Zip: Abilene Tx 79601 Fax: _____

Phone: 325-370-3985 Email: chapsail@hotmail.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) Stan Chapman will act as my agent before the Planning and Zoning Commission.

Agent Name: _____

Address: _____

City, State, Zip: _____ Fax: _____

Phone: _____ Email: _____

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: Stan Chapman Date: 9-6-19

FOR OFFICE USE ONLY

Received: 9/6/19 Fee: \$ WAIVED Receipt No.: _____

Case No.: Z 2019 28 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 area is no longer an industrial use part of Abilene. Because of the changes in use of buildings in this area it would be better for general development to be a general commercial zone.



DURHAM-COPELAND PARTNERSHIP
PO BOX 2791
ABILENE, TX 79604-2791

NOTICE OF PUBLIC HEARING

RE: Rezoning Application Number Z-2019-28

11/5/2019

The Planning and Zoning Commission will hold a public hearing on **Tuesday, November 5, 2019** at **1:30 PM**, in **City Council Chambers, 2nd Floor**, City Hall, N. 5th and Walnut Streets, to recommend approval or denial to City Council on a request from Stan Chapmann, to rezone six tracts of land from Light Industrial (LI) with Historic (H) Overlay, to Central Business (CB) with Historic (H) Overlay. Legal description being all of Lots 4, 5 and 6 in Block 19 of Original Townsite for Abilene, Taylor County, Texas and including buildings at 802, 818, 826, 834 and 842 North 3rd Street as well as at 324 Mesquite Street.

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 **December 5, 2019**, 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) 676-4585 or nick.watts@abilenetx.gov

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

CASE #: Z-2019-28

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: DURHAM-COPELAND PARTNERSHIP
Address: 853 N 3RD 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:

A handwritten signature in black ink, appearing to read "David Durham". Below the signature, the name "DAVID DURHAM" is printed in a bold, sans-serif font.

Ron Fogle <ron@rfoglehomes.com>

to planning@abilenetx.gov ▾

Fri, Nov 1, 9:29 AM (3 days ago)



My property is part of, and I am IN FAVOR of Rezoning Request Z-2019-28.

R fogle

Ron Fogle

Ron Fogle Construction L.P.

834 North 3rd, Abilene, TX 79601

325-829-6456 (cell)

325-437-5506 (office)

Email: ron@rfoglehomes.com

Website: rfoglehomes.com

Instagram: @rfoglehomes

Case: Z-2019-28
Applicant: Stan Chapman
Request: Rezone from Light Industrial (LI)
& (LI/H) to Central Business (CB)
& (CB/H)
Location: 818, 802, 826, 834, & 842 N. 3rd St
324 Mesquite St.
Notification: 2 in Favor, 0 Opposed
Planning & Zoning Approval: November 5, 2019



Z-2019-28 ZONING MAP



Existing Uses in CB Zoning

RESIDENTIAL USES:

- P Bed & Breakfast
- P Dwelling – Duplex
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Institutional
- P Dwelling – Multiple-Family
- P Dwelling – Single-Family Detached
- 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
- C Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Fuel Sales
- P Garage Sale
- 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 Subdivision Sales Office (Temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)
- 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 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

LEGEND

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

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
- P Trade/Business School
- P University/College

SERVICE

- P Funeral Home/ Mortuary/Morgue
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- P Printing, Copying, Reproduction, Publishing
- C Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Storage - Self-Service Units
- P Veterinary Service (small animals)

TRADE – RETAIL USES

- P ATM's, Self-Serve Kiosks, and Similar Facilities
- 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)

TRADE – WHOLESALE USES

- C Wholesaling and Storage (indoor)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Passenger Ground Transportation Terminal
- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden



802 N. 3rd Street



Neighboring property to east



Neighboring property to south



Neighboring property to southeast





- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Consistent with General Land Use and Zoning Character of Immediate Area (Section 2.3.3.7)
- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- Staff Recommendation: **Approval**
- Planning & Zoning Recommendation: **Approval**



Z-2019-28 NOTIFICATION AREA MAP



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: Ordinance (First Reading) Z-2019-29: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Three JB Properties to rezone property from a Heavy Industrial (HI) District to a Planned Development (PD) District allowing industrial use but with no site-related or boundary street improvements required by terms of Chapter 3 (Subdivision) in Abilene's Land Development Code, on properties at 749 China Street, 750 Rose Street and 397 South 8th Street *(Mike Warrix)*

GENERAL INFORMATION

The applicants seek approval of a zone change on their 8.69 acres of land, from its present HI zoning classification, to a Planned Development District.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning & Zoning Commission recommends approval by a vote of 5 - 0.

AYES: Lankford, Bixby, Rosenbaum, Noonan, Famble

NAYS: None

ATTACHMENTS:

1. Z-2019-29 Recomm. PD ordinance.docx
2. Z-2019-29 Council Staff Report
3. Z-2019-29 Council Presentation

ORDINANCE NO. [REDACTED]

Comment [RGG1]: Page: 1
To be filled in by the City Secretary's office.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE AND CONCERNING PD-165, A PLANNED DEVELOPMENT DISTRICT FOR INDUSTRIAL USE AND AUTOMATIC RELIEF FROM SUBDIVISION-RELATED PUBLIC IMPROVEMENTS; 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 I: That the Land Development Code of the City of Abilene is hereby amended by changing the zoning district boundaries as set out in accompanying Exhibits "A, B and C" 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 Two Thousand Dollars (\$2,000.00). Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING the 21st day of November, A.D. 2019.

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 19th day of October, 2019, 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 5th day of December, 2019, 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 5th day of December, A.D. 2019.

ATTEST:

Shawna Atkinson
City Secretary

Anthony Williams,
Mayor

APPROVED:

Stanley Smith,
City Attorney

ORDINANCE NO. _____

EXHIBIT "A"

PAGE 2

ORDINANCE NO. _____

EXHIBIT "A"

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

PART 2: Development Specifications. All use and development within this Planned Development District must be undertaken in compliance with the Land Development Code for the City of Abilene, except as otherwise specifically provided herein.

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

PART 4: Zoning. That the Land Development Code of the City of Abilene is hereby further amended by changing the zoning district boundaries, as hereinafter set forth, from Heavy Industrial (HI) District, to Planned Development (PD) District Number 165.

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

PART 5: Legal Description. The legal description of this Planned Development (PD) District Number 165 includes approximately 8.69 acres as specifically described on attached Exhibit "B" to this ordinance. These approximately 8.69 acres encompass properties at 749 China Street, 750 Rose Street and 397 South 8th Street in the City of Abilene, Taylor County, Texas.

PART 6: Purpose. The purpose of this Planned Development District is to facilitate industrial re-use and redevelopment of a site formerly occupied by agricultural processing facilities, with automatic relief from any public improvements (including boundary street pavement) required in conjunction with approval of a subdivision plat or replat of properties encompassed therein.

PART 7: Specific Modifications: The use and development of this Planned Development District shall generally be subject to applicable requirements of the Heavy Industrial (HI) zoning classification, except as otherwise specified below:

- A. Subdivision (inc. Resubdivision) of Land and Improvement of Related Public Facilities.** Subdivision and resubdivision of land in this Planned Development District shall generally be undertaken in conformance with Subdivision Regulations applicable at the time of subdivision and resubdivision, except that any and all public improvements ordinarily required by such regulations shall not be applicable to the subdivision or resubdivision of land in this Planned Development District. This includes relief from any and all public improvements required for compliance with Chapter 3 (Subdivision Regulations) in the Land Development Code for the City of Abilene, Texas.
- B. Graphic Concept Plan.** Use and development of land in this Planned Development District shall generally conform to that shown on plan sheet attached as Exhibit "C" to this ordinance

legal description of land within Planned Development District Number 165:

tract one

Lots 1 thru 22 in Peck's Subdivision of Outlot No. 1 in Block 164 of the Original Townsite for Abilene, Taylor County Texas, as said Lots 1 thru 22 are shown on a plat of Peck's Subdivision recorded on Slide 136-C in Cabinet 2 of Plat Records for Taylor County.

tract two

5.277 acres of land out of Lots 1, 2 and 4 in Block 190 of the Original Townsite of Abilene, Taylor County, Texas, including all of Lot 1 and parts of Lots 2, 3, 4 and 5 in the Lewis Subdivision (as shown on a plat of said Lewis Subdivision recorded on Page 2 in Volume 1 of Taylor County Plat Records) and part of a 20-foot-wide alley shown on the plat of said Lewis Subdivision (no record of abandonment found), with all said 5.277 acres being in the City of Abilene, Taylor County, Texas and as described more completely by metes-and-bounds as follows:

BEGINNING at a found 3/8-inch iron pin with cap marked JLW 4885 at the intersection of the south line of right-of-way for South 8th Street and the west line of right-of-way for Rose Street, for the northeast corner of Lot 1 in Block 190 of the Original Townsite of Abilene and the northeast corner of a parcel described as Tract Four in a deed to Archer Daniels Midland Company recorded on Page 765 in Volume 1708 of Official Public Records of Real Property (O.P.R.R.P.) in Taylor County, Texas;

THENCE S. 04° 53' 56" W. for a distance of 759.81 feet along the west line of right-of-way for Rose Street, to found 3/8-inch iron pin with cap marked JLW 4885 for the southeast corner of Lot 5 in the Lewis Subdivision and the southeast corner of the Archer Daniels Midland Company tract;

THENCE N. 26° 52' 57" W. for a distance of 92.79 feet to a set 1/2-inch iron pin with cap marked MORRIS 2426 for an angle corner of the Archer Daniels Midland Company tract;

THENCE N. 39° 28' 14" W. for a distance of 48.08 feet to a found 3/8-inch iron pin with cap marked JLW 4885 for an angle corner of the Archer Daniels Midland Company tract;

THENCE N. 31° 10' 59" W. for a distance of 74.90 feet to a set 1/2-inch iron pin with cap marked MORRIS 2426 for an angle corner of the Archer Daniels Midland Company tract;

THENCE 41° 06' 23" W. for a distance of 200.00 feet to a set 1/2-inch iron pin with cap marked MORRIS 2426 for an angle corner of the Archer Daniels Midland Company tract;

THENCE N. 30°02' 04" W. for a distance of 94.05 feet to a found railroad spike for an angle corner of the Archer Daniels Midland Company tract;

ORDINANCE NO. _____

EXHIBITS "B"

PAGE 4

THENCE N. 85° 06' 52" W. for a distance of 205.62 feet to a set ½-inch iron pin with cap marked MORRIS 2426 for the most westerly southwest corner of the Archer Daniels Midland Company tract;

THENCE N. 04° 53' 37" E. for a distance of 215.98 feet along the east line of a 10-foot-wide alley shown on a plat of J.S. Johnston Subdivision as recorded on Slide 135-C in Cabinet 2 of Plat Records for Taylor County (and said alley having been formally abandoned by virtue of instrument recorded on Page 19 in Volume 358 of Taylor County Deed Records) to a point located N. 85° 09' 37" W. 10 feet from the northeast corner of Lot 4 in Block V of said J.S. Johnston Subdivision, that same point being on the south boundary line of a tract of land described in deed to Abilene Hope Haven Inc. and recorded on Page 212 in Volume 2430 of Official Public Records of Real Property (O.P.R.R.P.) in Taylor County, Texas;

THENCE S. 85° 09' 37" E. for a distance of 150.88 feet along the south boundary line of a tract of land described in deed to Abilene Hope Haven Inc. and recorded on Page 212 in Volume 2430 of Official Public Records of Real Property in Taylor County, Texas, to a found ½-inch iron pin with cap marked COJER and the most southerly southeast corner of said tract conveyed to Abilene Hope Haven Inc.;

THENCE N. 04° 40' 53" E. for a distance of 32.33 feet to a found ½-inch iron pin with cap marked COJER for an angle corner of the Abilene Hope Haven, Inc. tract;

THENCE N. 28° 58' 15" E. for a distance of 83.01 feet to a set ½-inch iron pin with cap marker MORRIS 2426 for an angle corner of the Abilene Hope Haven Inc. tract;

THENCE N. 04° 50' 57" E. for a distance of 41.90 feet to a found ½-inch iron pin with cap marked COJER in the south line of right-of-way for South 8th Street and the northeast corner of the Abilene Hope Haven Inc. tract;

THENCE S. 85° 44' 46" E. for a distance of 345.46 feet along the south line of right-of-way for South 8th Street, to the POINT OF BEGINNING and containing 5.277 acres of land, more or less.

ORDINANCE NO. _____

EXHIBITS "B"
PAGE 5

EXHIBIT B LOCATION MAP



ORDINANCE NO. _____

EXHIBITS "C"
PAGE 6

EXHIBITS “C” CONCEPT PLAN FOR PLANNED DEVELOPMENT



ORDINANCE NO. _____

EXHIBITS "C"
PAGE 7

EXHIBITS “C” GRAPHIC CONCEPT PLAN FOR LANDUSE



ZONING CASE Z-2019-29

STAFF REPORT



REQUEST: Approve new Planned Development District allowing Heavy Industrial (HI) use and development, with relief from any public improvements required by Chapter 3 (Subdivision Regulations) of Abilene's Land Development Code, with the formal subdivision or "platting" of these subject properties.

APPLICANT:

Owner: Three JB Properties

Agent: John Hill, representing Lone Star Railroad

HEARING DATES:

P & Z Commission: November 5, 2019

City Council 1st Reading: November 21, 2019

City Council 2nd Reading: December 5, 2019

LOCATION:

8.69 acres situated north and south of South 8th Street (one block east of South Treadaway Boulevard) and including properties at 749 China Street, 750 Rose Street and 397 South 8th Street

Legal description (abbreviated): Lots 1 thru 22 in Pecks's Subdivision of Outlot No. 1 in Block 164 of Original Town for Abilene, Taylor County, Texas, as well as a certain 5.277 acres out of Outlot Nos. 1 and 4 in Block 190 of Abilene's Original Town.

BACKGROUND:

The subject properties are located in an older industrial district of Abilene and were occupied agricultural processing and warehouse facilities. During the past 30 years, almost all of those facilities have been abandoned and demolished, leaving the subject properties mostly vacant.

Since 1974, the subject properties have been located within a Heavy Industrial (HI) zoning district. The subject properties are roughly split in half by right-of-way and pavement for South 8th Street.

The entire east boundary of these subject properties is bounded by right-of-way for Rose Street, one of the initial streets dedicated with the original townsite for Abilene, in 1881. Since the early 1900's, though, this right-of-way for Rose Street has been occupied by railroad tracks.

PROPOSAL AND REQUESTED ACTION:

According to the graphic concept plan the Lone Star Railroad (d.b.a. Southern Switching Company) plans to acquire these properties for use as marshalling yards and storage for railroad rolling stock. The applicants seek approval of a zone change on their 8.69 acres of land, from its present HI zoning classification, to a Planned Development District. The purpose of an overlay planned development zoning district ("PD District") is to provide for the development of land as an integral unit for single or mixed use in accordance with a PD Concept Plan that may include uses, regulations and other requirements that vary from the provisions of other zoning districts (Section 2.3.4.5).

In this case, the proposed Planned Development (PD) District will retain all limitations and allowances of Heavy Industrial zoning; however, the terms of this PD District will relieve the subject property's owners of any responsibility to install public improvements ordinarily required by Chapter 3 (Subdivision Regulations) of Abilene's Land Development Code.

In the graphic concept plan for this PD all of the properties within the development are shown as one property including the proposed thoroughfare closure of S. 8th street.

Pending the approval of this request, and in accordance with the graphic concept plan, any subsequent replat would normally trigger required improvements to rights-of-way for streets adjacent to the subject properties and, to an adjacent segment of Rose Street. The approval of this PD would exempt the applicant from this policy.

APPLICATION REVIEW:

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

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

The subject properties are proposed to remain in a fundamentally industrial zoning district which has characterized this area for a hundred years or more. Planned use of this property includes switching, marshalling and storage of railroad rolling stock, all of which is allowed within both Light Industrial (LI) and Heavy Industrial (HI) zoning districts of Abilene.

Zoning		Existing Land Use
North	HI	heavy commercial, industrial
South	HI	heavy industry (feed mill)
East	HI	industrial, commercial, one (1) residence
West	HI, LI and HC	craft brewery, office bldg., homeless shelter

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

The applicant’s only amendment to the base zoning is the proposed relief from requirements to improve any and all portions of adjoining rights-of-way. The current state of the property would in effect remain the same.

(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 to the area.

Staff is unaware of any plans to provide further services to the area.

STAFF COMMENTS:

The applicants are seeking approval of a Planned Development District relieving them of all subdivision-related improvements that may stem from their development of this subject property. Under present conditions, it is staff’s opinion that such relief will not have critical impact.

STAFF RECOMMENDATION:

City staff recommends approval of this proposed Planned Development District.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning & Zoning Commission recommended approval by a vote of five to zero on November 5, 2019.

NOTIFICATION:

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

Owner	Situs	Response
ABILENE HOPE HAVEN INC	801 S TREADAWAY BL	
ABILENE IMPACT GROUP LP	610 CHINA ST	
ACCO FEEDS INC	901 S TREADAWAY BL	
ACCO FEEDS INC	1025 CHINA ST	
ACUNA DAVID	925 S TREADAWAY BL	
ANGELO PROPERTIES INC	200 S 11TH ST	
ANGELO PROPERTIES INC	900 ROSE ST	
ANGELO PROPERTIES INC	225 S 8TH ST	
ANGELO PROPERTIES INC	242 S 11TH ST	
ANGELO PROPERTIES INC	848 MAPLE ST	
BRANCH CHESTER	741 ROSE ST	
FAIN CECIL A & JANE A	308 S 7TH ST	
FAIN CECIL A & JANE A	649 CHINA ST	
FERGUSON CHRISTINA K	749 ROSE ST	
FUQUA INVESTMENTS II INC	226 S 7TH ST	
HIT VENTURES LLC	402 S 7TH ST	
HIT VENTURES LLC	774 CHINA ST	
HIT VENTURES LLC	720 CHINA ST	
HIT VENTURES LLC	726 CHINA ST	
HIT VENTURES LLC	702 CHINA ST	
HIT VENTURES LLC	710 CHINA ST	
HOOVER CHARLES C ET AL	733 ROSE ST	
HOOVER CHARLES C ET AL	225 S 7TH ST	
THREE JB PROPERTIES LLC	825 S TREADAWAY BL	
THREE JB PROPERTIES LLC	789 ROSE ST	
THREE JB PROPERTIES LLC	750 ROSE ST	
THREE JB PROPERTIES LLC	749 CHINA ST	
THREE JB PROPERTIES LLC	397 S 8TH ST	
UNION PACIFIC SYSTEM	757 ROSE ST	
WALKER SANDRA C LF EST	917 S TREADAWAY BL	
WALKER SANDRA C LF EST	919 S TREADAWAY BL	
WEST TEXAS UTILITIES CO	841 S TREADAWAY BL	

ATTACHMENTS:

- Application
- PowerPoint





Development Application

Planning

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

Project Name: China Rose Project
 Address: 397 S 8TH, 750 ROSE ST, 789 ROSE ST, 749 CHINA No. of lots: 28 Acreage: 8.6902
 Legal Description: OT ABILENE, BLOCK 190, LOT PT LT 1 & PT LOT 1-5 LEWIS, ACRES 5.277; LTS 1 THRU 22 164 PECK 1 OT ABL
 Subdivision Name: LEWIS, PECK Block: 164, 190 Lot: 1-22; PT LT 1, 4, PT LT 1-5
 Current Zoning: HI Proposed Zoning (if applicable): PDD

OWNER AND AUTHORIZATION

Owner Name: LONE STAR RAILROAD / CONTACT: JEFF BASKETT
 Address: 1575 N GREEN MOUNTAIN RD # 300
 City, State, Zip: O'FALLON, IL 62269 Fax: _____
 Phone: 618-632-4400, extension 105 Email: jeffb@ironhorseresources.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) JOHN HILL will act as my agent before the Planning and Zoning Commission.

Agent Name: JOHN HILL
 Address: 3409 S 14TH ST SUITE 209
 City, State, Zip: ABILENE, TX 79605 Fax: _____
 Phone: 325-721-4428 Email: john@barnettandhill.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 related to this application.

Signature Owner:  Date: 10/7/2019

FOR OFFICE USE ONLY

Received: 10/17/19 Fee: \$ 2000 Receipt No.: 0002088508
 Case No.: Z-2019-29 ~~10/17/19~~ Reviewed By: Jared



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.

Lonestar Rail seeks a Planned Development District (PDD) that would prescribe all the land use defined for HI - Heavy Industrial defined in Chapter 2 of the City of Abilene's Land Development Code with one exception:

If the owner of this property makes application for improvements or for a replat of this property, this PDD allows the replat or improvements to occur with no expectation that the owner would financially participate in public improvements stated in Chapters 3 & 4 of the City of Abilene's 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.

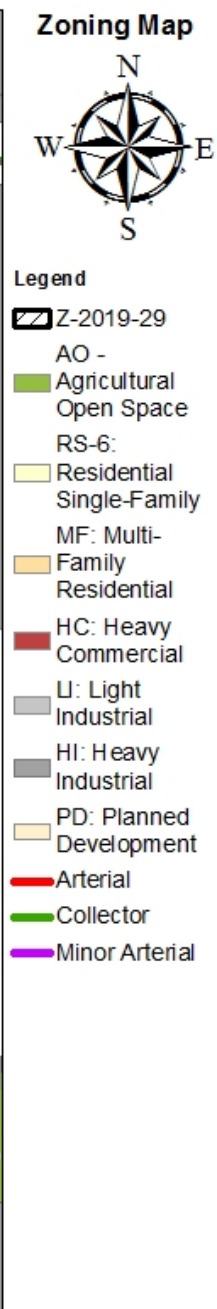
SIGNED: _____


John Hill, Oct 10, 2019

DATE: 10/7/2019

Case: Z-2019-29
Applicant: Jeff Basket, Lone Star Railroad
Agent: John Hill, Realtor
Request: Planned Development District
Location: 749 China St, 750 Rose St,
397 South 8th
Notification: 0 in Favor, 0 Opposed
Planning & Zoning Approval: November 5, 2019









Northern View



Southern View



- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Consistent with General Land Use and Zoning Character of Immediate Area (Section 2.3.4.5)
- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- Staff Recommendation: **Approval**
- Planning & Zoning Recommendation: **Approval**



Z-2019-29 NOTIFICATION AREA MAP



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: Ordinance (First Reading) TC-2019-02: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from, Lone Star Railroad Inc./Jeff Basket, agent John Hill, to abandon all of the 20' wide alley right-of-way (ROW) running north-south beginning at S. 8th Street, and heading north 531' terminating at the ROW of S. 7th Street. Additionally, request to abandon a portion of S. 8th Street, beginning at the easternmost extent of China Street ROW and heading east 300' to the westernmost extent of Southern Switching Railroad ROW, Abilene, Taylor County, Texas (Mike Warrix)

GENERAL INFORMATION

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

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

AYES: Lankford, Bixby, Rosenbaum, Noonan, Famble

NAYS: None

ATTACHMENTS:

1. Recomm. Ordinance TC-2019-02
2. TC-2019-02 Council staff report
3. TC-2019-02 Council Presentation

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR ABANDONMENT OF PORTIONS OF PUBLIC RIGHTS-OF-WAY; PROVIDING FOR TERMS AND CONDITIONS OF SUCH ABANDONMENT; AUTHORIZING THE MAYOR TO EXECUTE ABANDON AND RELINQUISH THE CITY OF ABILENE'S INTEREST IN SAID PORTIONS OF PUBLIC RIGHTS-OF-WAY, SPECIFICALLY TO LONE STAR RAIL; AND CALLING A PUBLIC HEARING.

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

PART 1: That the following described portions of public rights-of-way, as described on Exhibits "A" attached hereto and made a part of this ordinance for all purposes, be and the same are hereby abandoned, vacated and closed insofar as the right, title or easement of the City of Abilene is concerned, subject to conditions as stated herein.

PART 2: That said portions of public rights-of-way are not needed for the City of Abilene's purposes, and it is in the City of Abilene's interest to abandon said described portions of public rights-of-way, specifically to Lone Star Rail, as a part of Planned Development 165.

PART 3: That the abandonment provided for herein shall extend only to the public right, title and easement in and to the tracts of land described on attached Exhibits "A" respectively, and shall be construed only to that interest the governing body of the City of Abilene may legally and lawfully abandon.

PART 4: That the Mayor of the City of Abilene is hereby authorized to abandon and relinquish the City of Abilene's interest in said tracts of land, to Lone Star Rail Company.

PASSED ON FIRST READING THE 21st day of November, A.D. 2019.

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 18th day of October, 2019, 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 4:30 p.m. on the 5th day of December, 2019, to permit the public to be heard prior to final consideration of this ordinance.

PASSED ON FINAL READING THIS 5th day of December, A.D. 2019.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT "A"

The City of Abilene hereby abandons 531' of an existing 20' wide alley extending south from South 7th Street to S. 8th Street, and 300' of South 8th Street beginning at the easternmost extent of China Street right of way to the westernmost extent of South Switching Rail Road right of way.

All Public Right-of-Way as indicated and shown in the map below within the dashed area:



With the following conditions:

1. Approval and recording of suitable replat integrating the abandoned alley segment and the portion of S. 8th into one or more new lot(s) adjoining to the north and/or south of this alley segment;
2. That such replat include a 24-foot paved fire lane constructed on Rose Street as it extends south from S.7th Street to S.8th Street for emergency services access; and
3. That the proponent of this replat provide City staff with documentation from an appropriate official of each affected utility provider (having facilities now situated in subject alley and street segments) and indicating 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-2019-02

STAFF REPORT

REQUEST: Thoroughfare Abandonment

APPLICANT: Lone Star Railroad Inc./Jeff Basket

AGENT: John Hill

HEARING DATES:

P & Z Commission: September 3, 2019 (Tabled) to November 5, 2019

City Council 1st Reading: November 21, 2019

City Council 2nd Reading: December 5, 2019

PROPOSAL:

The applicant is requesting to abandon all of the 20-foot wide alley right-of-way (ROW) running north-south, beginning at S. 8th Street and heading north approximately 531-feet, terminating at the ROW of S. 7th Street. The applicant is also requesting the abandonment of a portion of S. 8th Street, beginning at the easternmost extent of China Street ROW and heading east 300-feet to the westernmost extent of Southern Switching Rail Road ROW.

SITE CHARACTERISTICS:

This segment of South 8th Street's right-of-way and the alley ROW was dedicated with the Original Townsite of Abilene in 1895 and is situated between portions of Blocks 164 and 190. The alley ROW is unimproved and South 8th Street is improved with a 36-foot width of pavement.

Right-of-way for Rose Street, from South 3rd to South 13th Streets, is leased from the City of Abilene, for use as a railway. Abilene & Southern Railroad was the original lessee for using Rose Street's right-of-way, beginning in 1909. In 1926, Abilene & Southern Railroad became part of the Texas & Pacific system which subsequently became part of the Missouri Pacific system which subsequently became part of the Union Pacific system. Since 1997, approximately 9 miles of "branch" railways inside the City limits of Abilene (including all remaining segments of Abilene & Southern Railroad) have been operated by Southern Switching Company which is one of a family of "short line" railroads organized under the umbrella of Lone Star Railroad, Incorporated.

REQUEST ANALYSIS:

The applicant is requesting the City of Abilene abandon a platted alley that extends north-to-south through the center of vacant city block bounded by rights-of-way for South 7th and 8th, China and Rose Streets. Additionally, the applicant is officially requesting to abandon an 80' x 300' segment of right-of-way for South 8th Street, between rights-of-way for China and Rose Streets. The applicant is in negotiations to purchase each individual property that contains frontage to the proposed abandonments. The closure of the subject alley will not lead to any dead-end alleys. Additionally, there will not be a block length issue created since there are multiple points of egress through existing platted alleys and streets.

If the thoroughfare abandonment requests are approved, the applicant intends to replat the properties, alley, and street rights-of-way into one property.

RECOMMENDATIONS:

Development Review Committee (Section 1.1.6.2):

Received a satisfactory review with comments addressing concerns. Concerns expressed in regards to the Thoroughfare Abandonment requests are as follows:

1. **Satisfactory with comments:** Any utilities shall be moved at the property owners expense (Existing water, sewer, natural gas main and storm water drainage) or shall remain within necessary easements
2. **Satisfactory with comments:** That the applicant of this thoroughfare closure provide City staff with documentation from an appropriate official of each affected utility provider (having facilities now situated in subject alley segments and right-of-way) and indicating that such facilities have either already been relocated or that suitable financial arrangements have been made for the timely relocation of these affected utilities.
3. **Satisfactory with comments:** The alley is not an issue for the Fire Department. However, the closing of S. 8th Street is unsatisfactory per the Fire Department unless the section of Rose street that runs north to south from S. 7th to S. 8th is improved with a minimum paved fire lane, so apparatus can access the east side of Rose and the fire hydrant located on the corner of Rose and S. 8th.

Staff Recommendation:

The applicant was provided with the comments from the Development Review Committee (DRC) at their July 31, 2019 meeting, and met again with the DRC on August 7, 2019. Planning and Zoning heard the case on September 3, 2019, and decided to table the case until the applicant could obtain the necessary arrangements with the utilities, and address public safety concerns. It is staff's opinion that the applicant has addressed all issues pertaining to the thoroughfare closure and recommends approval pending the comments from the DRC are met to include the improvement of Rose Street to the satisfactory of the City, before the closure can take place and in accordance with Section 3.2.7.4 of the LDC (Closure Policy).

Planning and Zoning Commission Recommendation:

The Planning and Zoning Commission recommended approval by a vote of five to zero, on November 5, 2019.

NOTIFICATION:

Property owners within the 200' of the subject rights-of-way were notified.

Owner	Situs	Response
ABILENE HOPE HAVEN INC	801 S TREADAWAY BL	
ABILENE HOPE HAVEN INC	801 S TREADAWAY BL	
ANGELO PROPERTIES INC	225 S 8TH ST	
ANGELO PROPERTIES INC	225 S 8TH ST	
FAIN CECIL A & JANE A	308 S 7TH ST	
FAIN CECIL A & JANE A	649 CHINA ST	
FAIN CECIL A & JANE A	308 S 7TH ST	
FAIN CECIL A & JANE A	649 CHINA ST	
FERGUSON CHRISTINA K	749 ROSE ST	Opposed
FERGUSON CHRISTINA K	749 ROSE ST	Opposed
HIT VENTURES LLC	774 CHINA ST	
HIT VENTURES LLC	774 CHINA ST	
THREE JB PROPERTIES LLC	789 ROSE ST	
THREE JB PROPERTIES LLC	750 ROSE ST	

THREE JB PROPERTIES LLC	749 CHINA ST	
THREE JB PROPERTIES LLC	397 S 8TH ST	
THREE JB PROPERTIES LLC	789 ROSE ST	
THREE JB PROPERTIES LLC	750 ROSE ST	
THREE JB PROPERTIES LLC	749 CHINA ST	
THREE JB PROPERTIES LLC	397 S 8TH ST	
UNION PACIFIC SYSTEM	757 ROSE ST	
UNION PACIFIC SYSTEM	757 ROSE ST	

ATTACHMENTS:

- Application
- Development Review Committee Comments

Case # TC-2019-02
Prepared: August 19, 2019



Development Application

Planning

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

Project Name: China / Rose Rail Project

Address: S. 8th between China & Rose, undeveloped alley easement between S. 7th and S. 8th No. of lots: 22 Acreage: 3.64

LTS 1-22 164 PECK 1 OT ABL

Legal Description: OT ABILENE, BLOCK 190, LOT PT LT 1, LOT LT 4, PT LOT 1-5 LEWIS, & ADJ CLOSED ALLEY

Subdivision Name: Peck Block: 164 Lot: 1-22
Lewis Block: 190 Lot: PT LT 1, 4, PT LT 1-5

Current Zoning: HI Proposed Zoning (if applicable): _____

OWNER AND AUTHORIZATION

Owner Name: Lone Star Railroad Inc / Jeff Baskett

Address: 1575 N Green Mt Rd #300

City, State, Zip: O'Fallon, IL 62269 Fax: _____

Phone: 618-632-4400, extension 105 Email: jeffb@ironhorsesources.com

I have an option to purchase the property and I certify that the information included in this application is true to the best of my knowledge. (Name) John Hill will act as my agent before the Planning and Zoning Commission

Agent Name: John Hill

Address: 3409 S 14th Suite 209

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

Phone: 325-721-4428 Email: john@barnettandhill.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: 7-22-19

Fee: \$ 1818

Receipt No.: _____

Case No.: TC-2019-02

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.

Lone Star Railroad Inc has an option to purchase a 9+/- acre tract adjacent to their rail line. The northern portion of this tract is legally described as lots 1-22 in Peck's Subdivision of Outlot No. 1 in Block 164 of Abilene's Original Townsite. Lots 1-11 are separated from lots 12-22 by an undeveloped alley easement. S 8th St defines the southern edge of this tract and separates this parcel from the southern portion of the optioned real estate legally described as OT ABILENE, BLOCK 190, LOT PT LT 1 & PT LOT 1-5 LEWIS. To bring the 9+/- acres into one parcel for rail use, Lone Star Railroad Inc seeks the abandonment of:

- S. 8th between China St. and Rose St. along with
- the abandonment of the undeveloped alley easement that bisects the tract north of S. 8th St.



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: 
Jeff Baskett (Jul 22, 2019)

DATE: July 22, 2019

THOROUGHFARE CLOSURE FEE CALCULATIONS: s.f. \$

1 Total area of adjacent properties:	378546	
2 Total value of adjacent properties:	113090	
3 Square footage value: (#2/#1)	0.30	
4 Area if ROW		
length:	530	300
width:	20	80
Total:	10600	
5 Value of ROW: (#3*#4)	\$3,180.00	
6 Factored Value: (5*0.10)	\$318.00	
7 Fee: (#6+1500)	\$1,818	

378546.1 113090

CITY OF ABILENE

THOROUGHFARE CLOSURE COMMENT FORM

07/23/19

CASE # TC-2019-02

THOROUGHFARE LOCATION: Abandoned all of the 20' wide alley right-of-way (ROW) running north-south, beginning at S. 8th Street and heading north 531' terminating at the ROW of S. 7th Street. Additionally, request to abandon a portion of S. 8th Street, beginning at the easternmost extent of China Street ROW and heading east 300' to the westernmost extent of Southern Switching Rail Road ROW. (See Exhibit)

CITY DEPARTMENT/PVT. UTILITY CO.: Water Administration

REPRESENTATIVE: Kevin Jaeger

TITLE: Utility Engineer

I HAVE REVIEWED THE ABOVE THOROUGHFARE CLOSURE REQUEST AND FIND IT TO BE:

☐

SATISFACTORY

☐

UNSATISFACTORY (explain below:

X

SATISFACTORY WITH CONDITIONS

THE FOLLOWING CONDITIONS AND/OR CORRECTIONS ARE RECOMMENDED:

Developer/Engineer must work with Water Administration to reroute existing utilities in the area.

10/07/2019
DATE

Kevin Jaeger
SIGNED: DIRECTOR / REPRESENTATIVE

CITY OF ABILENE

THOROUGHFARE CLOSURE COMMENT FORM

07/23/19

CASE # TC-2019-02

THOROUGHFARE LOCATION: Abandoned all of the 20' wide alley right-of-way (ROW) running north-south, beginning at S. 8th Street and heading north 531' terminating at the ROW of S. 7th Street. Additionally, request to abandon a portion of S. 8th Street, beginning at the easternmost extent of China Street ROW and heading east 300' to the westernmost extent of Southern Switching Rail Road ROW. (See Exhibit)

CITY DEPARTMENT/PVT. UTILITY CO.: Atmos Energy

REPRESENTATIVE: Earla Ahrens

TITLE: Sr. Project Specialist

I HAVE REVIEWED THE ABOVE THOROUGHFARE CLOSURE REQUEST AND FIND IT TO BE:



SATISFACTORY



ECA
~~UNSATISFACTORY (explain below)~~



SATISFACTORY WITH CONDITIONS

THE FOLLOWING CONDITIONS AND/OR CORRECTIONS ARE RECOMMENDED:

Atmos has a main running east-west in the north ROW on 8th St. that must stay in service. If this is closed Atmos will need a 20' utility Easement for this main with nothing built in the entire 20'.

DATE

7-23-19

SIGNED: DIRECTOR / REPRESENTATIVE

Earla Ahrens

Conditions: 20' Utility Easement required. If the 4" Poly main stays in place & the RR requires it to be cased in steel that will be at their cost. If main is rerouted it will be at the RR Expense. ECA. 10-7-19

CITY OF ABILENE

THOROUGHFARE CLOSURE COMMENT FORM

10/31/19

CASE # TC-2019-02

THOROUGHFARE LOCATION: Abandoned all of the 20' wide alley right-of-way (ROW) running north-south, beginning at S. 8th Street and heading north 531' terminating at the ROW of S. 7th Street. Additionally, request to abandon a portion of S. 8th Street, beginning at the easternmost extent of China Street ROW and heading east 300' to the westernmost extent of Southern Switching Rail Road ROW. (See Exhibit)

CITY DEPARTMENT/PVT. UTILITY CO.: Abilene Fire Department

REPRESENTATIVE: Justin Tiemann

TITLE: Fire Marshal

I HAVE REVIEWED THE ABOVE THOROUGHFARE CLOSURE REQUEST AND FIND IT TO BE:

☐

SATISFACTORY

☐

UNSATISFACTORY (explain below:

X

SATISFACTORY WITH CONDITIONS

THE FOLLOWING CONDITIONS AND/OR CORRECTIONS ARE RECOMMENDED:

-Satisfactory with the agreement that improvement to Rose St. will occur per fire department requirements before S 8th street is closed. Please reference below.

Fire apparatus access roads shall be an engineered road constructed of asphalt, concrete, processed road base material or other approved driving surface capable of supporting the imposed loads of a fire apparatus. The road

shall be properly graded to drain so as to prevent the road from failing to support the fire apparatus imposed load during a rainfall event.

Fire apparatus access roads shall have minimum dimensions of 24 feet in width and 14 feet vertical clearance.

10/31/2019
DATE

Fire Marshal

Justin Tiemann

SIGNED: DIRECTOR / REPRESENTATIVE

CITY OF ABILENE

THOROUGHFARE CLOSURE COMMENT FORM

07/23/19

CASE # TC-2019-02

THOROUGHFARE LOCATION: Abandoned all of the 20' wide alley right-of-way (ROW) running north-south, beginning at S. 8th Street and heading north 531' terminating at the ROW of S. 7th Street. Additionally, request to abandon a portion of S. 8th Street, beginning at the easternmost extent of China Street ROW and heading east 300' to the westernmost extent of Southern Switching Rail Road ROW. (See Exhibit)

CITY DEPARTMENT/PVT. UTILITY CO.: **ENGINEERING**

REPRESENTATIVE: **Charlie Thomas/David Mundschenk**

TITLE: _____

I HAVE REVIEWED THE ABOVE THOROUGHFARE CLOSURE REQUEST AND FIND IT TO BE:



SATISFACTORY



UNSATISFACTORY (explain below:



SATISFACTORY WITH CONDITIONS

THE FOLLOWING CONDITIONS AND/OR CORRECTIONS ARE RECOMMENDED:

Engineering is okay with abandoning the alley but not okay with abandoning S. 8th.

7/24/2019

Mundschenk

David

L.

CITY OF ABILENE

THOROUGHFARE CLOSURE COMMENT FORM

07/23/19

CASE # TC-2019-02

THOROUGHFARE LOCATION: Abandoned all of the 20' wide alley right-of-way (ROW) running north-south, beginning at S. 8th Street and heading north 531' terminating at the ROW of S. 7th Street. Additionally, request to abandon a portion of S. 8th Street, beginning at the easternmost extent of China Street ROW and heading east 300' to the westernmost extent of Southern Switching Rail Road ROW. (See Exhibit)

CITY DEPARTMENT/PVT. UTILITY CO.: Traffic Services

REPRESENTATIVE: James Rogge P.E.

TITLE: Traffic Engineer

I HAVE REVIEWED THE ABOVE THOROUGHFARE CLOSURE REQUEST AND FIND IT TO BE:



SATISFACTORY



UNSATISFACTORY

(explain

below:



SATISFACTORY WITH CONDITIONS

THE FOLLOWING CONDITIONS AND/OR CORRECTIONS ARE RECOMMENDED:

7/23/19
DATE

James Rogge P.E.
SIGNED: DIRECTOR / REPRESENTATIVE

ABILENE/TAYLOR COUNTY 9-1-1 DISTRICT

555 WALNUT STREET

ABILENE, TEXAS 79601

(325) 676-6674

FAX: (325) 676-6050

☐ EASEMENT RELEASE

DATE: 31 JUL 2019

☐ PLAT REVIEW

REF. NO.: TC-2019-02

☐ PRELIMINARY DEVELOPMENT PLAN

☐ SITE PLAN REVIEW

☐ STREET NAME

☐ SUBDIVISION

☒ THOROUGHFARE CLOSURE

TITLE/LOCATION: Abandoned all of the 20' wide alley right-of-way (ROW) running north-south, beginning at S. 8t Street Street and heading north 531' terminating at the ROW of 5. 7th Street. Additionally, request to abandon a portion of 5. 8th Street, beginning at the easternmost extent of China Street ROW and heading east 300' to the westernmost extent of Southern Switching Rail Road ROW.

I have reviewed the above and find it to be:

☒ SATISFACTORY

☐ SATISFACTORY WITH CONDITIONS

☐ UNSATISFACTORY

The following conditions and/or changes are recommended:

NONE.



MICHAEL T. SAXTON

Program Coordinator

Abilene/Taylor County 9-1-1 District

Date: 31 JUL 2019

CITY OF ABILENE

THOROUGHFARE CLOSURE COMMENT FORM

07/23/19

CASE # TC-2019-02

THOROUGHFARE LOCATION: Abandoned all of the 20' wide alley right-of-way (ROW) running north-south, beginning at S. 8th Street and heading north 531' terminating at the ROW of S. 7th Street. Additionally, request to abandon a portion of S. 8th Street, beginning at the easternmost extent of China Street ROW and heading east 300' to the westernmost extent of Southern Switching Rail Road ROW. (See Exhibit)

CITY DEPARTMENT/PVT. UTILITY CO.: Suddenlink Communications

REPRESENTATIVE: Josh Lunsford

TITLE: Construction Supervisor

I HAVE REVIEWED THE ABOVE THOROUGHFARE CLOSURE REQUEST AND FIND IT TO BE:



SATISFACTORY



UNSATISFACTORY (explain below:



SATISFACTORY WITH CONDITIONS

THE FOLLOWING CONDITIONS AND/OR CORRECTIONS ARE RECOMMENDED:

7/24/19
DATE

Josh Lunsford
SIGNED: DIRECTOR REPRESENTATIVE

To Whom It May Concern,

11/04/19

I do have concerns about the expansion of the tracks over S 8th St and I am currently opposed to this change. As can be seen from aerial images, Rose St crosses S 8th St at the railroad tracks. I am opposed to this due to the lack of emergency access and lack of long term planning of maintenance. As of now, Rose St will become impassable on the S 8th side with this change. There are more than a few families that live in this area that would lose the secondary means of property egress and access to emergency services with this proposed change. My family and I have owned in the past more than a small portion of the properties around this block over the last 50 years. I would expect the need for changes to be made and a promise of upkeep of the area for the long term to last 50 years or more into the future. We want to be sure everyone in the neighborhood maintains a safe and accessible means of travel for as long as they live there. And we want to ensure future families are allowed the same promise. Thank you.

Owner of 749 Rose St,
Christina Martinez



RECEIVED
NOV 04 2019
PLANNING

TC-2019-02

Case: TC-2019-02

Owner: Lone Star Railroad Inc./Jeff Basket

Agent: John Hill

Requests: Abandon all of the (1) 20' wide alley right-of-way (ROW) running north-south, beginning at S.8th St. and heading north approximately 531', terminating at the ROW of S.7th St. request to abandon a portion of S.8th St, beginning at the easternmost extent of China St. ROW and heading east 300-ft to the westernmost extent of Southern Switching Rail Road ROW.

Notification: 0 in Favor, 1 Opposed

Planning & Zoning Approval: November 5, 2019











- 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 comments
- Staff Recommendation: **Approval**
- Planning & Zoning Recommendation: **Approval**





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on authorizing a Professional Services Contract with Enprotec/Hibbs & Todd, Inc. for the Abilene AWIA Risk & Resiliency Assessment & Emergency Response Plan (Rodney Taylor)

GENERAL INFORMATION

Water Utilities staff is requesting that the Abilene City Council approve a Professional Services Contract with enprotec/Hibbs & Todd, Inc. (eHT) for the Abilene AWIA Risk & Resiliency Assessment & Emergency Response Plan in the amount not to exceed \$199,870.00. This contract will enable the City of Abilene to meet the requirements of the federal law requiring community drinking water systems serving more than 3,300 people to develop or update risk assessments and emergency response plans. The law specifies the components that the risk assessments and ERPs must address, and establishes deadlines by which water systems must certify to the US EPA completion of the risk assessment and ERP.

SPECIAL CONSIDERATIONS

eHT is to assist the City of Abilene with Task 1 preparation and certification of the America's Water Infrastructure Act (AWIA) Risk and Resiliency Assessment (RRA) of the City's water utility infrastructure. The assessment evaluates the vulnerabilities, threats, and consequences from potential hazards to a community's water system. Task 1 must be completed by March 31, 2020. Upon completion and submission of the RRA the Engineer will develop an Emergency Response Plan (ERP) as a guideline for mitigating risk and appropriately responding to a future emergency. Task 2 must be completed by September 30, 2020. Task 3 is for the training of City staff on assessment methodologies and emergency response protocols.

FUNDING/FISCAL IMPACT

Funding will come from the FY2020 Annual Operating Budget of the Water Utilities Department.

STAFF RECOMMENDATION

Staff recommends that the City Council approve the professional services contract with eHT in the amount of \$199,870.00 for the AWIA Risk and Resiliency Assessment and Emergency Response Plan.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. WrittenResolution-WtrDpt-Authorize PS Contract with eHT for AWIA Risk and Resiliency Assessment and ERP-11-21-2019
2. Contract-PS-eHT-AWIA RRA and ERP-11-21-2019
3. Presentation-PS Contract-EHT-AWIA RRA and ERP-11-21-2019

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES CONTRACT WITH ENPROTEC/HIBBS & TODD, INC. FOR THE AWIA RISK AND RESILIENCY ASSESSMENT AND EMERGENCY RESPONSE PLAN.

WHEREAS, the City of Abilene (Abilene) owns and operates a Public Water Supply System for providing potable water to its retail and wholesale customers; and

WHEREAS, the United States Congress passed the America's Water Infrastructure Act of 2018 (AWIA) which became public law on October 23rd, 2018 and requires community water systems serving more than 3,300 people to develop or update risk assessments and emergency response plans and submit each to the United States Environmental Protection Agency within the certification deadlines; and

WHEREAS, Water Utilities staff has considered the training requirements and dedication of time and resources needed for completing the Risk and Resiliency Assessment and for preparing the Emergency Response Plan and does recommend that these tasks be contracted to a qualified professional engineer; and

WHEREAS, the professional services contract with enprotec/Hibbs & Todd, Inc. will provide for a qualified professional engineer to assist City staff with conducting the AWIA Risk and Resiliency Assessment and Emergency Response Plan in the amount not to exceed \$199,870.00; and

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

That the City Manager is authorized to execute the professional services contract with enprotec/Hibbs & Todd, Inc. for the AWIA Risk and Resiliency Assessment and Emergency Response Plan in the amount not to exceed \$199,870.00.

ADOPTED this 21st day of November 2019.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley E. Smith, City Attorney



PROFESSIONAL SERVICES CONTRACT

Engineers & Architects

This contract, dated the _____ day of _____, 20____, is between the City of Abilene, a home rule municipal corporation of the State of Texas ("City"), and Enprotec/ Hibbs & Todd, a Corporation organized under the laws of the State of Texas ("Consultant").

The City is engaged in Abilene AWIA Risk & Resiliency Assessment and Emergency Response Plan (RRA-ERP) and desires to engage the services of Consultant, as an independent contractor and not as an employee, to assist in the project and to render his or her or its services on the terms and conditions provided in this Contract.

The Consultant is a[n] qualified architect/engineer properly licensed/certified to practice in the State of Texas. Consultant desires to render professional services to the City on the terms and conditions provided in this Contract.

The Consultant must perform services with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

THEREFORE, the City engages the services of the Consultant. In consideration of the mutual promises contained in this Contract, the parties agree as follows:

I. TERMS

In consideration of the compensation stated in paragraph II, the Consultant must provide all services as described in Attachment A, which is incorporated by reference for all purposes. The Consultant must complete all services by a mutually agreed upon date.

II. FEE

For the services to be rendered under this Contract, the Consultant will be entitled to a fee as described in Attachment B, which is incorporated by reference for all purposes.

III. FACILITIES

The Consultant will furnish all facilities and equipment that may be necessary to perform services required under this agreement.

IV. ASSIGNMENT

The Consultant may not assign in whole or in part any rights, duties, obligations or interest arising from this agreement without the City's prior written consent. In the event of an assignment by the Consultant to which the City has consented, the assignee or assignee's legal representative must agree in writing with the City to personally assume, perform, and be bound by all the provisions of this Contract. All of the terms and provisions of this Contract are binding on Consultant's successors and assigns and may be enforced by the City against such successors and assigns.

V. STATUS OF CONSULTANT

The Consultant is an Independent Contractor. Consultant and Consultant's employees are not the agents, servants or employees of the City.

VI. AMENDMENT OR MODIFICATION

This contract, including attachments, constitutes the entire agreement of the parties. Any statements, promises, or agreements made by either party or its agent which are not contained in this contract are of no effect. This contract may not be amended or modified except by both parties' written consent. This Contract supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Contract.

VII. OWNERSHIP OF DOCUMENTS AND MATERIALS

All documents and materials prepared by Consultant under the terms of this contract are the Consultant's property from the time of preparation. Consultant will deliver copies of the documents and materials to the City or make them available for inspection *whenever requested*. City has the right to make duplicate copies of such documents or materials for its own file or use for any other such purposes as the City deems necessary and there shall be no additional costs incurred because of such copying or use.

VIII. NONDISCLOSURE

The Consultant may not show to any person or entity any documents, reports, plans, programs, reports, drawings, or any other material which Consultant prepares or acquires in performing this contract, including any duplicate copies kept by Consultant. The Consultant may not disclose to any person or entity any information regarding the City's activities. The City may, however, specifically authorize a limited disclosure at its discretion.

IX. 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.

“Consultant” includes the person, corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

“Consultant’s employees” shall mean any employees, officers, agents, subcontractors, licensee and invitees of Consultant.

“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.

B. Indemnity

The Consultant shall indemnify, hold harmless and defend the City against liability for damage that is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Consultant or the Consultant’s agent, or another entity over which the Consultant exercises control.

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

Consultant must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Consultant’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 Consultant or Consultant'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 Consultant.

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

X. INSURANCE

A. GENERAL REQUIREMENTS

The Consultant agrees to maintain the type and amounts of insurance required in this contract throughout the term of the agreement. The Consultant is solely responsible for providing the required certificates of insurance. The City may terminate this agreement if the Consultant fails to timely comply with the insurance requirements.

The required insurance must be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies are subject to examination and approval by the City for their adequacy as to content, form of protection, and providing company.

The required insurance naming the City as additional insured must be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Before the City executes the notice to proceed with any work under this agreement, the Consultant must provide the City Secretary with either an original certificate of insurance or a certified copy of the insurance policy evidencing the required insurance. Thereafter, the Consultant must furnish new certificates or copies of the policy before the expiration date.

Texas Labor Code Section 406.096 requires a city to ensure that contractors carry workers' compensation for each employee when the city is a party to any "building or construction contract." The code enumerates that "building and construction" includes:

- (A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;
- (B) remodeling, extending, repairing, or demolishing a structure; or

(C) otherwise improving real property or an appurtenance to real property through similar activities.

B. ADDITIONAL REQUIREMENTS

The required liability insurances and their certificates must:

1. Name the City as an additional insured with respect to operations for which this agreement is made.
2. Provide for 30 days advance written notice of cancellation or material change.

C. TYPES AND AMOUNTS OF INSURANCE

The types of insurance required in this contract are those indicated by initials. If no initials appear on any of items 1 through 6, items 1 through 4 shall be required.

<u>Type</u>	<u>Amount</u>
☐ 1. Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
☒ 2. Commercial (Public) Liability including, but not limited to: • Premises/Operations • Independent Contractors • Products/Completed Operations • Contractual Liability (insuring above indemnity) and where the exposures exist • Explosion Collapse and Underground	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
☒ 3. Business Automobile Liability to include coverage for: • Owned/Leased Autos • Non-Owned Autos • Hired Cars	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
☒ 4. Professional Liability	\$500,000 combined single limit (per occurrence)
☐ 5. See Addendum for Special Coverages and/or revisions	

___6. No Insurance Required

XI. VENUE, CHOICE OF LAW AND INTERPRETATION

Venue for any cause of action arising under this contract is Taylor County, Texas. This contract is governed by the laws of the State of Texas both as to interpretation and performance. This contract shall, in any dispute over its meaning or application, be interpreted fairly and reasonably, and not more strongly for or against either party.

XII. TERMINATION

This contract may be terminated at any time upon 30 days written notice by City to Consultant. In the event of termination, Consultant will be compensated for work satisfactorily performed before the termination date.

If, through any cause, the Consultant fails to fulfill his obligations under this contract, or if the Consultant violates any of the agreements of this contract, the City has the right to terminate the contract by giving five days written notice to the Consultant. The Consultant will be compensated for work satisfactorily performed before the termination date.

The Consultant, however, is not relieved of liability to the City for damages sustained by the City because of any breach of contract by Consultant. The City may withhold any payments to Consultant for the purpose of setoff until the exact amount of damages due the City from the Consultant is determined and paid.

XIII. PROJECT REPRESENTATION

The City agrees to appoint a Project Representative to assist in obtaining information from various City departments as requested by Consultant and in coordinating, monitoring, and evaluating the project to its completion. The Project Representative has no control over the means, methods, techniques, or procedures employed by Consultant. The City is interested only in the results obtained under this contract; the manner and means of obtaining those results is solely under the Consultant's control.

XIV. NOTICE

All notices must be in writing, hand-delivered or mailed by certified mail, to the other party at the address below. The name and address for notification may be changed by notice to the other party.

City – ATTN:
Rodney Taylor
P.O. Box 60
Abilene, Texas 79604

Consultant – ATTN:
Luci Dunn, P.E.
402 Cedar Street
Abilene, Texas 79601

XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

Consultant, its agents, employees and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Abilene, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies. Consultant must obtain all necessary permits and licenses required in completing the work contracted for in this agreement.

XVI. NO INDEBTEDNESS

Consultant 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 and interest. Consultant is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset against 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 and interest.

XVII. EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of the City to recruit, employ, and to provide compensation, promotion, and other conditions of employment without regard to race, color, religion, sex, age, national origin, or disability. The City affirms that employment decisions shall be made only on the basis of bonafide occupational qualifications. The City shall continually review its employment practices and personnel procedures and take positive steps to assure that equality of employment opportunity in the City of Abilene, Texas, is a fact as well as an ideal.

XVIII. VERIFICATION OF EMPLOYMENT ELIGIBILITY

Consultant must comply with the Immigration Reform and Control Act (IRCA) and may not knowingly obtain labor or services of an unauthorized alien. Consultant -- not City -- must verify eligibility for employment as required by IRCA.

XIX. MINORITY AND WOMEN BUSINESS ENTERPRISES

The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids in for this contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through

the Texas Tech University Small Business Development Center, 749 Gateway St., #301, Building C, Abilene, Texas, 79602, 325-670-0300.

XX. SALES TAX

The City qualifies as an exempt agency under the Texas Limited Sales, Excise and Use Tax Act (the "Tax Act"), and is not subject to any State or City sales taxes on materials incorporated into the project. Labor used in the performance of this contract is also not subject to State or City sales taxes. The City will provide an exemption certificate to the Consultant. The Consultant must have a sales tax permit issued by the Comptroller of Public Accounts and shall issue a resale certificate complying with the Tax Act, as amended, when purchasing said materials. The Consultant is responsible for any sales taxes applicable to equipment purchases, rentals, leases, consumable supplies which are not incorporated into the project, tangible personal property purchased for use in the performance of this contract and not completely consumed, or other taxable services used to perform this contract, or other taxes required by law in connection with this contract.

XXI. LEGAL CONSTRUCTION

In the event that any one or more of the provisions contained in this Contract is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provisions, and the Contract will be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

XXII. 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.

XXIII. SECTIONS AND OTHER HEADINGS

Section, paragraph, and other headings contained in this Contract are for reference purposes only and do not affect in any way the meaning or interpretation of this Contract.

XIV. COUNTERPARTS

This Contract may be executed in two or more counterparts (including fax, email, or electronic PDF counterparts), each of which shall be deemed an original and all of which together shall constitute one instrument.

{Remainder of Page Intentionally Left Blank—Signature Page Follows}

IN WITNESS HEREOF, the parties hereto have executed this contract effective as of the date written above:

CITY OF ABILENE

By: _____

Name: _____

Title: _____

ATTEST:

City Secretary

APPROVED:

By: _____
City Attorney

PROFESSIONAL

By: 

Name: Scott F Hibbs

Title: President

Address: 401 Cedar Abilene Tx 79601

Phone Number: 325/698-5560

Federal Tax ID#: 75-2258512

ATTEST: (if corporation)



Corporation's Secretary

Corporate Seal (if available)

ATTACHMENT A

Scope of Services

Risk & Resiliency Assessment and Emergency Response Plan (RRA-ERP)

Engineer will provide professional services to assist the City of Abilene (City) prepare and certify the America's Water Infrastructure Act (AWIA) Risk & Resiliency Assessment and Emergency Response Plan (RRA-ERP). Engineer will be supported by Plummer and Raffelis.

AWIA requires community drinking water systems that serve more than 3,300 people to perform an RRA and develop an ERP. An RRA evaluates the vulnerabilities, threats, and consequences from potential hazards to a community's water system. The primary goal of this project is to develop an RRA and ERP for the City that meets the requirements specified in the AWIA, prior to the federally mandated deadlines.

Task 1 Risk and Resiliency Assessment:

The scope of the RRA extends beyond typical water system components such as source water, treatment plants, pipelines, and water towers to also include business enterprise systems such as the City's financial infrastructure.

Since the AWIA legislation does not indicate a specific risk assessment standard, methodology, or tool that must be used when preparing an RRA, the Engineer will utilize the American Water Works Association (AWWA) J100-10 (R13) standard: Risk and Resilience Management of Water and Wastewater Systems along with Environmental Protection Agency (EPA) guidance and tools including Baseline Information on Malevolent Acts for Community Water Systems and the Vulnerability Self-Assessment Tool – Web Enabled (VSAT Web) 2.0.

The Engineer will begin the RRA by developing a comprehensive inventory of all critical assets/processes in the City's drinking water system. These assets will include source water, intake structures, pretreatment, physical barriers, pipelines and constructed conveyances, storage and distribution facilities, electronic/computer/ automated systems, monitoring practices, chemical storage and handling, and operation and maintenance of the system. We will develop this inventory by reviewing previous vulnerability assessments (if available), GIS data, engineering drawings, master plans, emergency/hazard response plans, economic development plans, and by conducting on-site workshops with City staff from multiple departments. The Engineer will also conduct on-site inspections of City-owned facilities to identify security issues and vulnerabilities. After developing the inventory of critical water system assets, the Engineer will identify potential threats to each asset such as malevolent threats, natural disasters, internal accidental threats, or dependency and proximity hazards. Each threat will be tied to an asset to create a "threat-asset" pairing. Likelihoods will be assigned to each threat-asset pair and the pairs will be ranked by likelihood and consequence to develop a risk-based prioritization of threats and assets to the City's water system.

In parallel to the water system assessment described above, the Engineer will also conduct an assessment on the City's financial/enterprise infrastructure. The enterprise risks highlighted by AWIA are primarily those associated with the utility's financial and technological infrastructure, but other non-asset risks include those related to staffing, policies/procedures, customers, and the community. The Engineer will collaborate with the Water Utilities Department to identify the consequences of these risks for the Department specifically, and then identify appropriate staff and stakeholders to prioritize key financial and enterprise policies and procedures that can mitigate specific enterprise risks. At a minimum, and in compliance with the AWIA, incorporated financial risks will relate to meeting fund reserve targets, collecting sufficient revenues, maintaining high bond ratings, service area affordability metrics, successfully transferring knowledge/data, the Water Utilities Department's billing system, etc. The risk inventory will be supplemented with occurrence data from other entities, data from the AWWA manual M19 Emergency Planning for Water and Wastewater Utilities, and other publicly available sources. The inventory will be created in accordance with the objectives laid out in the AWWA J100 standard.

After completing both the asset and non-asset (enterprise) risk assessments, the Engineer will suggest mitigation strategies based on industry best practices. This may include additional redundancy, changes in practices, and training. The Engineer will issue a final report that includes mitigation strategies for the highest scoring threat-asset pairs for asset and non-asset (enterprise) risks, as well as Key Performance Indicators (KPIs) to measure risk mitigation success. The strategies will identify what is currently in place and what is needed to mitigate or prevent the risk, and recommendations will include estimated level of effort and any potential budget dollars for outside resources.

A total of four (4) workshops are projected to be facilitated by the Engineer throughout the development of the RRA. Workshop #1 will include initial development of Threat-Asset Pairs. The results of the site visits will be presented during Workshop #2. Threat Countermeasures will be considered and developed during Workshop #4. The Draft RRA will be presented during Workshop #4.

Once the Draft RRA is finalized, the Engineer will assist the City with preparing the certification submittal to the EPA.

Task 2 Emergency Response Plan:

After submitting the RRA, the Engineer will begin drafting the ERP by first reviewing any emergency plans currently in place for the City. Three of the water supply industry standards including EPA 810-F-03-007, (Emergency Response Plan Guidance), AWWA G440-17 (Emergency Preparedness Practices), and AWWA M19 (Emergency Planning for Water and Wastewater Utilities) will serve as references when reviewing the City's existing ERP.

The Engineer will facilitate a workshop with City staff including law enforcement, fire, public health, and emergency management officials and other stakeholders to review the new AWIA requirements and the recently completed RRA and discuss how the ERP will change as a result. The Engineer will also facilitate an emergency planning discussion between the City departments to coordinate efforts during a hypothetical emergency. Training will be conducted by participating in a mock emergency exercise. During the workshop, a chain-of-command chart will be developed, and a local emergency planning committee established to assign responsibilities during a future emergency.

The Engineer will also facilitate a second workshop with representatives from local media outlets to coordinate and discuss the dissemination of critical information during a future emergency. After obtaining comments from the various City departments and local media, the Engineer will draft an ERP in accordance with the two AWWA standards and the one EPA standard. The Draft ERP will be presented during the third ERP workshop. A total of three (3) ERP workshops are anticipated. Once the Draft ERP is finalized, the Engineer will assist the City with preparing the certification submittal to the EPA.

Task 3 Training

City staff will be involved throughout the risk assessment process to provide the City with the ability to review and revise the RRA and ERP "in-house" when they are due again in five years. The training will primarily be achieved by close involvement in the risk assessment process from beginning to end. Specifically, City staff will be present at project workshops and could assist in facilitating them. Additionally, City staff could shadow the Engineer during on-site inspections to identify security threats and vulnerabilities. The Engineer will facilitate a final training workshop after completion of the ERP that will review and summarize the entire risk assessment process, and training documentation will be provided to City staff.

A summary of the tasks are as follows:

- Task 1 Risk & Resiliency Assessment for Water / Financial System
 - 1.1 Review Previous Reports
 - 1.2 Kickoff Meeting and Workshop #1
 - 1.3 Develop Threat-Asset Pairs

- 1.4 Conduct Site Visits of City Facilities and Assets
- 1.5 Complete Information from Site Visits
- 1.6 Workshop #2 - Results of Site Visits
- 1.7 Refine Threat-Asset Pairs, Assign Likelihood & Consequence
- 1.8 Workshop #3 - Threat Countermeasures
- 1.9 Develop Countermeasures for Threat-Asset Pairs
- 1.10 Prepare Draft Risk & Resiliency Assessment
- 1.11 Workshop #4 - Present Draft RRA
- 1.12 Finalize RRA & Assist with certification submittal to EPA

Task 2 Emergency Response Plan

- 2.1 Review Existing ERP
- 2.2 Develop Chain-of-Command Chart and Emergency Committee
- 2.3 Workshop #1 - City Coordination during Emergency
- 2.4 Develop Communication Procedures with Local Media
- 2.5 Workshop #2 - Public Communication
- 2.6 Prepare Draft ERP
- 2.7 Workshop #3 Review Draft ERP
- 2.8 Finalize ERP and assist with certification submittal to EPA

Task 3 Final Training on RRA & ERP

Deliverables:

- Risk and Resiliency Assessment
 - o Printed copies and an electronic copy of the RRA
 - o Inventory of threat-asset pairs
 - o On-site risk assessment inspection scoring sheets
 - o Training materials
 - o Assistance in certifying the RRA as complete to the EPA
- Emergency Response Plan
 - o Printed copies and an electronic copy of the ERP
 - o Chain-of-command chart to be used during emergencies
 - o Training materials
 - o Assistance in certifying the ERP as complete to the EPA

Completion dates:

For communities that serve a population larger than 100,000 people, the AWIA requires completion of the RRA by March 31, 2020 and completion of the ERP within six months of completing the RRA.

Payment is on an hourly, not to exceed basis payable per the attached Schedule of Charges (Exhibit "B").

ATTACHMENT B
PAYMENT SCHEDULE
PARTIES TO INITIAL OPTION SELECTED

OPTION 1 X

Compensation is based on actual hours of work/time devoted to providing the described professional services and will be paid at a rate of \$(see the attached Schedule of Charges) per hour not to exceed \$199,870.00.

Professional must submit monthly invoices to City accompanied by an explanation of charges, professional fees, and services. City will pay invoices according to its normal payment procedures.

OPTION 2

Payment is in a lump sum amount of \$Click or tap here to enter text. upon completion of the work and written acceptance by City's Project Representative.

No mechanic, contractor, subcontractor, materialman or other person can or will contract for or in any other manner have or acquire any lien upon any building or work covered by the contract or the land upon which the same is situated.

Before final acceptance of this project by the City, the Contractor must execute and provide City with an Affidavit that all bills for labor, materials and incidentals incurred by subcontractors, materialmen, mechanics and suppliers under this agreement have been paid in full, and that there are no claims pending of which Contractor has been notified.

OPTION 3

Payment is a fixed fee amount of \$Click or tap here to enter text. payable per Click or tap here to enter text. upon completion of the work and written acceptance by City's Project Representative.

No mechanic, contractor, subcontractor, materialman or other person can or will contract for or in any other manner have or acquire any lien upon any building or work covered by the contract or the land upon which the same is situated.

Before final acceptance of this project by the City, the Professional shall execute and provide City with an Affidavit that all bills for labor, materials and incidentals incurred by subcontractors, materialmen, mechanics and suppliers under this agreement have been paid in full, and that there are no claims pending of which Professional has been notified.

Enprotec / Hibbs & Todd, Inc.
CURRENT HOURLY CHARGES FOR PROFESSIONAL SERVICES

Charges include all salaries, salary expense, overhead, and profit.

Principal	\$ 210.00 per hour
Senior Project Manager	170.00 per hour
Project Manager	145.00 per hour
Senior Engineer / Geologist.....	135.00 per hour
Project Engineer / Geologist.....	125.00 per hour
Staff Engineer I / Geologist.....	115.00 per hour
Staff Engineer II / Geologist.....	95.00 per hour
RPLS I	145.00 per hour
RPLS II	93.00 per hour
Operations Specialist / Regulatory Compliance Specialist	135.00 per hour
Engineering Technician I	135.00 per hour
Engineering Technician II	105.00 per hour
Field Technician I.....	100.00 per hour
Field Technician II.....	85.00 per hour
CMT Tech I	70.00 per hour
CMT Tech II	65.00 per hour
Survey Tech I.....	78.00 per hour
Survey Tech II.....	57.00 per hour
CAD I	125.00 per hour
CAD II	95.00 per hour
CAD III	65.00 per hour
Administrative	65.00 per hour
Survey Party Conventional	190.00 per hour - 3 man
.....	155.00 per hour - 2 man
Robotic / GPS Survey Party.....	175.00 per hour

Expense Items

Consultants, Contractors & Supplies	Cost plus 10%
Travel (out of town only)	Current IRS rate per mile
Lodging and meals (out of town trips).....	Actual cost

01/02/19

P:\Forms\HRLY CHG.wpd

ATTACHMENT C

OWNERSHIP OF DOCUMENTS AND MATERIALS

Parties to initial option chosen

(Option 1) ____

All documents and materials prepared by Professional under the terms of this contract are the City's property from the time of preparation, and Professional must deliver the documents and materials to the City or make them available for inspection whenever requested. Professional has the right to make duplicate copies of such documents or materials for its own file or for other such purposes as the City authorizes in writing.

(Option 2) X

All documents and materials prepared by the Professional remain the property of the Professional; however, Professional must furnish City, at no additional cost, one set of reproducible mylars of the original drawings of the work and/or one copy of all documents prepared by the Professional pursuant to this Agreement.

ATTACHMENT D

STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

THIS ATTACHMENT IS ONLY APPLICABLE IF WORKERS' COMPENSATION COVERAGE IS PROVIDED

a. Definitions

Certificate of coverage ("certificate") - a copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Professional's/person's work on the project has been completed and accepted by the City.

Persons providing services on the project ("subcontractors" in 406.096) - includes all persons or entities performing all or part of the services the Professional has undertaken to perform on the project, regardless of whether that person contracted directly with the Professional and regardless of whether that person has employees. This includes, without limitation, independent contractors, subprofessionals, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitations, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- b. The Professional shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Professional providing services on the project, for the duration of the project.
- c. The Professional must provide a certificate of coverage to the City prior to being awarded the contract.
- d. If the coverage period shown on the Professional's current certificate of coverage ends during the duration of the project, the Professional must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.
- e. Professional shall obtain from each person providing services on a project and provide to City:
- (1) a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(2) no later than seven (7) days after receipt by the Professional, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

- f. The Professional shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
- g. The Professional shall notify the City in writing by certified mail or personal delivery, within ten (10) days after the Professional knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- h. The Professional shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- i. The Professional shall contractually require each person with whom it contracts to provide services on a project to:
 - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (2) provide to the Professional, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing service on the project, for the duration of the project;
 - (3) provide the Professional, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (4) obtain from each other person with whom it contracts, and provide to the Professional:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;
 - (6) notify the City in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing service on the project;

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

- j. By signing this contract or providing or causing to be provided a certificate of coverage, the Professional is representing to the City that all employees of the Professional who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Professional to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- k. The Professional's failure to comply with any of these provisions is a breach of contract by the Professional which entitles the City to declare the contract void if the Professional does not remedy the breach within ten (10) days after receipt of notice of breach from the City.

ATTACHMENT E
NOTICE TO PROCEED

Click or tap here to enter text.

ATTACHMENT F
CHANGE IN SCOPE OF SERVICES

Click or tap here to enter text.

**Authorizing a professional services contract
with Enprotec/Hibbs & Todd, Inc. for the
AWIA Risk and Resiliency Assessment and
Emergency Response Plan.**



- Professional Services Contract with Enprotec/Hibbs & Todd, Inc.
- Contract price of \$199,870.00.
- Professional services for assisting City staff with the AWIA Risk and Resiliency Assessment (RRA) of the City water Utility infrastructure.
- City of Abilene must comply with federal law requiring community drinking water systems serving more than 3,300 people to develop or update risk assessments and emergency response plan.



- The RRA evaluates the vulnerabilities, threats, and consequences from potential hazards to a community's water system.
- Upon completion and submission of the RRA the Engineer will develop an Emergency Response Plan (ERP) as a guideline for mitigating risk and appropriately responding to a future emergency.
- Engineer to provide training of City staff on assessment methodologies and emergency response protocols.



**Authorizing a professional services contract
with Enprotec/Hibbs & Todd, Inc. for the
AWIA Risk and Resiliency Assessment and
Emergency Response Plan.**

QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO: Honorable Mayor & Members of City Council

FROM: Robert Hanna, City Manager

SUBJECT: Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving an Economic Development Agreement with 401 Pine Associates, Ltd. for the Windsor Hotel *(Robert Hanna)*

GENERAL INFORMATION

Details will be provided to Council during Executive Session.

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Approval of the Item

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 2019 Resolution Approve Eco Dev Agmt Amendment with 401 Pine Associates Ltd.
2. Windsor Hotel Development Agreement - Clean 111519 (2)
3. Windsor

Resolution:
Approving an Economic Development
Agreement for the Windsor Hotel





**City Council
Agenda Memo**

City Council Meeting Date: 11/21/2019

TO:

FROM:

SUBJECT: 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. City of Abilene, Texas v. Aurora Bumgarner; 104th Judicial District Court, Taylor County, Texas; filed November 17, 2011
2. Chad Carter v. City of Abilene, Texas; Cause No. 10138-D, In the 350th Judicial District Court, Taylor County, Texas, filed June 17, 2014
3. Susan Lewis King & Austin King MD vs Ken Paxton, Attorney General of Texas and the City of Abilene, Cause No. D-1-GN-16-001160, filed March 16, 2016
4. Ruby Flores and Cory Almanza v. Jesus Verastegui, Alfredo Verastegui, Rosalva Verastegui, and City of Abilene, Cause No. 49368-A, 42nd District Court, Abilene, Taylor County, Texas, filed April 13, 2016
5. 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
6. Officer Patrick Sumrall and City of Abilene, Case No. 01-18-000-8653; Appeal of Indefinite Suspension to Arbitration, filed February 6, 2018
7. Tracy Kennedy and Richard Kennedy v. Katie Snell, Richard Perez, Thomas Bryant, John Doe 1, and John Doe 2; Case No. 1:18-cv-162, In the United States District Court, Northern District of Texas, Abilene Division, filed October 16, 2018
8. 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.

9. City of Abilene v. Patrick Sumrall; Cause No. 27,733-B, In the 104th Judicial District Court, Taylor County, Texas, filed May 28, 2019
10. Ovation Services, LLC v. Blanca Cortez, et al.; Case No. 11875-D; In the 350th Judicial District Court, Taylor County, Texas; filed July 15, 2019
11. 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
12. Maria Ramirez v. The City of Abilene; Cause No. 27880-B, In the 104th Judicial District Court, Taylor County, Texas; filed October 22, 2019
13. The State of Texas v. The Unknown Heirs of B.E. Caffey, Senior, et al., Cause No. 6939, Condemnation Proceeding filed in the County Court at Law No. 2, Taylor County, Texas, filed August 20, 2019

B. 551.072 (Deliberations about Real Property)

1. Clyde Water
2. Use of Eminent Domain for Cedar Creek Waterway

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
2. Windsor Hotel

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None