



City of Abilene City Council Agenda

Shane Price, Mayor Pro-tem
Lynn Beard, Deputy Mayor Pro-tem
Blaise Regan, Council Member
Robert Hanna, City Manager

Weldon Hurt, Mayor

Brian Yates, 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 June 8, 2023, at 8:30 a.m., at City Hall, 555 Walnut Street, Council Chambers, Abilene, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER

INVOCATION

1. Deputy Mayor Pro-tem Lynn Beard

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

2. Service Awards:

- Jess Madison - Fire Department - 35 Years
- Brian Cokonougher - Police Department - 30 Years
- Lowell "Kevin" Easley - Police Department - 30 Years
- Gerald Moran - Police Department - 30 Years
- Doug Wrenn - Police Department - 30 Years
- David Almanzar - Parks & Recreation - 20 Years

3. Presentations & Proclamations:

- Elder Abuse Awareness Month
- Motorcycle and Scooter Ride to Work Day

CONSENT AGENDA AND PUBLIC COMMENTS

All items listed in the Consent Agenda are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion or presentation of these items unless otherwise requested by a Council Member. In the event one or more Council Members remove an item from the consent Agenda for separate discussion or presentation, the item or items removed will be considered in numerical order as part of the Regular Agenda and shall include a public hearing.

After the Council Members have requested any item on the consent Agenda be considered separately, the public comment period will be held. The public comment section of the consent agenda allows members of the public to present any ideas or information to the City Council and staff, and also allows for public comment on the consent agenda items not otherwise pulled for separate consideration. Neither the City Council nor staff will engage in discussion with the public during the public comments unless the item is listed on the Council agenda.

Members of the public will have a total time limit of three (3) minutes to speak during the public comments section.

4. **Minutes:** Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Special Workshop Meeting Held on May 19, 2023, and the Regular Meeting Held on May 25, 2023 **(Shawna Atkinson)**
5. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Appointing Members to Various Boards and Commissions per the City Charter **(Shawna Atkinson)**
 - Board of Adjustment
 - Parks & Recreation Board
 - Senior Citizens Advisory Board
 - Visual Arts Jury
6. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving Change Order No. 3 to the Contract for Lake Fort Phantom Hill Pump Station Improvements **(Rodney Taylor)**
7. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to Enter into a Hotel Occupancy Tax Management and Use Agreement Pursuant to 351.101(c) of the Texas Tax Code with the Expo Center of Taylor County, Texas **(Robert Hanna)**
8. **Resolution:** Receive a Report, Hold a Discussion, and Take Action Approving a Contract with Kimley Horn and Associates for Engineering Services for S. 27th St. and Southwest Dr. Traffic Signal Modifications and Signal Timing Optimization **(Max Johnson)**
9. **Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action on Approving an Ordinance Adding Chapter 27, "Solid Waste," Article VI., "Recyclable Material," which creates a Permitting Process for Private Haulers of Recyclable Materials **(Max Johnson)**

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

10. **Ordinance (Final Reading) HOZ-2023-01:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request From Third And Pine, LP To Apply Historic Overlay Zoning To Approximately .16 Acres Zoned Central Business (CB) Located at 302 Pine Street **(Tim Littlejohn)**
11. **Ordinance (Final Reading) Z-2023-07:** Receive a Report, Hold a Discussion and Public

Hearing, and Take Action on a Request From Coffee Momma LLC To Change Zoning From PDD-128 To General Retail, Located at 701 S. Judge Ely Blvd. **(Tim Littlejohn)**

12. **Ordinance (Final Reading) Z-2023-11:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Bridgestone Bandag, LLC To Change Zoning From Light Industrial To Heavy Industrial, located at 4962 FM 18 **(Tim Littlejohn)**

13. **Ordinance (Final Reading) Z-2023-13:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request From Dennis Ray Dunnam II And Mollie Victoria Dunnam To Change Zoning From Agricultural Open (AO) And General Commercial (GC) To General Commercial, located at 411 ES 11th Street **(Tim Littlejohn)**

EXECUTIVE SESSION

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

A. 551.071 (Consultation with Attorney)

1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
2. 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
3. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-004598, In the 53rd Judicial District Court, Travis County, Texas; filed September 1, 2020
4. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
5. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
6. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
7. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
8. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021
9. Richard Scheriger, et al. v. City of Abilene; Cause No. CV33253, In the 90th Judicial District Court, Stephens County, Texas, filed April 21, 2023

B. 551.072 (Deliberations about Real Property)

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)

RECONVENE

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 2nd day of June, 2023, at 9:15 a.m.

Shawna Atkinson, TRMC, CMC
City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 6/8/2023

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 4. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Special Workshop Meeting Held on May 19, 2023, and the Regular Meeting Held on May 25, 2023 (*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the Special Workshop Meeting Held on May 19, 2023, and the Regular Meeting Held on May 25, 2023

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 05-19-2023 - Minutes - Special - Hotel Tour

2. 05-25-2023 Minutes - Regular - Morning

SPECIAL CALLED WORKSHOP MEETING
May 19, 2023 at 3:30 p.m.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
DOUBLETREE BY HILTON HOTEL

The City Council of the City of Abilene, Texas met in a Special Workshop Session on May 19, 2023, at 3:30 p.m. at the Doubletree by Hilton Hotel, 500 Cypress Street. Mayor Pro-tem Shane Price was present and presiding with Councilmembers Blaise Regan, Brian Yates, Kyle McAlister and Travis Craver. Mayor Hurt and Deputy Mayor Pro-tem Lynn Beard were absent. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, and City Secretary Shawna Atkinson.

SPECIAL CONSIDERATIONS

1. Tour of New Doubletree by Hilton Hotel

Council and staff toured the hotel with DPR Construction and Hilton staff members.

ADJOURNMENT

There being no further business, the meeting adjourned at 4:23 p.m.

Shawna Atkinson
City Secretary

Weldon Hurt
Mayor

Minutes approved on: _____

CITY COUNCIL MEETING
May 25, 2023 at 8:30 a.m.

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

The City Council of the City of Abilene, Texas met in Regular Session on May 25, 2023, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Weldon Hurt was present and presiding, along with Mayor Pro-tem Shane Price, Deputy Mayor Pro-tem Lynn Beard, and Councilmembers Blaise Regan, Brian Yates, Kyle McAlister, and Travis Craver. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, and City Secretary Shawna Atkinson

Councilmember Blaise Regan delivered the invocation.

Councilmember Brian Yates led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS, ANNOUNCEMENTS

- Presentations & Proclamations:
 - National Public Works Week – accepted by Public Works Staff
 - National Flood Awareness Week – accepted by Emergency Management Staff
 - Receipt of Gift from Local Church – Dr. Jay Miller with Mosaic Church presented the Abilene Police Department with a \$1,000 donation to the victims crisis fund.

PRESENTATION OF CONSENT AGENDA

The Consent Agenda consisted of items 3-14. Item 5 was pulled from consideration prior to the meeting. No items were pulled for individual consideration.

PUBLIC COMMENTS

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

- Theresa Manningly Clause – spoke about the Sandman sculpture being donated and how she believes it is disturbing.
- Tammy Fogle – spoke about how big the council packet was, and that she noticed the Sanctuary City for the Unborn Ordinance was under executive session.
- Eric Bengs – spoke about the policy that says citizens who do not reside within the city limits are not able to be a part of the book reconsideration process at the library. He believes it's discrimination and would like council to take another look at that.
- Donna Albus – stated how she stopped a street sweeper to thank him and the employee stated when someone stops him it is usually to complain. She also stated that she knows a lot of effort goes into these meetings, and if you don't spend at least 20 hours a week helping a local non-profit, you don't have a leg to stand on and complain.

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

CONSENT AGENDA

Deputy Mayor Pro-tem Beard moved to approve the consent agenda consisting of items 3-4, and 6-14. Councilmember Craver seconded the motion. Motion carried.

AYES (7): Mayor Hurt, Mayor Pro-tem Price, Deputy Mayor Pro-tem Beard, and Councilmembers Regan, Yates, McAlister and Craver

NAYS (0): None

3. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on May 11, 2023, and the Special Meeting Held on May 16, 2023
4. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving a Transfer of the Texas Enterprise Zone Designation of ARMC, LP to Hendrick Medical Center
[ASSIGNED RESOLUTION NO. 92-2023]
6. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Donation of the Contents of the Boy Scout Building
[ASSIGNED RESOLUTION NO. 94-2023]
7. Resolution: Receive a Report, Hold a Discussion and Take Action on Accepting Permanent Sculptures Donated to the City of Abilene
[ASSIGNED RESOLUTION NO. 95-2023]
8. Resolution: Receive a Report, Hold a Discussion and Take Action on Awarding Bid to AML Environmental for City Hall Asbestos Abatement
[ASSIGNED RESOLUTION NO. 96-2023]
9. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving a Contract for the Heavy Cleaning, CCTV Inspection, and CIPP Insertion Lining of Certain Sewer Main Sections
[ASSIGNED RESOLUTION NO. 97-2023]
10. Resolution: Receive a Report, Hold a Discussion, and Take Action to Approve an Agreement with McGriff Insurance Services, Inc. to Provide Employee Benefits Consulting
[ASSIGNED RESOLUTION NO. 98-2023]
11. Ordinance (First Reading) HOZ-2023-01: Receive a Report, Hold a Discussion, and Take Action on A Request From Third And Pine, LP To Apply Historic Overlay Zoning To Approximately .16 Acres Zoned Central Business (CB) Located at 302 Pine Street
12. Ordinance (First Reading) Z-2023-07: Receive a Report, Hold a Discussion and Take Action on A Request From Coffee Momma LLC To Change Zoning From PDD-128 To General Retail, Located at 701 S. Judge Ely Blvd.
13. Ordinance (First Reading) Z-2023-11: Receive a Report, Hold a Discussion and Take Action on A Request From Bridgestone Bandag, LLC To Change Zoning From Light Industrial To Heavy Industrial, located at 4962 FM 18
14. Ordinance (First Reading) Z-2023-13: Receive a Report, Hold a Discussion and Take Action on A Request From Dennis Ray Dunnam II And Mollie Victoria Dunnam To Change Zoning From Agricultural Open (AO) And General Commercial (GC) To General Commercial, located at 411 ES 11th Street

PULLED FROM CONSIDERATION

5. Resolution: Receive a Report, Hold a Discussion and Take Action on Authoring the City Manager to enter into a contract with Brightly for a Work Order and Asset Management Software
[NOT CONSIDERED]

REGULAR AGENDA

15. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving and Adopting the 2023 Parks and Recreation Master Plan
[ASSIGNED RESOLUTION NO. 99-2023]

Lesli Andrews, Director of Parks & Recreation, introduced Keith with Brandsetter Carroll Inc., who presented the item. Adoption of the item would approve and adopt the 2023 Parks and Recreation Master Plan.

Council shared their questions and comments in regards to what they would like to see in the plan.

Mayor Hurt opened the public hearing. The following addressed the city council:

- Tammy Fogle – stated she was disappointed to see that only 1,000 citizens participated in the survey. She stated that was a reflection on what the city is doing to engage the community.

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

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

AYES (7): Mayor Hurt, Mayor Pro-tem Price, Deputy Mayor Pro-tem Beard, and Councilmembers Regan, Yates, McAlister and Craver

NAYS (0): None

EXECUTIVE SESSION

Mayor Hurt recessed into Executive Session at 9:28 a.m., pursuant to the following of the Open Meetings Act, with the following issues discussed during this session, as listed on the agenda and authorized by the noted Texas Government Code Section:

- 16. B. 551.071 (Consultation with Attorney)
 - 1. Richard Scheriger, et al v. City of Abilene
 - 2. Sanctuary City for the Unborn Ordinance
- 16. D. 551.076 (Personnel Matters)
 - 1. City Manager

The Executive Session ended at 10:25 a.m. and reconvened to Open Session. Mayor Hurt reported no votes or action were taken in Executive Session.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:26 a.m.

Shawna Atkinson
City Secretary

Weldon Hurt
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 6/8/2023

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 5.

**Resolution: Receive a Report, Hold a Discussion and Take Action on
Appointing Members to Various Boards and Commissions per the City Charter
(Shawna Atkinson)**

- **Board of Adjustment**
- **Parks & Recreation Board**
- **Senior Citizens Advisory Board**
- **Visual Arts Jury**

GENERAL INFORMATION

The item provides for reappointment of members as well as appointing members to certain boards and commissions.

SPECIAL CONSIDERATIONS

Member terms vary per board and commission and are outlined in Exhibit A of the resolution.

FUNDING/FISCAL IMPACT

No cost consideration to the city.

STAFF RECOMMENDATION

(Re)Appointment

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. B&C Resolution
2. Exhibit A
3. B&C Presentation Slide

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPOINTING MEMBERS TO VARIOUS BOARDS AND COMMISSIONS AS REQUIRED BY THE CHARTER OF THE CITY OF ABILENE AND STATUTES OF THE STATE OF TEXAS

WHEREAS, the Charter of the City of Abilene and the Statutes of the State of Texas require that certain Boards and Commissions be established with a portion of the memberships thereof to be filled by appointment each year; and

WHEREAS, the City Council is of the opinion that the following members should be appointed to the designated Boards and Commissions, and has requested the Mayor to appoint same with the approval of the Council.

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

PART 1: That the list of Members is attached hereto as Exhibit A, shall be in all things, approved.

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

PASSED this 8th day of June, 2023.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____
EXHIBIT "A"

Board	Term End Date
<i>Board of Adjustment</i>	
Chip Whitlock [New] [Alternate]	November 2024 [unexpired term]
Joy Ellinger [New] [Alternate]	November 2024 [unexpired term]
<i>Parks & Recreation Board</i>	
Robyn Wertheim [Reappointment]	May 2026
Leigh Black [Reappointment]	May 2026
Michael Homer [New]	May 2026
<i>Senior Citizens Advisory Board</i>	
James Webbs [Reappointment]	May 2025
Cherry Branch [New]	May 2024 [unexpired term]
<i>Visual Arts Jury</i>	
Grayson Allred	May 2026



Resolution: Appointing Member(s) to various Boards and Commissions per the City Charter

- Board of Adjustment
- Parks & Recreation Board
- Senior Citizens Advisory Board
- Visual Arts Jury





City Council Agenda Memo

City Council Meeting Date: 6/8/2023

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: 6. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving Change Order No. 3 to the Contract for Lake Fort Phantom Hill Pump Station Improvements (*Rodney Taylor*)

GENERAL INFORMATION

Water Utilities staff is recommending that the Abilene City Council authorize Change Order No. 3 to the Contract with Udelhoven Oilfield System Services, Inc. (Udelhoven) for the Lake Fort Phantom Hill Pump Station Improvements project (Project) The Change Order provides for a reduction in contract value of \$86,084.00 for removing from the project scope the work associated with the rehabilitation of pumps #2 and #3. The original value of the contract is \$2,049,955.00, and the revised contract price as a result of Change Order #3 is \$1,963,871.00. The value of Change Order #3 exceeds \$50,000 and therefore requires the approval of the Abilene City Council. The Project Engineer, Udelhoven, and City staff agree to the removal of the work from the contract. Udelhoven has successfully completed all other tasks associated with the Project.

SPECIAL CONSIDERATIONS

On May 27, 2021 the Abilene City Council approved the contract with Udelhove Oilfield System Services for the Lake Fort Phantom Hill Pump Station Improvements in the amount of \$2,049,955.00. The contract called for the replacement of two existing Variable Frequency Drive Units and two Soft Start Units with two dual-train VFD units capable of simultaneously controlling the operating speed of all four pumps, the removal, rehabilitation, and reinstallation of all four of the pump units, the replacement of the VFD control room HVAC unit, and other miscellaneous improvements. The Contractor realized excessive lead times for delivery of key components of the project. Change Orders #1 and #2 each extended the final completion date for the project, but with no change to the value of the contract. Ongoing complications and delays with the rehabilitation of Pumps #2 and #3, not necessarily the fault of Udelhoven, led to the decision to delete that work from the contract scope. Udelhoven has successfully completed the Project, and the City is operating the newly installed Project equipment.

FUNDING/FISCAL IMPACT

NA

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council approve the Change Order No. 3 to the Contract with Udelhoven Oilfield System Services, Inc. reducing the contract value by \$86,084.00 and resulting in a final contract value of \$1,963,871.00

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. WrittenResolution-WtrDpt-Change Order 3-Udelhoven-Fort Phantom Hill Pump Station Improvements-6-8-2023
2. Change Order No 3-Udelhoven-LFPH PS Improvements-6-8-2023
3. Presentation-Change Order 3-Udelhoven-Fort Phantom Hill Pump Station Improvements-6-8-2023

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING CHANGE ORDER NO. 3 TO THE CONTRACT WITH UDELHOVEN OILFIELD SYSTEM SERVICES, INC. FOR THE LAKE FORT PHANTOM HILL PUMP STATION IMPROVEMENTS PROJECT.

WHEREAS, the City of Abilene (City) owns and operates a Public Water Supply System that includes the Lake Fort Phantom Intake Pump Station (Pump Station); and

WHEREAS, on May 27, 2021 the Abilene City Council awarded the bid to Udelhoven Oilfield System Services, Inc. (Udelhoven) for the Lake Fort Phantom Hill Pump Station Improvements Project in the amount of \$2,049,955.00; and

WHEREAS, the project provided for the replacement of two aged Variable Frequency Drive (VFD) units and two aged soft start units with two VFD units capable of simultaneously controlling the operating speed of all four pumps, the rehabilitation of the four pumping units, the replacement of the control building HVAC unit, and other miscellaneous work; and

WHEREAS, the Project Engineer Jacob and Martin, LLC (JM), Udelhoven, and City staff do agree to remove the rehabilitation of pumps #2 and #3 from the scope of work of the contract which results in a reduction in the total value of the contract; and

WHEREAS, City staff recommends the approval of Change Order No. 3 to the contract with Udelhoven Oilfield System Services, Inc. (Udelhoven) which removes the rehabilitation of pumps No. 2 and No. 3 and decreases the contract value by \$86,084.00 resulting in a final contract value of \$1,963,871.00; and

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

That the City Manager is authorized to execute Change Order No. 3 to the contract with Udelhoven Oilfield System Services, Inc. for the Lake Fort Phantom Hill Pump Station Improvements Project which reduces the contract value by \$86,084.00 for a final contract value of \$1,963,871.00.

ADOPTED this 8th day of June, 2023.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley E. Smith, City Attorney

CHANGE ORDER



CITY OF ABILENE

CHANGE ORDER NUMBER: 3

Project: Lake Fort Phantom Hill
Pump Station Improvements

Street: N/A

Contract Number: CB-2127

1. CONTRACTOR: Udelhoven Oilfield System Services, Inc.

2. Change Order Work Limits: Sta. N/A to Sta. N/A

3. Type of Change: Major (Major/Minor)

4. Reasons: Removal of project scope from contract.

5. Describe the work being revised: The City is proposing to remove from the project scope the removal, rehabilitation and reinstallation of pump #2 and pump #3. The contractor will leave these two pumps in place and commission both pumps with VFD #2 as originally provided for in the scope of work. The scope change will reduce the contract amount by \$86,084.00.

6. New or revised plan sheet(s), sketch(es), and estimates are attached: N/A

Each signatory hereby warrants that each has the authority to execute this Change Order (CO).

The contractor must sign the Change Order and, by doing so, agrees to waive any and all claims for additional compensation due.

THE CONTRACTOR Date: 04/06/2023

David Stanek
(Signature)

Typed/Printed Name: David Stanek

Typed/Printed Title: Sr. Vice President

The following information must be provided:

Change in contract time: 0 Working Days

Original contract price: \$2,049,955.00

Existing contract price: * \$2,049,955.00

Amount added or subtracted by this CO: \$86,084.00

Revised contract price: \$1,963,871.00

* Includes previous CO's

RECOMMENDED FOR EXECUTION:

Inspection Services Manager Date

Eric Hank 5-11-23

Engineer Date

Director Date

**Authorize Change Order No. 3 to the Contract with
Udelhoven Oilfield System Services, Inc. for the
Lake Fort Phantom Hill Pump Station Improvements Project.**





Udelhoven Change Order No. 3

- Authorize Change Order No. 3 to the contract with Udelhoven Oilfield System Services, Inc. for the Lake Fort Phantom Hill Pump Station Improvements Project.
- The original contract value is \$2,049,955.00.
- The contract provides for the installation of two new Variable Frequency Drive units capable of simultaneously controlling the operating speed of all four pumps, the rehabilitation of all four pumping units, a new HVAC system for the control building, and other miscellaneous work.





Udelhoven Change Order No. 3

- Change Order No. 3 removes from the contract the rehabilitation of pumps No. 2 and No. 3 resulting in a reduction to the contract price of \$86,084.00.
- The final contract price is \$1,963,871.00.
- Udelhoven has successfully completed the project.
- All four pumps are fully operational and are being controlled by the 2 new VFD units.





Udelhoven Change Order No. 3



Lake Fort Phantom Hill Pump Station



New Variable Frequency Drive Units



**Authorize Change Order No. 3 to the Contract with
Udelhoven Oilfield System Services, Inc. for the
Lake Fort Phantom Hill Pump Station Improvements Project.**

**Questions
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**City Council
Agenda Memo**

City Council Meeting Date: 6/8/2023

TO: Honorable Mayor Hurt and members of the City Council

FROM: Robert Hanna, City Manager

SUBJECT: 7. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to Enter into a Hotel Occupancy Tax Management and Use Agreement Pursuant to 351.101(c) of the Texas Tax Code with the Expo Center of Taylor County, Texas (Robert Hanna)

GENERAL INFORMATION

A venue tax is a 2% levy on hotel room night stays charged to the hotel guest and collected by the hotel operator. It is then remitted by the hotel operator to the City of Abilene, Texas on behalf of the venue district. The City of Abilene disperses venue tax receipts in accordance with State law and the direction of the venue district board of directors. Over the course of several years, the venue district has allocated funds for the repayment of the debt associated with the construction of Frontier Texas and improvements to Shotwell Stadium, and to support the operations of Frontier Texas, and the Expo Center of Taylor County. The funding amounts have changed throughout the life of the district, but have agreeably settled on the repayment of debt service and a 50/50 division of the remaining venue tax proceeds to Frontier Texas and the Expo Center of Taylor County. The venue tax is a critical revenue stream for the district beneficiaries, and both the district and the tax terminate on June 15, 2024.

A venue district must have a supporting capital project in order to levy the venue tax and both beneficiaries were asked if they had any capital improvements to help support the creation of the district. Frontier Texas indicated they needed \$2,000,000 in project revenue from a renewed venue district to construct their desired capital improvements. The Expo Center of Taylor County declined to include any capital needs in order to maximize available revenues. Here is where the dispute ensues. If one subtracts the total debt service from the district revenues before dividing the district revenues into equal halves for the beneficiaries, then the two beneficiaries receive the same amount of operating revenues. On the other hand, if one divides the district revenues into equal halves for the beneficiaries, with each beneficiary using their portion of the funds to support their debt service and maintenance and operations, the Expo Center of Taylor

County receives more revenue for operations and Frontier Texas receives less revenue for operations.

The table below illustrates this point and includes the following assumptions: (1) a 2% venue tax generating an initial annual revenue stream of \$1,279,500, (2) a historically conservative annual revenue growth rate of three (3%) percent, and (3) \$2,000,000 in available project funds with a 5.5% interest rate. For brevity, we show only the first full year of tax receipts and debt service repayment.

(TDS) TOTAL DEBT SERVICE	(DR) DISTRICT REVENUES @ 3%	(DR - TDS) / 2		(DR / 2) - TDS	
		EXPO CENTER OPERATING	FRONTIER TEXAS OPERATING	EXPO CENTER OPERATING	FRONTIER TEXAS OPERATING
\$ 163,488	\$ 1,279,950	\$ 558,231	\$ 558,231	\$ 639,975	\$ 476,487

As one can see, depending on when debt service is subtracted from total district revenues, the Expo Center of Taylor County gains revenue and Frontier Texas loses revenue.

In order to resolve this dispute and maximize the ability of putting heads into beds (the point of the hotel occupancy tax and the associated venue tax), the City Manager is requesting that the City Council authorize him to enter into a management and use agreement for hotel occupancy tax similar to the agreement we have entered into with the Chamber of Commerce. The agreement would provide 3% of total hotel occupancy tax revenues to the Expo Center of Taylor County. In order to fund this new direct allocation, the Chamber of Commerce has agreed to reduce their allocation for the Abilene Convention and Visitors Bureau by 1%, and the Abilene Cultural Affairs Council by 1%. The City would also reduce its portion of the hotel occupancy tax used for the Convention Center by 1%. This would provide the following funding allocations: (1) 49% to the Abilene Convention and Visitors Bureau, (2) 14% to the Abilene Cultural Affairs Council, (3) 34% to the City of Abilene, and (4) 3% to the Expo Center of Taylor County.

The historical recipients will not see a reduction in revenue because of this new agreement. Indeed, based on early budget work for 2024, the ACVB receives \$225,300 in additional revenue, the ACAC receives \$34,550 in additional revenue, and the City receives \$143,550 in additional revenue even with the 1% reductions.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

There is no material financial impact to the City of Abilene, or the City's Chamber partners.

STAFF RECOMMENDATION

Staff recommends approval as submitted.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution for EXPO
2. FINAL - 2023 Expo HOT AGREEMENT
3. HOT Management Agreement Expo Center

RESOLUTION NO. 2023-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE,
TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A
HOTEL OCCUPANCY TAX MANAGEMENT AND USE AGREEMENT
WITH THE EXPO CENTER OF TAYLOR COUNTY**

WHEREAS, the City of **Abilene** (“City”) grants hotel occupancy tax management and use agreements to the Chamber of Commerce for the purposes set forth in Chapter 351 of the Texas Tax Code; and

WHEREAS, the City Council of the city of Abilene now desires to grant a hotel occupancy tax management and use agreement to the Expo Center of Taylor County; and

WHEREAS, pursuant to Chapter 351.101(c) of the Texas Tax Code, the City of Abilene is authorized to enter into said hotel occupancy management and use agreement;

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

- Part 1. That the findings of the City and its actions approving this resolution taken at the City Council meeting are hereby approved and adopted.
- Part 2. That the City Manager is authorized to enter into an hotel occupancy tax management and use agreement with the Expo Center of Taylor County in the amount of 3% of hotel occupancy tax receipts pursuant to Chapter 351.101(c) of the Texas Tax Code.
- Part 3. That the City Manager is authorized to execute any amendments to any other hotel management use agreements with the Chamber of Commerce to effectuate a 2% reduction in hotel occupancy tax for the Chamber’s component entities.
- Part 4. That the City Manager is directed to reduce the amount of hotel occupancy tax revenues used by the Convention Center by 1%.

PASSED BY THE CITY COUNCIL of the City of Abilene this 8th day of June, 2023.

[signature page to follow]

CITY OF ABILENE, TEXAS

Weldon Hurt, Mayor

ATTEST:

Shawna Atkinson, City Secretary

APPROVED AS TO FORM:

Stanley Smith, City Attorney

AN AGREEMENT BETWEEN THE CITY OF ABILENE AND EXPO CENTER OF TAYLOR COUNTY, TEXAS AND USE OF HOTEL OCCUPANCY TAXES

This Agreement is entered into between the City of Abilene, a Texas Home Rule Municipality (the “City”), and the EXPO CENTER OF TAYLOR COUNTY, TEXAS a Texas non-profit corporation (the “Expo”) pursuant to Chapter 351 of the Texas Tax Code as amended from time to time (the “Authorizing Legislation”). In furtherance of the purposes of the Authorizing Legislation, and in consideration of the mutual covenants in this Agreement, the City and the Expo agree as follows:

1.) Purpose. The City seeks to enter into an agreement for the management and use of Hotel Occupancy Taxes pursuant to Chapter 351.101(c) of the Texas Tax Code.

2.) Term. This Agreement shall be effective and binding upon parties beginning October 1, 2023, and shall remain in effect until September 30, 2028 subject to early termination as described below. This agreement shall renew under the same terms and conditions for an additional five (5) year term unless the City provides sixty (60) days written notice to the Expo before the completion of the initial term.

This Agreement may not be amended during the term of the agreement without the written consent of both parties. The Expo may not assign this Agreement in whole, or in part to another party without the written consent of the City.

3.) Notice. Except as otherwise expressly provided for in this Agreement, any written notice regarding the terms and conditions of this Agreement shall be delivered, or sent by United States mail to:

Expo Center of Taylor County
Executive Director
1700 Highway 36, Abilene, TX 79602

The Expo is required to notify the City in writing of any address change. Unless otherwise noted in this Agreement, any notice is deemed given when received.

4.) Budget Approval Required. The Expo shall submit it’s proposed annual budget for the expense of Hotel Occupancy Tax by June 1 of each and every year of this Agreement. The City Manager shall review the proposed budget and make a

recommendation to the City Council to amend, approve, or reject the budgets as submitted. In the event the City Manager recommends the budget as submitted by the Expo should be amended or rejected, the City and the Expo mutually agree to work together to resubmit a budget for Council approval within thirty (30) days. The City Council shall resolve all disputes between the City and the Expo in regard to the budget.

5.) Regular Reporting Required. The Expo shall provide the City quarterly reports in a format acceptable to the City listing expenditures made using hotel occupancy tax revenues.

6.) No Commingling of Funds. The Expo shall keep all hotel occupancy tax revenue that may be retained for future use as authorized under this Agreement in a separate bank account established for that purpose, and may not commingle hotel occupancy tax revenue with any other money.

7.) Financial Recordkeeping. The Expo shall keep and maintain complete and accurate financial records in accordance with generally accepted accounting principles, subject to any variations required by State law, or are otherwise agreed to in writing by the City.

The Expo shall account separately for the hotel occupancy tax revenue received through this Agreement, and expenditures made as authorized in this Agreement.

On request from the City Manager or his designee, the Expo shall make the records relating to the handling and expenditure of hotel occupancy taxes available to the City.

The Expo shall engage an independent firm of certified public accountants to audit its annual financial statements and shall deliver to the City Manager a copy of its audited annual financial statements, consisting of a statement of financial position, a statement of changes in financial position, and notes to the financial statements, no later than 120 days after the end of The Expo's Fiscal Year.

The notes or supplemental information of the audited annual financial statements shall contain a detailed breakdown of revenues by source and expenditures by category. In addition to the audited annual financial statements, upon request, the Expo shall deliver a copy of all supporting documents that underlie the audited annual financial statements.

8.) Authorized Expenses Only. Hotel occupancy tax revenues shall only be expended in accordance with authorized budget appropriations, and only on those items that are specifically enumerated in the Authorizing Legislation.

Contract administration fees are authorized as approved by the annual budget, and only to the extent that the contract administration fees are directly related to expenses authorized in Chapter 351.101(a) of the Authorizing Legislation.

Hotel occupancy taxes spent for a purpose allowed by the Authorizing Legislation may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 351.101(a) of the Authorizing Legislation.

9.) Payment of Hotel Occupancy Taxes. Hotel occupancy tax revenues payable under this Agreement will be paid on a reimbursement basis. The Expo shall provide the City a monthly invoice for expenditures allowed under the Authorizing Legislation and this Agreement. The City shall review the invoice for compliance with the Authorizing Legislation and this Agreement, and promptly pay the Expo for invoiced expenses within thirty (30) days of receipt of the invoice.

The City shall maintain a hotel occupancy fund balance equal to twenty-five (25%) percent of authorized annual appropriations for all hotel occupancy tax expenses authorized and appropriated for the fiscal year, including but not limited to expenses authorized for use by the City, the Abilene Chamber of Commerce, and the Expo.

The Expo may request to maintain funding for conventions, and other eligible events that have signed agreements and associated committed obligations for a future period of forty-eight (48) months in advance of the then proposed fiscal year. For example, the approved budget for FY 2023, may contain advanced funding appropriations for signed agreements and associated committed obligations up to FY 2027.

The Expo may request to maintain funding or seek funding in advance for contractual commitments related to grants, performer fees, artist fees, advertising, marketing and other eligible events and items that have a signed agreement and

associated committed obligations for a future period no longer than twenty-four (24) months in advance of the then proposed fiscal year.

Such requests for hotel occupancy tax shall be appropriated and set aside for Expo use as part of the annual budget submittal and approval process. Such obligations and set asides will be clearly identified and accounted for in the annual budget and said funds will be held by the Expo in accordance with the Authorizing Legislation and this Agreement.

Annual reimbursements to the Expo shall not exceed Three (3%) percent of actual hotel occupancy tax collections for any given fiscal year for activities attributed to the Expo Center of Taylor County, provided that those hotel occupancy tax revenues set aside for future obligations as outlined above do not count towards the maximum reimbursement calculation.

10.) Early Termination. Either party may terminate this Agreement by written notice to the other party if such other party breaches any of its obligations hereunder and does not cure such breach within 30 days after receiving written demand from the other party specifying the breach in question and demanding that it be cured. Such right to terminate this Agreement shall be without prejudice to the other legal and equitable rights of the parties.

11.) Cooperation. Upon expiration or termination of this Agreement for any reason, the Expo shall cooperate with the City to ensure a smooth transition and completion of the expenses authorized for that fiscal year as approved in the annual budget. The Expo shall promptly, but not more than sixty (60) days following termination, turn over to the City without charge all unspent hotel occupancy tax as well as all other City contributed revenues funds, and all property purchased with hotel occupancy taxes or City provided funds and, upon request, shall assign to the City all contracts, rights and claims relating to the expenses authorized in the annual budget. Termination of this Agreement shall not impair the rights of the City under state law or under any other contract between the City and the Expo.

12.) Contract Administration. This Agreement shall be administered by the City through the City Manager or his or her designee, and all communications from the Expo to the City concerning this Agreement shall be directed to the City Manager, unless otherwise specified in writing.

13.) Qualifying Hotel Project – In the event a Qualifying Hotel Project as contemplated under Section 351 of the Tax Code is constructed in the City of

Abilene, the parties agree that the State local and hotel occupancy tax revenues derived from the project will be used for the repayment of debt associated with the project and other eligible expenses of the project, and the State and local hotel occupancy taxes revenues derived by the project shall not be allocated for use by the Expo or its affiliate agencies named in this Agreement.

IN WITNESS WHEREOF, the City and the Expo have caused this Agreement to be executed and delivered by their duly authorized representatives as of the dates specified below.

CITY OF ABILENE, TEXAS	EXPO CENTER OF TAYLOR COUNTY, TEXAS
By: _____	By: 
Name: _____	Name: Rochelle Johnson
Title: _____	Title: Exec. VP and General Manager
Date: _____	Date: June 1, 2023

Authorizing a Hotel Occupancy Tax Management and Use Agreement with the Expo Center of Taylor County, Texas





**City Council
Agenda Memo**

City Council Meeting Date: 6/8/2023

TO: Robert Hanna, City Manager

FROM: Max Johnson, Director of Public Works

SUBJECT: 8. Resolution: Receive a Report, Hold a Discussion, and Take Action Approving a Contract with Kimley Horn and Associates for Engineering Services for S. 27th St. and Southwest Dr. Traffic Signal Modifications and Signal Timing Optimization (*Max Johnson*)

GENERAL INFORMATION

This design contract involves traffic signal modification designs at S. 27th St. and Willis St., S. 27th St. and Barrow St., S. 27th St. and Buffalo Gap Rd., S. 27th St. and Sayles Blvd., and S. 27th St. and Treadaway Blvd. This contract also involves traffic signal timing optimization at Southwest Dr. and Catclaw Dr., Southwest Dr. and Clack St., Southwest Dr. and Danville Dr., S. 27th St. and Willis St., S. 27th St. and Barrow St., S. 27th St. and Buffalo Gap Rd., S. 27th St. and Sayles Blvd., and S. 27th St. and Treadaway Blvd.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

Funding for this project is allocated through Streets Maintenance Fee funds.

STAFF RECOMMENDATION

The contract with Kimley Horn and Associates is for the fixed fee amount of \$120,000.00.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. South 27th St_Southwest Dr Traffic Signal Modifications_Optimization Design resolution
2. Kimley H Prof Service Contract-S. 27th St. Southwest Dr. Traffic Signal Improvements
3. PROJECT LOCATION MAP
4. S. 27th St_Southwest Dr Signal modifications

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH KIMLEY
HORN AND ASSOCIATES.**

WHEREAS, The City of Abilene desires to install traffic signal modifications and optimize signal timing along various intersections along South 27th St. and Southwest Dr. from Catclaw Dr. to Treadaway Blvd.; and

WHEREAS, The City of Abilene has selected Kimley Horn and Associates for the schematic design, technical specifications and coordination with the City for said project; and,

WHEREAS, The City Council authorizes the City Manager to execute an agreement with Kimley Horn and Associates in the amount of \$120,000.00 for engineering services associated with the traffic signal modifications and signal timing optimization for the various intersections along South 27th St. and Southwest Dr. from Catclaw Dr. to Treadaway Blvd.

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

PART 1: The City Council authorizes the City Manager to execute an agreement with Kimley Horn and Associates.

PART 2: That the agreement is in the amount of \$120,000.00 for the design of the public improvements.

PART 3: That this resolution will take effect immediately from and after passage.

ADOPTED this 8th day of June, 2023.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney



PROFESSIONAL SERVICES CONTRACT Engineers & Architects

This contract, dated the 8th day of June, 2023, is between the City of Abilene, a home rule municipal corporation of the State of Texas (“City”), and Kimley Horn and Associates, a corporation organized under the laws of the State of North Carolina (“Consultant”).

The City is engaged in Develop Traffic Signal Modifications Plans and Optimize Traffic Signal Timing on South 27th Street and Southwest Drive 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 engineer properly licensed 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 City's property from the time of preparation, provided the City has substantially performed its obligations, including prompt payment of all sums when due Consultant, under this Contract. 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. However, modifications or use for other than the purposes intended under this Contract without the written verification or adaption by Consultant for the specific intended purpose shall be without liability or legal exposure to Consultant.

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, unless disclosure is required by legal compulsory process. 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, subject to the limitations in Texas Local Government Code Section 271.904.

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>
<u> X </u> 1. Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
<u> X </u> 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)
<u> X </u> 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)

X 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:
Max Johnson
Public Works Director
City of Abilene
555 Walnut St.
Abilene, TX 79601

Consultant – ATTN:
Hiron Fernando
Project Manager
Kimley-Horn
13455 Noel Rd., Two Galleria
Office Tower STE 700
Dallas, TX 75450

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

PROFESSIONAL

By:

By: 

Name:

Name: Douglas Arnold

Title:

Title: Contract Specialist

Address: 801 Cherry Street, Fort Worth, TX 76102

Phone Number: 817-335-6511

Federal Tax ID#:

ATTEST:

ATTEST: (if corporation)

City Secretary

Corporation's Secretary

APPROVED:

Corporate Seal (if available)

By: _____
City Attorney

ATTACHMENT A



April 10, 2023

Scott Chandler, P.E.
City Engineer
City of Abilene
555 Walnut Street
Abilene, TX 79601
Office 325-676-6282

RE: *Scope of Services to Develop Traffic Signal Modification Plans and Optimize Traffic Signal Timing on South 27th Street and Southwest Drive in Abilene, TX*

Dear Mr. Chandler,

Kimley-Horn and Associates, Inc. ("KH") is pleased to submit this letter agreement (the "Agreement") to the City of Abilene ("the Client") for services related to the preparation of traffic signal modifications on South 27th Street and traffic signal optimization on South 27th Street and Southwest Drive in Abilene, Texas. Our scope of services, schedule, and fee are presented below.

Scope of Services

The scope of services will include the development of traffic signal modification plans and optimization of traffic signal timing at the intersections listed below on South 27th Street and Southwest Drive in Abilene, Texas.

No.	Intersection	Service Proposed	
		Signal Design Modification	Signal Timing Optimization
1	Southwest Drive at Catclaw Drive		✓
2	Southwest Drive at US 84 EBFR/Clack Street		✓
3	Southwest Drive at US 84 WBFR/Danville Drive		✓
4	South 27th Street at Willis Street	✓	✓
5	South 27th Street at Barrow Street	✓	✓
6	South 27th Street at Buffalo Gap Road	✓	✓
7	South 27th Street at Sayles Boulevard	✓	✓
8	South 27th Street at Treadaway Boulevard	✓	✓

The tasks include the preparation of signal modification sheets, general notes, quantities, probable construction cost estimates, technical specifications, and coordination with the city. The traffic signal modification plans will be prepared using City of Abilene Standards where applicable. The plans are anticipated to be produced under a single coversheet and bid at one time.

Figure 1 illustrates the project area, representing a single corridor measuring 2.38 miles. Subtasks include assessment of existing conditions, development of short/long term improvements, development of optimized traffic signal timing plans, implementation and fine-tuning of optimized traffic signal plans, and project documentation. This project will use traffic counts provided by the Client.

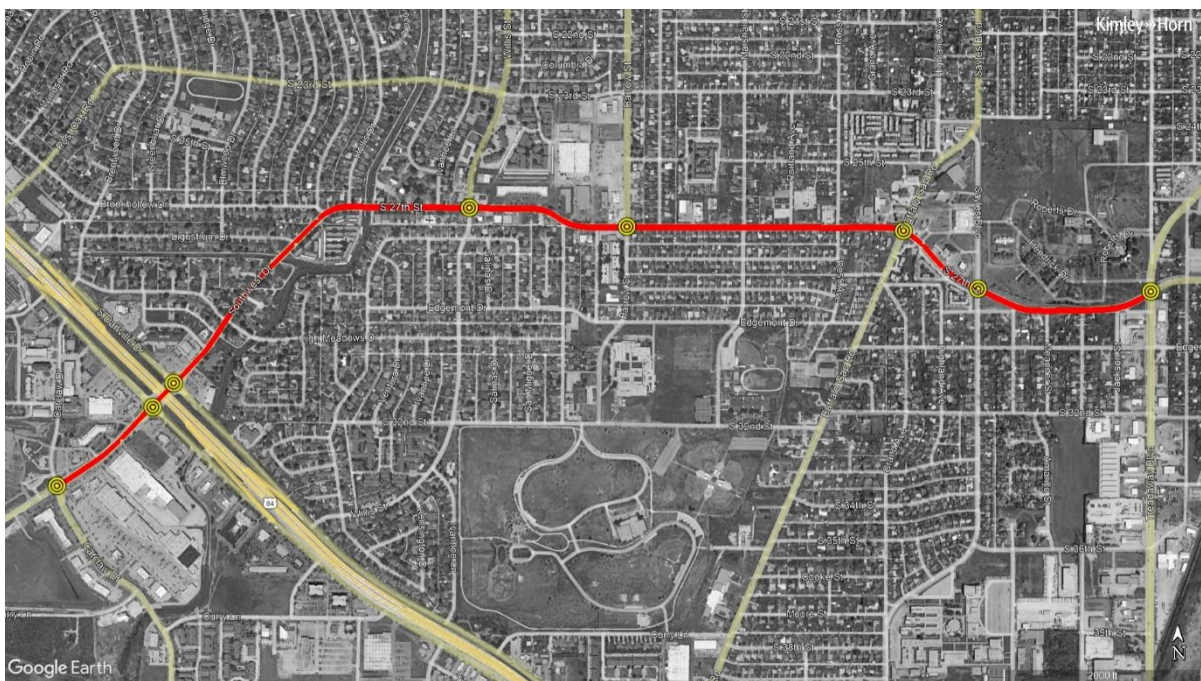


Figure 1. Project Area

This section describes the professional services to be provided by KH.

Task 1 Traffic Signal Modification Design

1.1 Project Meetings and Field Evaluation

KH will organize, prepare for, and facilitate one Kick-Off meeting, with the following objectives in mind:

- Discuss the scope and roles of KH,
- Discuss specific project requirements and any special design or coordination needs,
- Discuss deliverables,
- Discuss project schedule,
- Identify the protocol for project communications,
- Plan for specific documents that will require City of Abilene review and comment, and
- Identify the need for, and the provision of, existing conditions data.

In the general vicinity of the project intersections, KH will perform one in-field review and verify existing signage, existing signal infrastructure, and other existing elements.

This existing site condition evaluation will form the basis of the design. No topographic survey is being provided or procured; therefore, every effort will be made to design proposed traffic signal equipment within city ROW using existing identifiers but is not guaranteed. After the 100% Draft submittal, KH will prepare for and schedule one conference call with City of Abilene staff to receive/communicate about comments, if needed.

1.2 Design Phase

The design will be prepared using base mapping from field investigation. The design will be prepared at 1" = 40' on 11" x 17" plan sheets using MicroStation SS10. The design will be based on and include information gathered during the site visit. The traffic design package will include the following plan sheets.

- **Existing Conditions and Removals Layout Sheet:** existing signal infrastructure, proposed removals, and existing pavement markings at the subject intersection.
- **Traffic Signal Layout Sheet:** proposed signal modification layout, design of flashing yellow arrow signal heads for intersection, overhead signs, and signal phasing diagram.
- **Traffic Signalization Detail Sheet:** with tabulation of quantities, conductor routing chart, electrical chart, and general notes.

Below is a summary of the modifications which will be designed:

- Design of proposed pole and mast arm for (5) subject intersections.
- Install or replace ground boxes and conduit as needed to tie proposed equipment.
- Install flashing yellow arrow (FYA) signal heads.
- Existing traffic signal service, cabinet, and poles that meet the mast arm length for proposed FYA signal heads shall remain (see *Table 1*).

Table 1. Preliminary Mast Arms in Need of Replacement

No.	Intersection	Approach	Existing MA Approx. Length (ft)	Need Longer MA for Proposed FYA?	Proposed MA Length (ft)	Comments
1	S. 27th St. @ Willis St.	NB	20	Yes	32	-
		SB	20	Yes	28	-
		EB	32	Yes	44	-
		WB	32	No	-	-
2	S. 27th St. @ Barrow St.	NB	32	Yes	40	-
		SB	24	No	-	Extension bracket recommended
		EB	32	Yes	40	-
		WB	32	No	-	Extension bracket recommended
3	S. 27th St. @ Buffalo Gap Rd.	NB	32	Yes	40	-
		SB	28	Yes	40	-
		EB	36	No	-	Extension bracket recommended
		WB	32	No	-	Extension bracket recommended
4	S. 27th St. @ Sayles Blvd.	NB	32	Yes	40	-
		SB	28	Yes	40	-
		EB	36	Yes	44	-
		WB	36	Yes	48	-
5	S. 27th St. @ Treadaway Blvd.	NB	36	Yes	44	-
		SB	32	Yes	40	-
		EB	32	No	-	Extension bracket recommended
		WB	36	Yes	44	-

Note: This table is preliminary. All assumptions will be finalized during field visit, during which additional MA replacements may be deemed necessary.

This proposal does not include design of improvements such as ADA accessibility and ramp design, nor improvements that increase capacity such as left turn or right turn lane roadway design, median pull backs, or coordination with outside agencies.

1.3 Deliverables

The plans are anticipated to be produced under a single cover sheet and bid at one time. KH will provide a single design plan set combining the sheets from the tasks above with the sheets below:

- Cover Sheet: including location key map and description of project
- General Notes: including standard general notes applicable to City of Abilene.
- Summary of Quantities: including the summary of quantities and Opinion of Probable Construction Costs (OPCC) using TxDOT bid items.
- Standard Detail Sheets: including all standards from City of Abilene (and TxDOT standards as needed).

KH will develop the following deliverables for this task:

100% (Draft) Submittal: KH will prepare and submit an electronic copy of the construction plans to Client for review. KH will submit plans and in accordance with 100% draft submittal format.

100% (Final) Submittal: KH will address any necessary review comments from Client and provide an electronic copy of the sealed construction plans.

Task 2 Traffic Signal Optimization

2.1 Data Collection

The City of Abilene will provide traffic count information for the intersections listed below:

1. Southwest Drive & Catclaw Drive
2. Southwest Drive & US 84 EBFR/Clack Street
3. Southwest Drive & US 84 WBFR/Danville Drive
4. South 27th Street & Willis Street
5. South 27th Street & Barrow Street
6. South 27th Street & Buffalo Gap Road
7. South 27th Street & Sayles Boulevard
8. South 27th Street & Treadway Boulevard

Below is a summary of the data collection type and durations to be performed at the intersections listed above (8 intersections):

- Turning movement counts (at the locations listed above) will be collected for up to 6 hours on a weekday.
- 16-hour approach volumes (at the locations listed above) will be collected for all existing approaches.

KH will obtain crowd-sourced probe-based data through the INRIX Roadway Analytics tool for the study corridor, using TxDOT's agreement with INRIX. This data will replace traditional "before" and "after" travel time runs to quantify the benefits of the signal retiming effort.

The data will be collected two weeks before and two weeks after implementation, excluding major special events, holidays, and changes in school schedule. This data will be gathered within the project limits for the Southwest Drive/South 27th Street corridor.

The Client will provide existing signal phasing and timing data. KH will use this information developing base models, comparing existing and recommended clearance intervals, and analyzing corridor operations.

2.2 Meetings

KH will prepare for and attend three virtual meetings, listed below. Additional meetings can be attended but will be considered an additional service.

1. Initial kick-off meeting with the client to discuss objectives and requirements of traffic signal optimization
2. On-screen review of proposed timing plans.
3. Meeting to present findings and recommendations of the memo with city stakeholders and get consensus from stakeholders prior to finalizing the memo.

2.3 Assessment of Existing Conditions

Using the existing traffic volume data collected by the City of Abilene, KH will study existing or “before” conditions to evaluate areas for improvement and initial conditions for analysis. Included in this task are field investigation, development of Synchro traffic simulation models, capacity analysis, and operational analysis.

2.4 Development of Short/Long Term Improvements

KH will provide a list of recommended signal phasing and lane assignment updates at the project intersections to the Client for consideration moving forward.

2.5 Development of Optimized Traffic Signal Timing Plans

KH will recalculate vehicular and pedestrian clearance intervals; these parameters consist of:

- Minimum green time per phase
- Yellow change interval time
- All-red clearance time
- Pedestrian WALK time
- Pedestrian flashing DON'T WALK time

KH will work with the Client to establish the guidelines to be used as the basis for establishing these basic controller interval parameters. For the purposes of these calculations, the approach speeds will generally be assumed to be the posted speed limit. KH will measure distances needed to establish basic controller interval parameters from aerial photography.

KH will develop three optimized timing plans (AM, MD, and PM weekday peak) for each signalized intersection in the project area defined above. For each intersection, KH will provide a daily schedule that indicates the time periods during which each plan should be active. This schedule will also indicate when the intersection should be running in FREE operation.

2.6 Implementation and Fine-Tuning of Optimized Traffic Signal Plans

The actual entry of new timing plans into the controller databases will be done by Client staff responsible for operating and maintaining the signals. During this process, KH will provide virtual on-call support to resolve issues that may arise. It is anticipated that this support will not exceed 4 hours.

On mutually agreed-upon days, KH will arrange to be available on the street to observe new timing as it is made operational. KH will then perform in-field fine-tuning to enhance the actual on-street operation of the new timing plans. This fine-tuning will be led by senior engineers with extensive experience in traffic signal operations. It is assumed that Client personnel will be on-hand to download desired timing adjustments into the controller databases. KH will perform the implementation and fine-tuning task during one in-person site visit lasting two days

This phase of the project is anticipated to consist of adjustments to splits, offsets, and basic operational parameters in the controllers. It is anticipated that Client staff will be available to assist with field changes throughout the fine-tuning process.

2.7 Project Documentation

KH will develop a brief project final memorandum to document benefits of the modified signal timing. Such documentation is expected to consist of the following:

- Narrative discussion of the project with supporting figures such as maps of the control groups by time period
- Recommendations for signal phasing and lane assignment updates at the project intersections
- Tabular comparisons of the before and after INRIX data and Synchro analyses
- Calculations of annual benefits of signal timing project, using INRIX data, link volumes, and TxDOT Road User Costs

KH will develop a 1-page summary flyer to communicate project benefits to City management.

2.8 Deliverables

KH's project deliverables will include:

- Existing Synchro Models
- Proposed Synchro Models
- Final Memorandum
- Summary Flyer

Information Provided By Client

KH shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The level of detail and accuracy provided in the Client's data will be reflected in the completeness of the final deliverable. Services that are not specified under Scope of Services, including any additional meetings requested by the Client, will be provided as additional services when requested and authorized in writing by the Client. Compensation for additional services will be on a time and materials basis in accordance with our Standard Hourly Rate Schedule.

Notes & Assumptions

Our scope and fee are based on the following:

1. No topographic survey is being provided or procured; therefore, every effort will be made to design proposed traffic signal equipment within city ROW using existing identifiers but is not guaranteed.
2. This contract does not include design of pedestrian equipment including ADA ramps or push buttons.

3. City of Abilene is to provide all necessary traffic count data. Exact times and exact locations of data collection will be provided prior to collection of data.
4. City of Abilene will not proceed to collect data until Kimley-Horn provides location map of exact locations where to collect data.
5. Traffic movement count data shall have volumes of each approach and turning movements (LT, TH, RT).
6. 16-hour count data shall have bi-directional volumes for the collected roadway segment.
7. All traffic count data will be provided in .vol, PDF, and Microsoft Excel format. Data shall be presented in 15-minute increments.
8. The Client shall provide all necessary requested traffic signal data. The Service Provider will not be liable for errors or omissions in the provided material.
9. Fees are to perform each task one time with one round of comment resolutions. Additional revisions to address Jurisdictional review comments will be made on an hourly basis.
10. Kimley-Horn's recommendations will be performed in general accordance with current published City and TxDOT design standards.
11. Traffic control plans, if required, will be prepared by the Contractor or others and is not part of our scope. If oversight of the contractor's design is needed, it will be provided as part of additional services and will be on a time and materials basis in accordance with our Standard Hourly Rate Schedule.
12. Inspections and Certifications during construction, if required, will be performed by others and is beyond the scope of this agreement. The final report shall be signed and sealed.
13. Services that are not specified under Scope of Services, including any additional meetings requested by the Client, will be provided as additional services when requested and authorized in writing by the Client. Compensation for additional services will be on a time and materials basis and billed according to our standard rate schedule.

Schedule

KH will work with the client to develop a mutually acceptable project schedule.

ATTACHMENT B

Fee and Billing

KH will perform the services in Task 1.0 and Task 2.0 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.

Task and Fee Summary Table

Task 1.0	Traffic Signal Modification Design	\$79,200 LS
Task 2.0	Traffic Signal Optimization	\$40,800 LS

Total Lump Sum (LS) Fee:	\$120,000
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Lump Sum (LS) tasks will be invoiced based on the percent completion of the tasks.

Additional Services will be performed at the Client's direction on an hourly plus expense basis in accordance with the attached rate schedule, which is subject to annual adjustment. Direct reimbursable expenses such as express mail fees, air travel, and other direct expenses will be billed at cost.

All permitting, application, and similar project fees will be paid directly by the Client.

Fees and expenses will be invoiced monthly based, as applicable, upon the percentage of services completed or actual services performed and expenses incurred as of the invoice date. Payment will be due within 25 days of your receipt of the invoice.

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ATTACHMENT C

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 D
NOTICE TO PROCEED

Click or tap here to enter text.

ATTACHMENT E
CHANGE IN SCOPE OF SERVICES

Click or tap here to enter text.

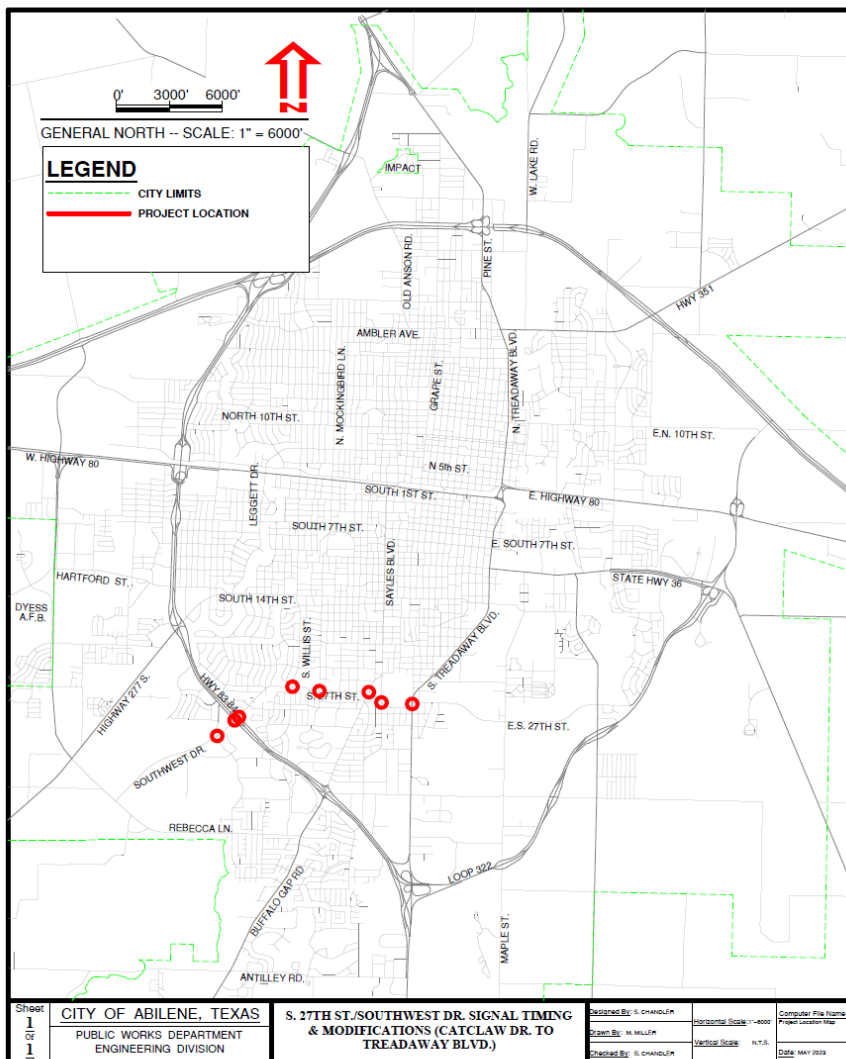
Agenda Item:

S. 27th St. and Southwest Dr. Traffic Signal Modifications and Timing Optimization (Catchlaw Dr. to Treadaway Blvd.) *(Max Johnson)*





S. 27th St. and Southwest Dr. Traffic Signal Modifications and Timing Optimization (Catclaw Dr. to Treadaway Blvd.)



Intersection

Design Modification

Timing Optimization

Southwest Dr. & Catclaw Dr.
Yes
Southwest Dr. & Clack St.
Southwest Dr. & Danville Dr.
South 27th St. & Willis St.
South 27th St. & Barrow St.
South 27th St. & Buffalo Gap Rd.
South 27th St. & Sayles Blvd.
South 27th St. & Treadaway Blvd.

No

No

No

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes



CITY OF
ABILENE
TEXAS



S. 27th St. and Southwest Dr. Traffic Signal Modifications and Timing Optimization (Catclaw Dr. to Treadaway Blvd.)

- The City of Abilene staff selected Kimley Horn and Associates after reviewing the proposal submitted for the project.
- Project includes signal modification design of five intersections and traffic signal optimization of eight intersections along South 27th St. and Southwest Dr. from Catclaw Dr. to Treadaway Blvd.
- The contract with Kimley Horn and Associates is for the fixed fee amount of \$120,000.00.
- Project funded through Street Maintenance Fee





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 6/8/2023

TO: Robert Hanna, City Manager

FROM: Max Johnson, Director of Public Works

SUBJECT: 9. Ordinance (First Reading): Receive a Report, Hold a Discussion and Take Action on Approving an Ordinance Adding Chapter 27, “Solid Waste,” Article VI., “Recyclable Material,” which creates a Permitting Process for Private Haulers of Recyclable Materials (*Max Johnson*)

GENERAL INFORMATION

The City of Abilene has been approached by Good Earth Recycling, and asked about the possibility of operating a subscription-based Curb-Side Recycling program within the city limits of Abilene. Currently, this process is not provided for within the Abilene Municipal Code. In cooperation with Good Earth Recycling and staff, new sections 27-33 and 27-34 of the Abilene Municipal Code are recommended for approval. If approved, these sections will allow for the proper collection, operation, public protection, and program oversight for the collection and transportation of recyclable materials.

SPECIAL CONSIDERATIONS

The proposed ordinance creates an annual permit process for the private collection and transportation of recyclable materials within the city limits of Abilene. The permit holder shall be required to provide company information, a business plan, insurance, and clearly identifiable vehicles as part of the permit process. Haulers shall also be required to provide documentation on the quantity of materials delivered for recycling, dates of service, and receipts for processing costs.

FUNDING/FISCAL IMPACT

Approval of the proposed Ordinance will not have any financial obligation for the City of Abilene.

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Enacting Ordinance
2. Exhibit A - Abilene Recycling Ord 2023 updated
3. Presentation - Ordinance for Private Haulers of Recyclables

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, ADDING CHAPTER 27, "SOLID WASTE," ARTICLE VI., "RECYCLABLE MATERIAL," AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY

WHEREAS, there are businesses within the City of Abilene which have the ability to provide recycling collection services to the citizens; and

WHEREAS, it is in the best interest of the citizens to create a non-exclusive permit process so that haulers of recyclable material may legally operate within the City of Abilene;

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

- PART 1:** That Chapter 27, Article VI, "Recyclable Materials," of the Abilene Municipal Code be added as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.
- PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this Ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.
- PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.
- PART 4:** 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 8th day of June, 2023.

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 ____th day of June, 2023, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 22nd day of June, 2023, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 22nd day of June, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

Exhibit “A”

ARTICLE VI. RECYCLEABLE MATERIALS

Sec. 27-33. Private haulers of recyclable materials.

The following are requirements and responsibilities of private haulers of recyclable materials:

(1) Permit Required.

It shall be unlawful for any person, company, or corporation to collect, transport, or dispose of any source-separated recyclable materials from any person, business, or member of the public within the city limits of the City of Abilene without first obtaining a permit to do so from the city and remaining in compliance with all requirements of this ordinance and the permit.

This section shall not prohibit any person, company, or corporation from collecting or disposing of recyclable material generated by their own household or business and transporting such material to the city-operated recycling collection center or to a TCEQ-approved recycling processing facility.

(2) Permit Application.

Each application for a permit required by this section shall be made to the director of public works and shall include:

- a. Business name, address, and phone number of the applicant recyclable hauler;
- b. Business owner’s name, address, phone number, and driver’s license number;
- c. List of all vehicles to be used for recyclable hauling, including make, model, and license plate number;
- d. Photograph of hauler logo;
- e. Proof of liability insurance;
- f. Permit fee in an amount approved by City Council for each vehicle to be used for recyclable hauling;
- g. Copy of the business plan of the hauler, including, but not limited to, the costs of operations, advertising and marketing, and customer fees for recycling services.

(3) Term of permit

The term of the permit shall be from January 1 to December 31 of each year. The permit is required to be renewed on or before the first city working day after January 1, and the permit fee for each truck or vehicle operated by the hauler shall be paid each time the permit is renewed. An expired permit is not valid for continued operation under this chapter.

(4) Requirements of Permit Holder

- a. Identification of Vehicles. Any vehicle used by a hauler for the purpose of collecting and diverting recyclable materials shall have a prominently displayed permit supplied by the city and shall be marked with the hauler's logo to make it readily identifiable.
- b. Truck Covers. All vehicles used for collecting and diverting recyclable materials shall be enclosed or covered with a net, canvas, or wire to prevent the contents of the hauler from falling into the public streets or adjacent property, and it shall be an offense to operate such vehicles within the city without such covers.
- c. Customer List. A permit holder shall maintain a current list of customers. A current customer list shall be provided to the City Secretary biannually, no later than January 31st and July 31st of each year.
- d. Collection of Source-Separated Recyclable Material. A permit holder shall comply with all requirements of Section 27-34.
- e. Permit holder may not commingle solid waste with recyclable materials or otherwise transport recyclable materials as an unauthorized solid waste hauler.

(5) Renewal of permit.

Each permit may be renewed annually, and the information listed in subsection (2) of this section shall again be provided for each renewal. All information required in subsection (2)(a)-(g) shall be amended and updated in writing within 30 days of a change.

(6) Revocation of permit. The permit of a hauler may be revoked by the director of public works for the following reasons:

- a. Failing to comply with any of the requirements of this Article;
- b. Providing false or misleading information in the Permit Application;
- c. Engaging in any behavior or action that creates a health or safety hazard to the public.

(6) Appeal.

A hauler may appeal the revocation of his or her permit to the city manager within seven (7) days of the date of revocation. The appeal must be in writing. The city manager shall have the authority to uphold or reverse the revocation or set forth terms by which the permit may be restored. The decision of the city manager is final.

(7) Transferability of Permits. A permit is not transferrable. A permit shall be required for each hauler desiring to collect and divert recyclable materials.

27-34 Collection of Recyclable Material

Haulers shall only collect, transport, and store source-separated recyclable materials in accordance with the requirements of this article and State law. Haulers shall monthly submit evidence of such compliance for the prior month demonstrating, at a minimum:

- (1) Amount of recyclable materials collected;
- (2) Dates of collection; and
- (3) Receipts for materials delivered for processing and disposal.

The city has the right to inspect and audit the records of any hauler in order to ensure compliance with this section. Diversion of construction and demolition debris as recyclable material shall only be accomplished after separation of recyclable material from solid waste at the construction or project site. Commingling municipal solid waste with construction and demolition recyclable material is prohibited. The failure of a generator to source-separate any recyclable material from solid waste, which results in the hauler transporting solid waste as an unauthorized solid waste contractor, may result in the revocation of the hauler's permit.

ORDINANCE: Creating a Permitting Process for Private Haulers of Recyclable Materials

(Max Johnson)





ORDINANCE: Creating a Permitting Process for Private Haulers of Recyclable Materials

- Abilene has been contacted by Good Earth Recycling out of Lubbock, Texas, with an inquiry into the ability of their company to provide a subscription-based Curb-side Recycling Program within all of Abilene
- Staff met with Nick Nowicki (Good Earth Recycling) and discussed the company's business plan - during the meeting the staff shared concerns and asked questions regarding the company's proposal
- In response to the meeting, the City of Abilene has drafted an Ordinance which addresses the request and the concerns of City Staff, specifically, the Public Works Solid Waste Division





ORDINANCE: Creating a Permitting Process for Private Haulers of Recyclable Materials

- The Ordinance has provisions for the Company to provide the following: Company Information, the Business Plan, a list of all vehicles used by the Company, a requirement for All Vehicles to be clearly marked with the Company Logo, Insurance, and a \$50 permit fee for each vehicle per calendar year.
- The Company also shall provide Truck Covers and shall provide reports that verify compliance with this ordinance, State requirements, and documentation the materials collected are recycled and not landfilled.
- The Ordinance has been reviewed by Good Earth Recycling and they do not have any objections to the requirements within the Ordinance.
- Staff recommends approval.



QUESTIONS ?





**City Council
Agenda Memo**

City Council Meeting Date: 6/8/2023

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **10. Ordinance (Final Reading) HOZ-2023-01:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request From Third And Pine, LP To Apply Historic Overlay Zoning To Approximately .16 Acres Zoned Central Business (CB) Located at 302 Pine Street *(Tim Littlejohn)*

GENERAL INFORMATION

This is a request to add Historic Overlay (HO) zoning on a property in Original Town Abilene.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Landmarks Commission recommends approval by a vote of 6-0.
The Planning and Zoning Commission recommends approval by a vote of 5-0.

ATTACHMENTS:

1. HOZ-2023-01 Ordinance
2. HOZ-2023-01 Staff Report

3. 301 & 365 Cypress
4. 993 North 3rd St
5. HOZ-2023-01 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 Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto. PASSED ON FIRST READING the 25th day of May, 2023.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the *Abilene Reporter-News*, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of April, 2023, 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 8th day of June 2023, 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 8th day of June, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

HOZ-2023-01

STAFF REPORT



Scheduled Hearing(s)

Planning & Zoning Commission: May 2, 2023

City Council 1st Reading: May 25, 2023

City Council 2nd Reading: June 8, 2023

Applicant

Owners: Third and Pine, LP

Case Manager

Mason Teegardin, Planner

Request

Add Historic Overlay zoning on a property in Original Town Abilene.

Location

302 Pine Street, Lots 11-12, Block 21, Original Town Abilene.

Background

Built in 1932, the Grant Building is a 3-story commercial building in downtown Abilene. It was built by local entrepreneur James M. Radford to accommodate a W.T. Grant Co. store. The building retains significant integrity on the exterior with its original massing, masonry ornament, and original windows on the south elevation. Buff brick forms exterior walls with decorative brickwork and dentillated molding at the cornice of the building. Limestone forms a string course separating the first and second floors of the building. The parapet features a decorative limestone sign panel incised with "GRANT BUILDING"; topped by a cast stone palmette. Limestone also comprises lintels and sills of all windows, as well as bulkheads lining the south elevation storefronts. The brick and stone masonry are in good condition. The building is topped by a flat built up roof with ballast, which is surrounded by a shaped parapet at the east and south elevations, facing Pine and North 3rd Streets, respectively. Non-historic, aluminum-frame windows with tinted glass replace most historic windows in the original historic window openings.

A building permit was issued on 02/01/21 for interior renovations for office spaces, as well as sidewalk replacement. Work was completed on 09/20/22. The building on the subject property is included on the National Register of Historic Places as of December 2020 and is also listed on the Texas Historical Commission register.

Criteria Assessment

According to Section 2.3.4.4(c) Criteria for Designation. Historic Overlay Districts shall be established only if principal districts, conservation districts, areas, sites, structures, buildings, properties, or objects within the boundaries of a proposed zone exhibit any one or more of the following characteristics:

- 1. Possesses significance with respect to history, culture, architecture, archeology, paleontology, or as a natural site with a demonstrable cultural association;**

The subject building is significant at the local level for architecture, as a largely intact example of an early twentieth-century two-part commercial block masonry building.

2. **Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, national, or international history;**
3. **Embodies characteristics distinct to a type, period, or method of construction or architecture;**

The Grant Building is locally and nationally significant as it is an intact example of American Movement Commercial Style.

4. **Is associated with the lives of persons significant in local, regional, state, national, or international history;**

James M. Radford built more than forty brick buildings in Abilene, including the Drake Hotel, Grace Hotel, and the subject building. He served as the vice president of the Abilene Cotton Oil Co., and owned several cattle ranches in Texas.

5. **Represents a distinctive and familiar visual feature of a neighborhood or of the city;**
6. **Represents the works of a master designer, architect, builder, or craftsman;**

The Grant Building was designed by prolific local architecture firm Nichol & Campbell. Nichol & Campbell designed numerous buildings in Abilene and surrounding West Texas from the late 1920s to the late 1950s. In addition to the subject building, the firm designed several other buildings in downtown Abilene, including the Waldrop Building (1927), Capital Motor Co. Building (1930), and the Radford Building (1929).

Recommendations

The Landmarks Commission recommends **approval**.

Planning & Zoning Commission recommends **approval**.

LOCATION MAP

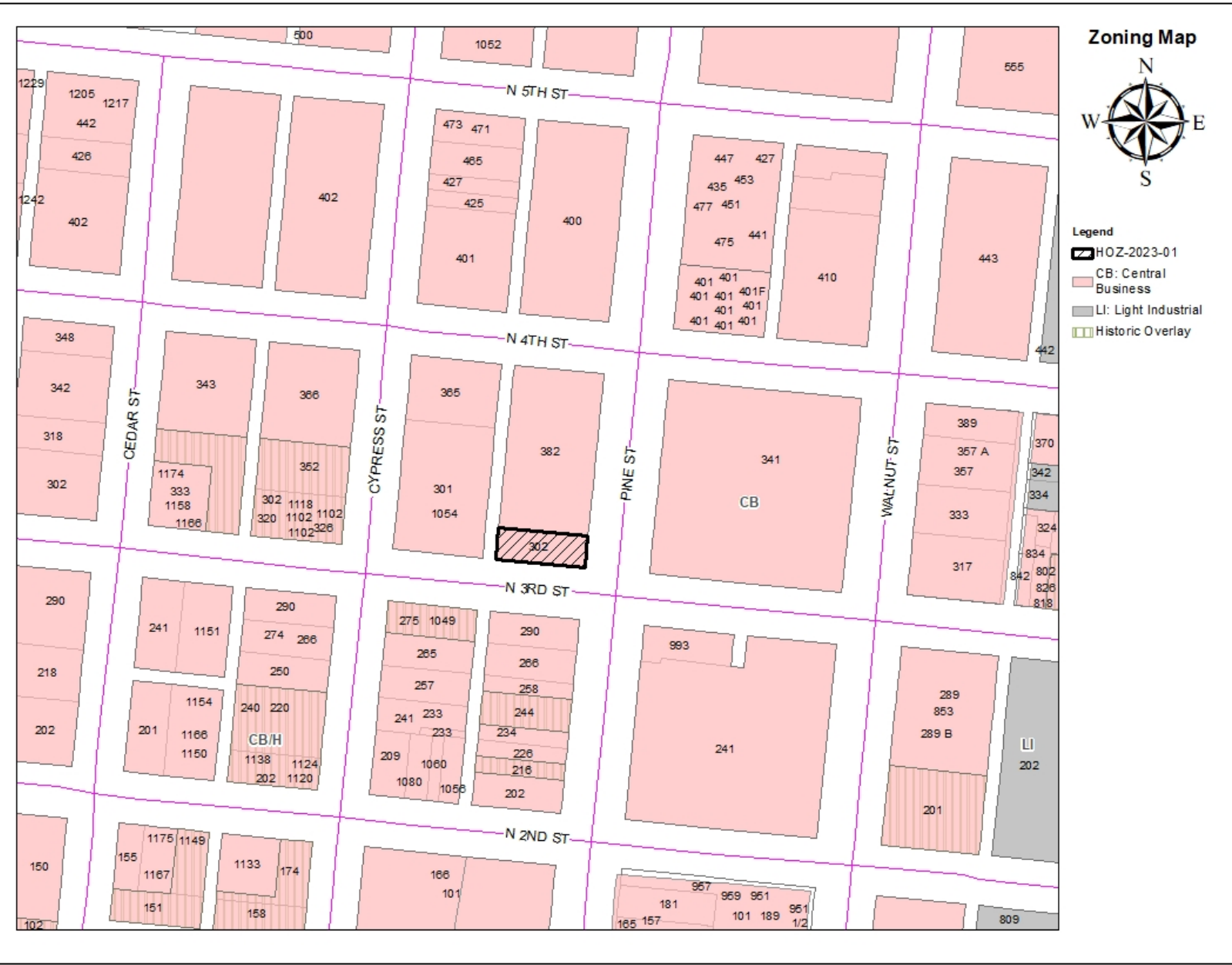


Location Map



- Legend
- HOZ-2023-01
 - CourierParcels

ZONING MAP



NOTIFICATION

X – Not applicable

O – Opposed

F – In favor

Owner	Property ID	Situs	Response
HENDRICK MEDICAL EXEMPT	1008029	301 CYPRESS ST	F
HENDRICK MEDICAL EXEMPT	1008029	1054 N 3RD ST	
STATE NATIONAL BANK	62620	275 CYPRESS ST	
STATE NATIONAL BANK	62620	1049 N 3RD ST	
ABILENE IND SCHOOL DISTRICT	60364	241 PINE ST	
STATE NATIONAL BANK	60502	290 PINE ST	
STATE NATIONAL BANK	62494	265 CYPRESS ST	F
STATE NATIONAL BANK	60656	266 PINE ST	
FIRST NATIONAL BANK	76892	382 PINE ST	
STATE NATIONAL BANK	62356	257 CYPRESS ST	
THIRD AND PINE LP	10036	302 PINE ST	
UNITED STATES POSTAL	76760	341 PINE ST	
THIRD AND PINE LP	60220	993 N 3RD ST	F
HENDRICK MEDICAL CENTER FOUNDATION	10739	365 CYPRESS ST	
ABILENE MAJESTIC LLC SERIES J	60795	258 PINE ST	



Teegardin, Mason <mason.teegardin@abilenetx.gov>

[Planning] HOZ-2023-01

Schmidt, Timothy <tschmidt@hendrickhealth.org>
To: "planning@abilenetx.gov" <planning@abilenetx.gov>

Tue, Apr 25, 2023 at 3:33 PM

Please find Hendrick's IN FAVOR vote attached for the above referenced Zoning Request. Hendrick owns 2 parcels within the notification area:

Property ID: 1008029

Property ID: 10739

Please count Hendrick as IN FAVOR for both parcels and help us ensure that Staff's slides reflect this at the upcoming meetings.

Thank you, and please reach out if there are any questions.

Timothy Schmidt, CHFM

Hendrick Health Director, Property/Real Estate

HMC South Director, Facility Management

325-428-1455 | tschmidt@hendrickhealth.org

**PRIVILEGED AND CONFIDENTIAL NOTICE:**

This email is sent from Hendrick Medical Center and is intended to be reviewed initially by only the individual named above. If the reader of this email is not the intended recipient or an authorized representative of the intended recipient, the reader is hereby notified that any review, dissemination, distribution, copying or forwarding of this email and its attachments, if any, or the information contained herein, is strictly prohibited. All email activity is tracked and archived.

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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/335b4ddb4d9940ee8aa0a6a0596d3868%40EXMBX1.hhs.hendrickhealth.org>.

image2925.pdf
875K



THIRD AND PINE LP
PO BOX 2993
ABILENE, TX 79604-2993

NOTICE OF PUBLIC HEARING

RE: Historic Overlay Zoning Application Number HOZ-2023-01

04/13/2023

The Planning and Zoning Commission will hold a public hearing on **May 2, 2023 at 1:30 PM**, in the Council Chambers at 555 Walnut St. in Abilene, Texas vote to recommend approval or denial to City Council on a request from Third and Pine, LP to apply Historic Overlay Zoning to approximately .16 acres zoned Central Business (CB). Located at 302 Pine Street. Legal description being Lot 11-12, Block 21, Original Town Abilene, Abilene, Taylor County, Texas.

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

The attached map shows the area of this request. Only the area highlighted by striped lines shown on that map is being considered for a change of zoning. The solid boundary line surrounding this subject area is only a notification area. If approved by the Planning and Zoning Commission, or if denied and promptly appealed to Abilene's City Council, this case will be heard by City Council for 2nd and Final Reading with a public hearing on **May 25, 2023 at 8:30 AM** in Council Chambers on the second floor of City Hall, 555 Walnut Street.

If you have any questions, please contact Mason Teegardin at telephone 325-676-6490 or by email address planning@abilenetx.gov

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

CASE #: HOZ-2023-01

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: THIRD AND PINE LP
Parcel I.D.: 60220
Address: 993 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 ☒

I am opposed ☐

Additional Comments:

Signature:

Christy B. Graves Member/Manager

HOZ-2023-01





HISTORIC OVERLAY REQUEST

Case:	HOZ-2023-01
Owner:	Third and Pine, LP
Agent:	Tim Graves
Request:	Add Historic Overlay to a lot in Original Town Abilene.
Location:	302 Pine Street
Notification:	3 in Favor, 0 Opposed
Landmarks Commission:	April 25, 2023
Planning & Zoning:	May 2, 2023
City Council Hearing:	May 25, 2023 June 8, 2023





LOCATION MAP



Location Map



Legend

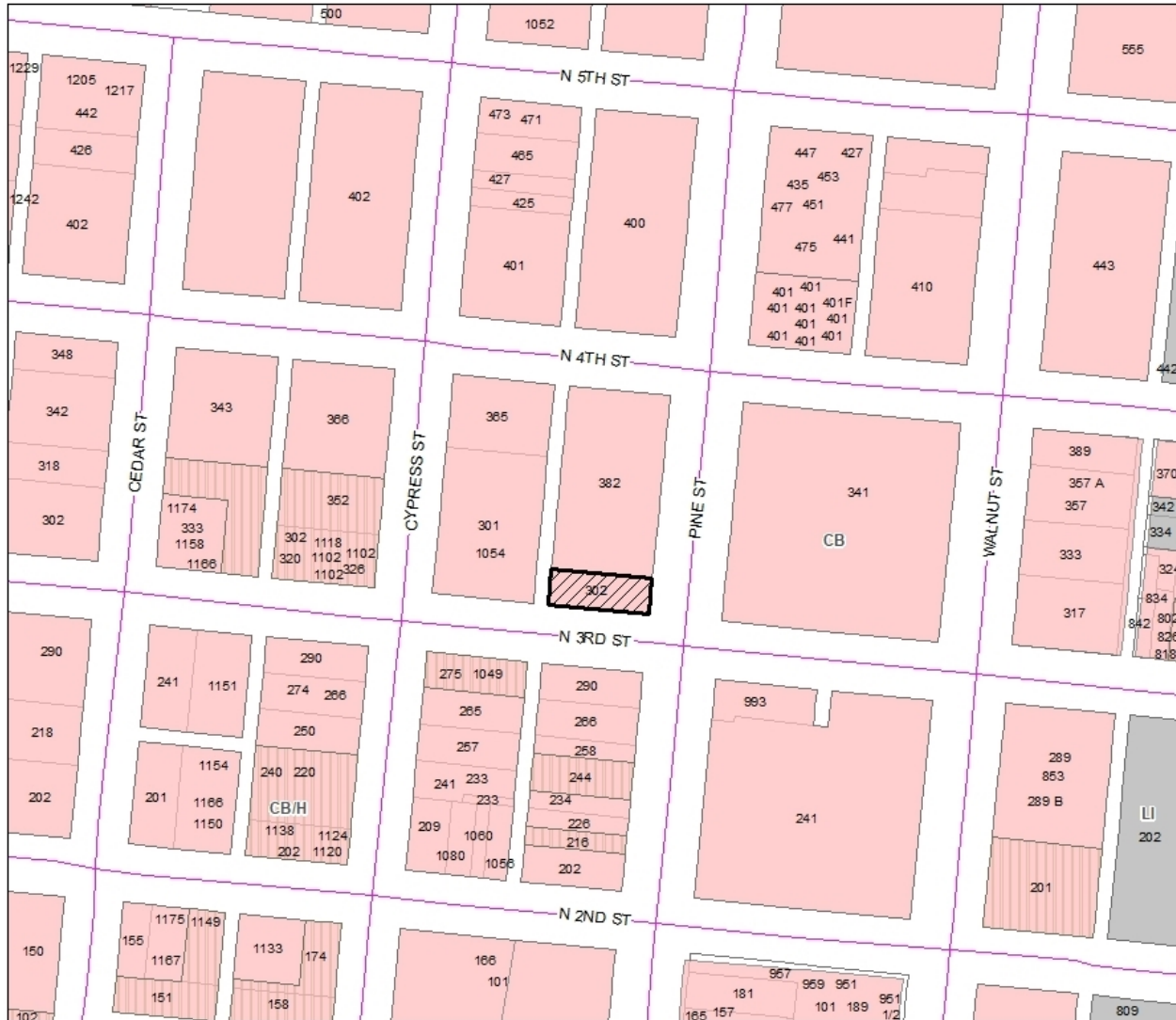
- HOZ-2023-01
- CourierParcels



CITY OF
ABILENE
TEXAS



ZONING MAP



Zoning Map



Legend

- HOZ-2023-01
- CB: Central Business
- LI: Light Industrial
- Historic Overlay



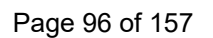
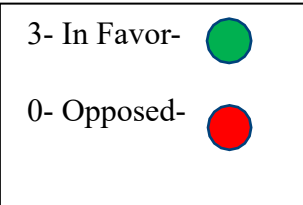
CITY OF
ABILENE
TEXAS



PHOTOS OF SUBJECT PROPERTY



CITY OF
ABILENE
TEXAS





FINDINGS AND RECOMMENDATIONS

- Consistent with Section 2.3.4.4 of the Land Development Code (Criteria for Designation)
- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Consistent with Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- Landmarks Commission Recommendation: **Approval**
- P&Z Recommendation: **Approval**





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 6/8/2023

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **11. Ordinance (Final Reading) Z-2023-07:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request From Coffee Momma LLC To Change Zoning From PDD-128 To General Retail, Located at 701 S. Judge Ely Blvd. *(Tim Littlejohn)*

GENERAL INFORMATION

This request is for the rezoning of approximately 1.09 acres from Planned Development (PD-128) to General Retail (GR). The applicant intends to use the property for a coffee shop with a drive-through window.

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.

ATTACHMENTS:

1. Z-2023-07 Ordinance

2. Z-2023-07 Staff Report_CC
3. 717 S. Judge Ely Blvd.
4. 766 Chanticleers Ln
5. 802 Chanticleers (2)
6. Z-2023-07_CC

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 Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto. PASSED ON FIRST READING the 25th day of May, 2023.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the *Abilene Reporter-News*, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of April, 2023, 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 8th day of June 2023, 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 8th day of June, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Change the zoning classification of the following described land, from a Planned Development District (PDD) to a General Retail (GR) District:

Location: 701 S Judge Ely Boulevard in East Horizon Sec 2, Block 8, Lot 1 Abilene, Taylor County, Texas.



END

ZONING CASE Z-2023-07

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: May 2, 2023

City Council 1st Reading: May 25, 2023

City Council 2nd Reading: June 8, 2023

Applicant

Owner: Coffee Momma LLC

Agent: CJ Chaney

Case Manager

Clarissa Ivey – Planner

Request

Rezoning of approximately 1.09 acres from Planned Development (PD-128) to General Retail (GR). The applicant intends to use the property for a coffee shop with a drive-through window.

Location

701 S Judge Ely Boulevard in East Horizon Sec 2, Block 8, Lot 1

Background

This property was annexed in 1957 and has remained vacant ever since. In 2009, the property was rezoned from Office (O) to Planned Development (PD-128). The base zoning of that PD was Shopping Center. The purpose of this request is to allow the property to be uses that were originally intended when the PDD district was established.

Zoning, Existing and Proposed Land Use

The remaining pieces of the undeveloped Planned Development (PD-128) zoning district are immediately north and south of the subject site. A Residential-Single Family (RS-6) zoning district is located to the east. Craig Middle School is located to the west in the Office (O) zoning district.

Criteria Assessment

Section 1.4.1.4 of Abilene's Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

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

The Future Land Use Map (FLUM) recommends *Local Community Center uses* for this site. Based on that designation, General Retail (GR) would be an appropriate zoning district to consider at this location.

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

The proposed GR zoning is consistent with the base zoning of PD-128 and is appropriate for properties fronting on to a major arterial street.

- (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.**

This property has adequate utility services available.

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

None known.

Recommendation

The Planning & Zoning Commission recommends **approval**.

TABLE 1

Owner

OWNER	Property ID	Situs	Response
DELEHANTY J E ASSOCIATES	74493	701 S JUDGE ELY BL	
MAURICIO EFREN L &	25979	834 CHANTICLEERS LN	
ABILENE INDEPENDENT	108949	702 S JUDGE ELY BL	
ABILENE INDEPENDENT	108949	628 X S JUDGE ELY BL	
POSEY JILL LYNN	32709	766 CHANTICLEERS LN	F
KOZELSKY SCOTT MICHAEL	32536	774 CHANTICLEERS LN	
WHITE ELLIOTT	107672	741 S JUDGE ELY BL	
PJD4 A TEXAS GENERAL PTRSHP	74376	641 S JUDGE ELY BL	
KIM ANTHONY S & SAYVY	25606	810 CHANTICLEERS LN	
SOLIS ASTA BJORK LF EST	26604	801 CHANTICLEERS LN	
HAYWORTH DOUGLAS	25736	818 CHANTICLEERS LN	
SOJOURNER W C JR	113907	709 S JUDGE ELY BL	
SILVAS DAVID C & THERESA G	32410	782 CHANTICLEERS LN	
GALLARDO ANGELICA M	25852	826 CHANTICLEERS LN	
EMLEY ADAM LAURENCE II & JENNIFER	25466	802 CHANTICLEERS LN	O
BALDWIN CHRISTINA M	26746	809 CHANTICLEERS LN	
DESHAZO FAMILY PTR LTD	74723	717 S JUDGE ELY BL	F
CHILDERS PAUL A	37794	781 CHANTICLEERS LN	
VIVION MATT & DANIELLE	26882	817 CHANTICLEERS LN	

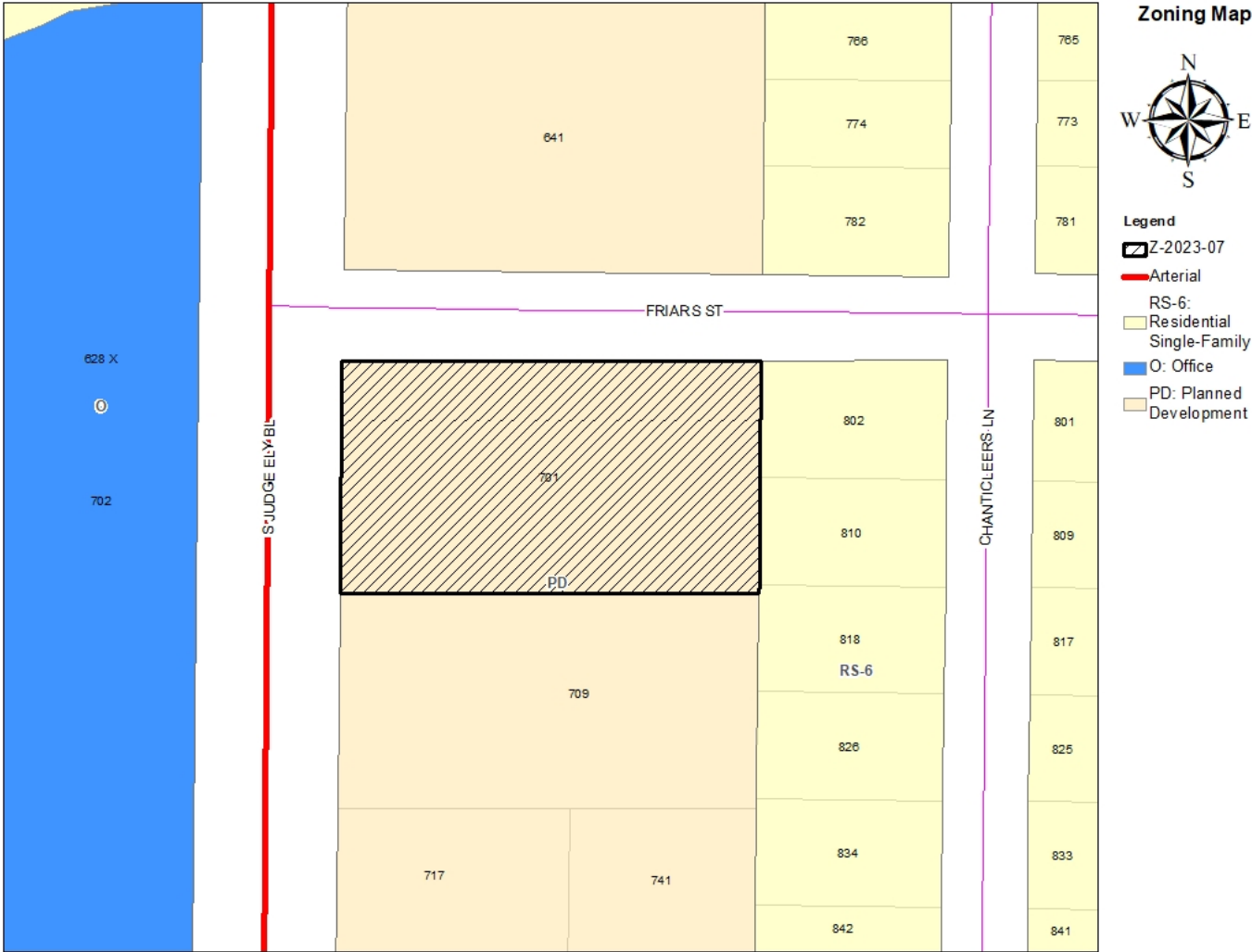
Property ID

OWNER	Property ID	Situs	Response
EMLEY ADAM LAURENCE II & JENNIFER	25466	802 CHANTICLEERS LN	O
KIM ANTHONY S & SAYVY	25606	810 CHANTICLEERS LN	
HAYWORTH DOUGLAS	25736	818 CHANTICLEERS LN	
GALLARDO ANGELICA M	25852	826 CHANTICLEERS LN	
MAURICIO EFREN L &	25979	834 CHANTICLEERS LN	
SOLIS ASTA BJORK LF EST	26604	801 CHANTICLEERS LN	
BALDWIN CHRISTINA M	26746	809 CHANTICLEERS LN	
VIVION MATT & DANIELLE	26882	817 CHANTICLEERS LN	
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DESHAZO FAMILY PTR LTD	74723	717 S JUDGE ELY BL	F
WHITE ELLIOTT	107672	741 S JUDGE ELY BL	
ABILENE INDEPENDENT	108949	702 S JUDGE ELY BL	
ABILENE INDEPENDENT	108949	628 X S JUDGE ELY BL	
SOJOURNER W C JR	113907	709 S JUDGE ELY BL	

LOCATION MAP



ZONING MAP





DESHAZO FAMILY PTR LTD

C/O PLAN AHEAD INC

400 PINE ST STE 1050

ABILENE, TX 79604-5173

200 ~~W. 10th~~ Sayles Blvd

79605

Please make the following
address change:

DeShazo Family Partnership
200 Sayles Blvd
Abilene, TX 79605

The Pine Street address is no
longer valid. Thank you.

NOTICE OF PUBLIC HEARING

2/22/2023

A public hearing on **March 7, 2023 at 1:30 PM**, in the Council Chambers
to recommend approval or denial to City Council on a request from Coffee
General Retail. Located at 705 S Judge Ely Blvd. Legal description being
Taylor County, Texas.

Opinions, objections and/or comments relative to this matter may be
submitted. At the bottom of this letter is a form that you may cut off, fill out, and mail.
The form is located below. All written responses must be signed.

If approved by the Planning and Zoning Commission, or if denied and promptly appealed to Abilene's City Council, this case
will be heard by City Council for 2nd and Final Reading with a public hearing on **April 13, 2023 at 8:30 AM** in Council
Chambers on the second floor of City Hall, 555 Walnut Street.

If you have any questions, please contact Clarissa Ivey at telephone 325-676-6382 or by email address
planning@abilenetx.gov

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

CASE #: Z-2023-07

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: DESHAZO FAMILY PTR LTD
Parcel I.D.: 74723
Address: 717 S JUDGE ELY BL

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: Donna D. Shazo Schutman

MAR 3 AM 10:1



Ivey, Clarissa <clarissa.ivey@abilenetx.gov>

[Planning] Case# Z-2023-07

Jill Dennis <dreamingbooks@gmail.com>
To: planning@abilenetx.gov

Fri, Apr 21, 2023 at 11:14 AM

I am in favor of the proposed change of zoning from Coffee Momma LLC.

Jill Dennis
766 Chanticleers Ln
Abilene
79602

--

"I alone cannot change the world, but I can cast a stone across the waters to create many ripples."
Mother Teresa

--

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/CAMj%2Bfxwhsuvh1NNB%2B6fyB59wqLoSNOGBCTnGfMkGHwUo0bnSDw%40mail.gmail.com>.

For the PLANNING & ZONING COMMISSION

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

CASE #: Z-2023-07

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: EMLEY ADAM LAURENCE II & JENNIFER
Parcel I.D.: 25466
Address: 802 CHANTICLEERS LN

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: _____



APR 25 AM 9:51



REZONE REQUEST

Case: Z-2023-07

Owner: Coffee Momma LLC

Agent: CJ Chaney

Request: Rezone from PDD-128 to GR

Location: 701 S Judge Ely Boulevard

Notification: 2 in Favor, 1 Opposed

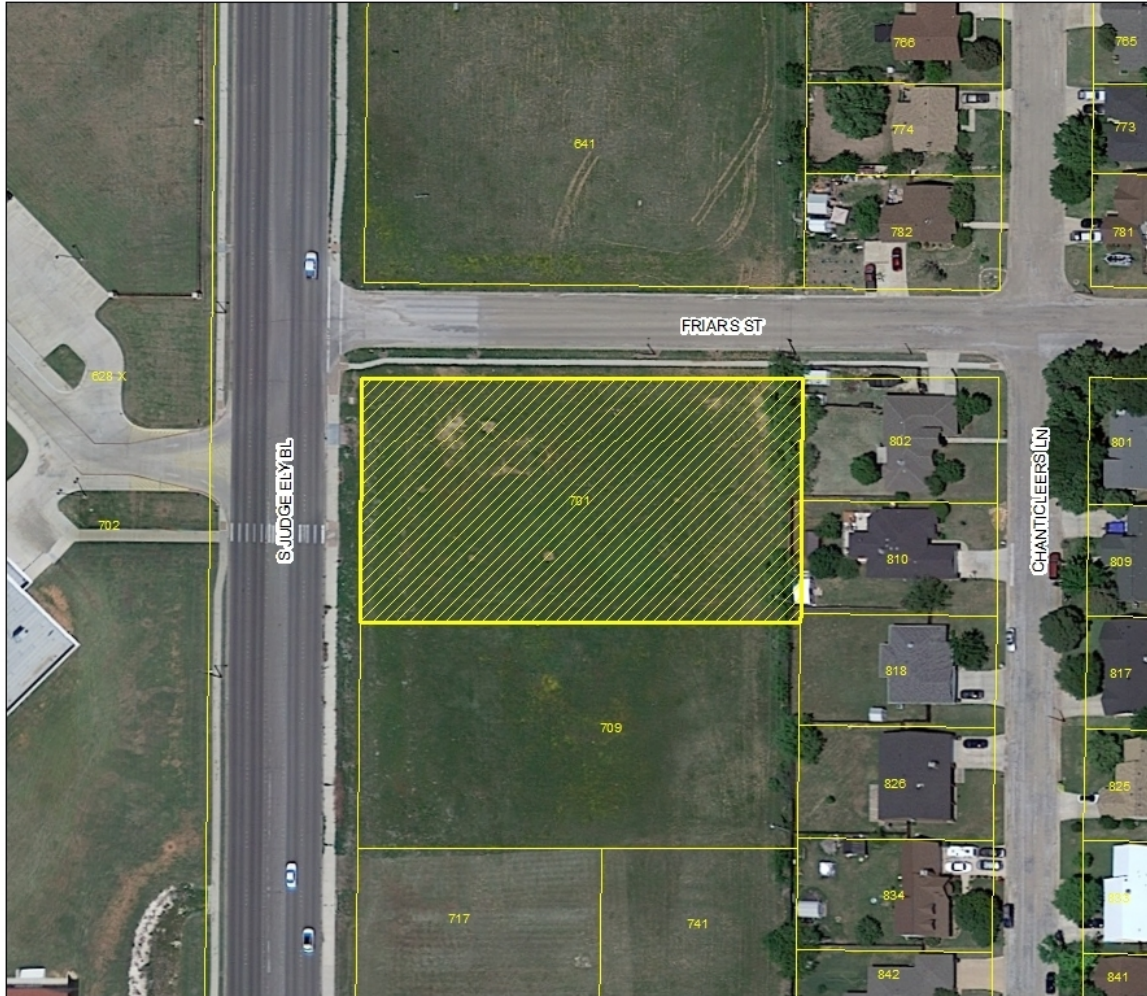
Planning & Zoning: May 2, 2023

City Council Hearing: May 25, 2023
June 8, 2023





LOCATION MAP



Aerial Map



Legend

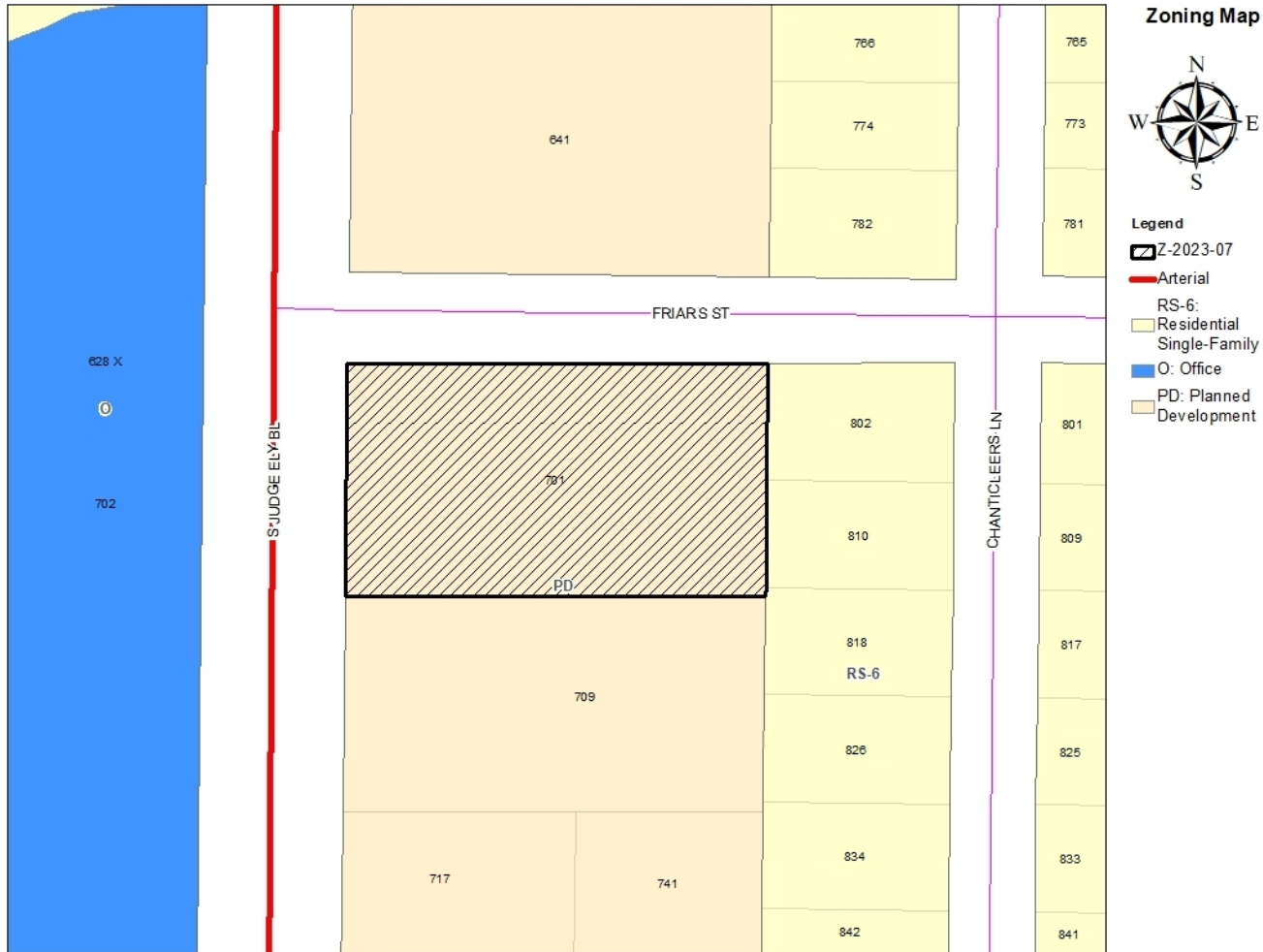
-  Z-2023-07
-  CourierParcels



CITY OF
ABILENE
TEXAS



ZONING MAP





PERMITTED USES IN GENERAL RETAIL (GR) ZONING

RESIDENTIAL USES:

P Bed & Breakfast
P Dwelling – Industrialized Housing Unit
P Dwelling – Institutional
C 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/C Day Care Operation – Home Based
P Drive-Thru Facility
TP Field Office or Construction Office (temporary)
C Freight Container
P Fuel Sales
P Garage Sales
P Home Occupation
TP Itinerant Business
P Manufacturing (incidental)
TP Mobile Home (temporary security residence)
P Recreation Building, Multipurpose
P Recreation Equipment, Mobile (storage and parking)
P Recycling Collection Point
P Subdivision Sales Office (temporary)
P Swimming Pools, Private (accessory to residential use)
P Tennis Courts, Private (accessory to residential use)
P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

P Civic, Social, and Fraternal Organization
P Cultural Facilities
C Recreation – Outdoors (active)
P Recreation – Outdoors (passive)
P Recreation and Commercial Entertainment - Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

C Ambulance Service
P Fire/Police Station
P Medical/Dental Laboratory
P Post Office
C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

P Arts School
P Church or Place of Worship
P Day-Care Operation - Center-Based
P Educational and Scientific Research
P School: Public/Private
C Trade/Business School
P University/College

SERVICE

P/C Automobile Wash
C Funeral Home/ Mortuary/Morgue
P Kennel (Without Outdoor Pens)
P Laundry/Dry Cleaning Services & Facilities
P Office (general, professional, financial)
P Personal Services
C Printing, Copying, Reproduction, Publishing
P Repair and Maintenance Services - Automobile/Small Truck (minor)
P Repair and Maintenance Services (indoor)
C Tattoo Parlor
P Veterinary Service (small animals)

TRADE – RETAIL USES

P ATM's, Self-Serve Kiosks, and Similar Facilities
P Fuel Sales
P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
P Restaurant, Brew Pub
P Restaurant, Fast Food
P Restaurant, Standard
P Retail Sales/Rental (indoor)
C Retail Sales/Rental (outdoors, non-vehicle)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

C Antenna Tower- Commercial
P Automobile Parking Lot or Structure - Commercial
P Broadcast Studio
P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

P Petroleum or Gas Well
P Urban Garden



CITY OF
ABILENE
TEXAS

LEGEND

P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses 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



SUBJECT & NEIGHBORING PROPERTIES



Subject Property



West Neighboring Property



North Neighboring Property

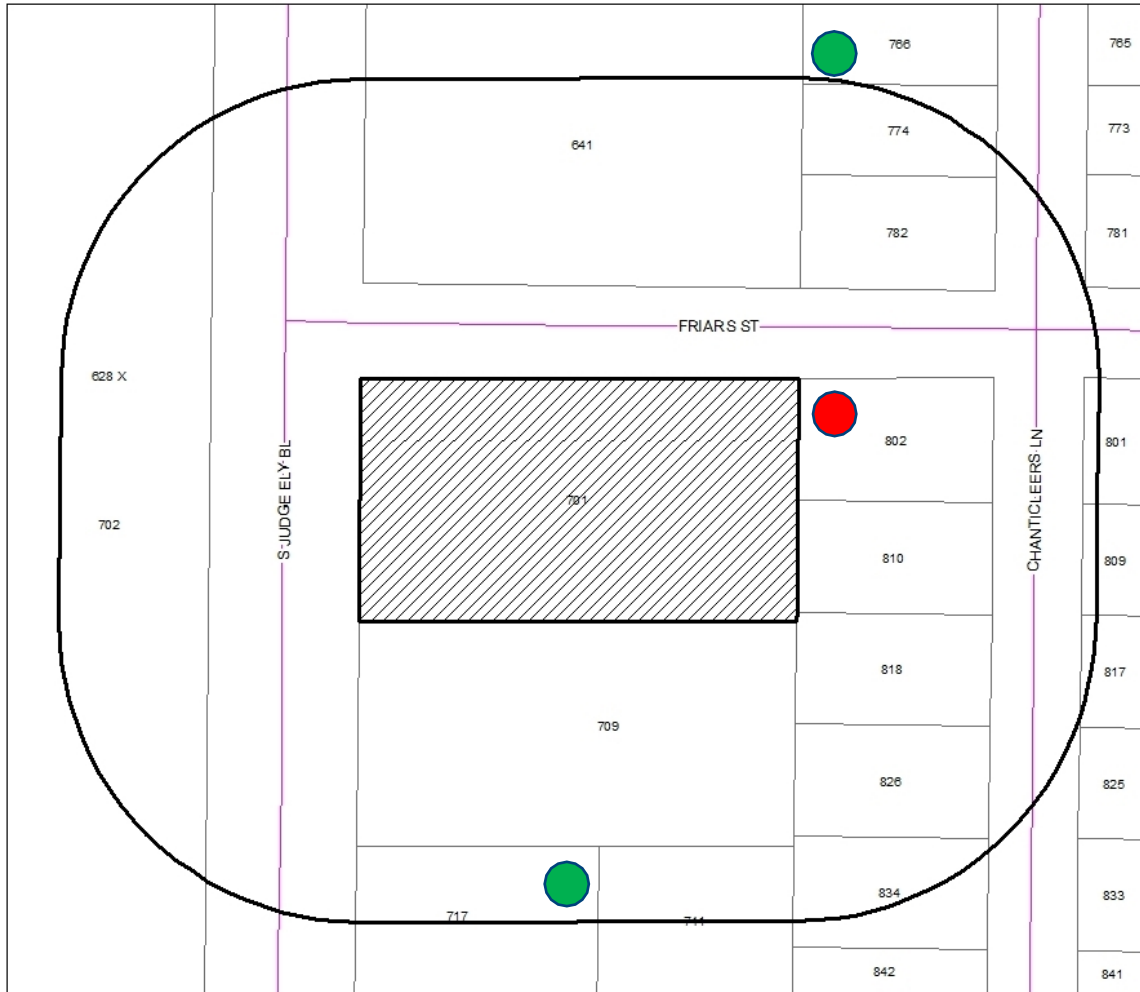


South Neighboring Property

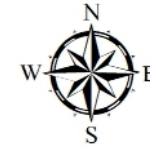




NOTIFICATION MAP



Notification Map



Legend
Z-2023-07
Buffer
Z-2023-07

2- In Favor- 
1- Opposed- 
3.02% Opposed



CITY OF
ABILENE
TEXAS



FINDINGS AND RECOMMENDATIONS

The proposed request for GR rezoning is *consistent* with:

- The *Comprehensive Plan*;
- The original base zoning district established in PDD-128;
- Generally accepted planning principals; and
- The Criteria for Approval in the LDC.

P&Z Recommendation: **Approval**





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 6/8/2023

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **12. Ordinance (Final Reading) Z-2023-11: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Bridgestone Bandag, LLC To Change Zoning From Light Industrial To Heavy Industrial, located at 4962 FM 18 (Tim Littlejohn)**

GENERAL INFORMATION

The applicant is requesting rezoning to match the zoning of the two adjoining properties that they own in order to facilitate the potential expansion of their facilities.

SPECIAL CONSIDERATIONS

Light Industrial (LI) zoning is located north of the subject property across the railroad tracks. Heavy Industrial zoning is located to the west and south, with a large track of Agricultural Open (AO) zoning to the south. The Bridgestone Bandag facility immediately west of the subject property is zoned Heavy Industrial (HI).

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.

ATTACHMENTS:

1. Z-2023-11 Ordinance
2. Z-2023-11 Staff Report
3. Z-2023-11 Presentation

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 Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto. PASSED ON FIRST READING the 25th day of May, 2023.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the *Abilene Reporter-News*, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of April 2023, 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 8th day of June 2023, 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 8th day of June, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

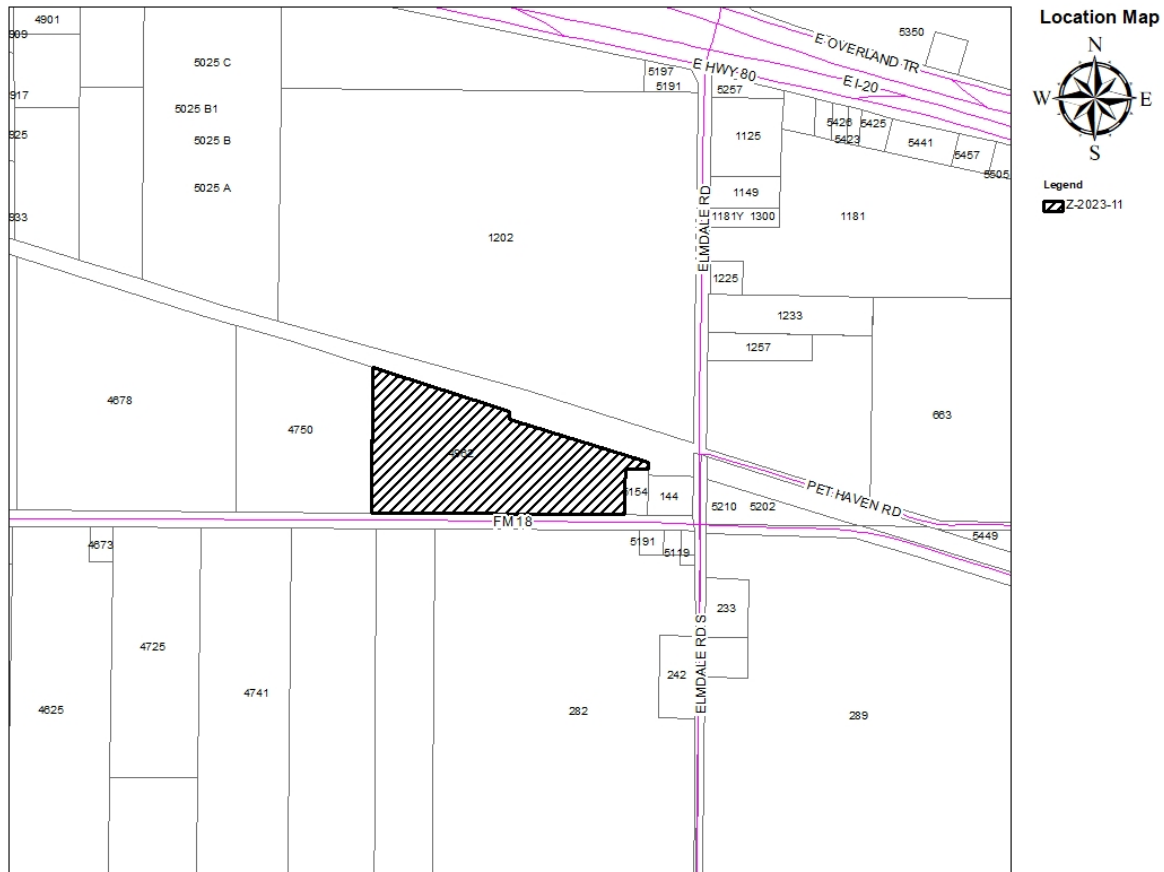
CITY ATTORNEY

EXHIBIT A

Change the zoning classification of the following described land, from a Light Industrial (LI) District to a Heavy Industrial (HI) District:

Location: 4962 FM 18

Legal description being 22.43 acres of the southwest quarter of Survey 44 Blind Asylum Lands, Abilene, Taylor County, Texas.



END

ZONING CASE Z-2023-11

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: May 2, 2023

City Council 1st Reading: May 25, 2023

City Council 2nd Reading: June 8, 2023

Applicant

Owner: Bridgestone Bandag, LLC

Agent: Chris Daniel

Case Manager

Clarissa Ivey – Planner

Request

Rezoning of approximately 22.43 acres from Light Industrial (LI) to Heavy Industrial (HI).

Location

The subject property is located at 4962 FM 18.

Legal description being 22.43 acres of the southwest quarter of Survey 44 Blind Asylum Lands, Abilene, Taylor County, Texas.

Background

The subject property was annexed in 1986 and zoned Light Industrial (LI). The applicant is requesting rezoning to match the zoning of the two adjoining properties that they own in order to facilitate the potential expansion of their facilities.

Zoning, Existing and Proposed Land Use

Light Industrial (LI) zoning is located north of the subject property across the railroad tracks. Heavy Industrial zoning is located to the west and south, with a large track of Agricultural Open (AO) zoning to the south. The Bridgestone Bandag facility immediately west of the subject property is zoned Heavy Industrial (HI).

Criteria Assessment

Section 1.4.1.4 of Abilene's Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

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

The proposed request is consistent with the Comprehensive Plan and Future Land Use Map.

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

The proposed zoning would be appropriate as it would allow the property owner to expand their existing business at 4750 FM 18.

- (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.**

This property has access to all required utilities.

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

None.

P&Z Recommendation

The Planning and Zoning Commission recommends **approval**.

Notification

Owner

Legend

O – Opposed

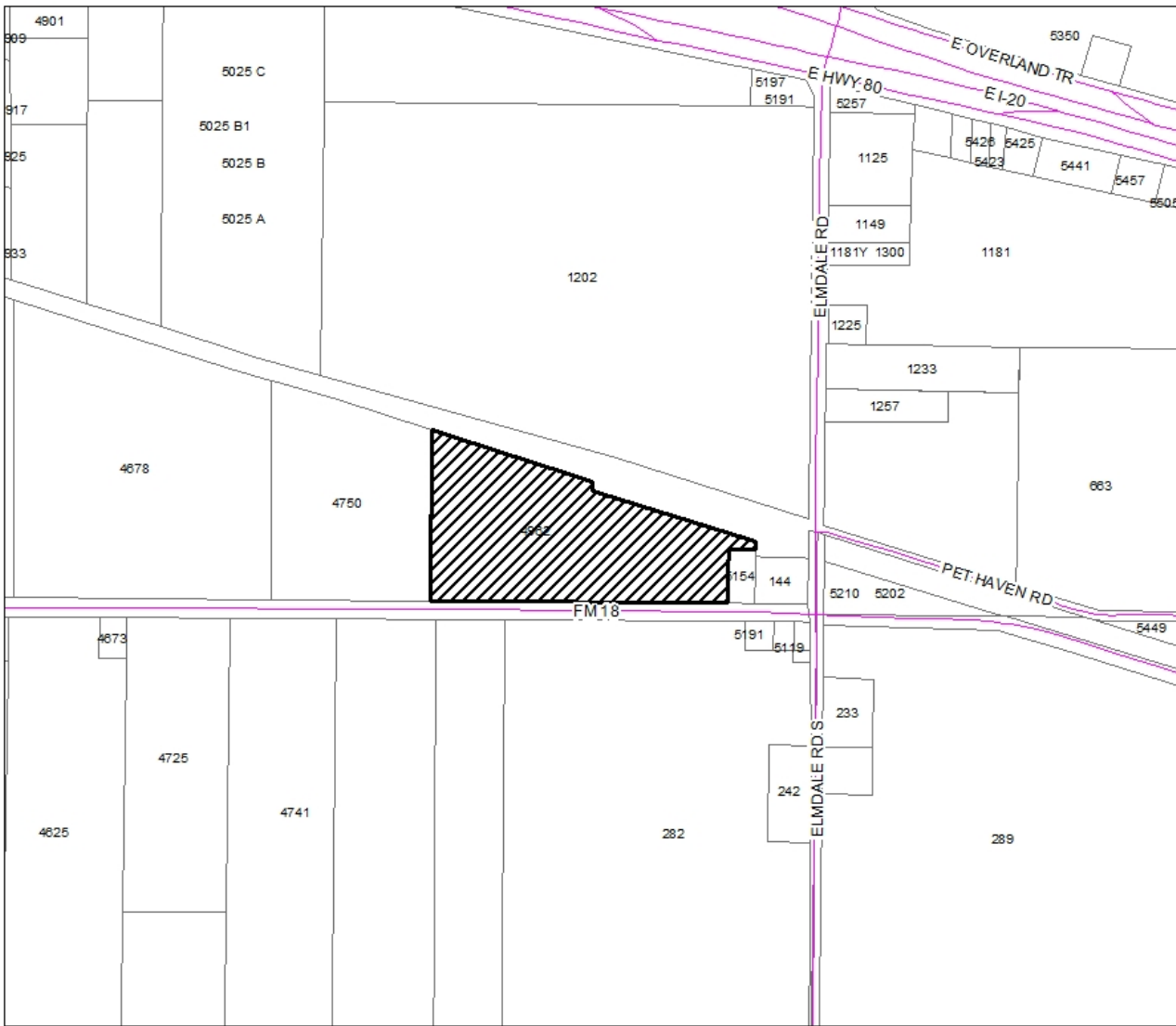
F – In favor

Owner	Property ID	Situs	Response
VREELAND DEREK MATTHEW &	19885	144 ELMDALE RD S	
DEAVER CHAD	20835		
BARNHILL TAYLOR	19376	5154 FM 18	
BANDAG INC	64975	4750 FM 18	
BRIDGESTONE BANDAG LLC	19503	4962 FM 18	
DEAVER DAVID CHAD & CORTNEY	19758	282 ELMDALE RD S	
ANTILLEY MARGARET & MALONE JANE &	18892		
LISTA STEVEN & LISA	19383	5191 FM 18	
BLACKBURN RUTH BROOKS	19752	1202 ELMDALE RD	

Property ID

Owner	Property ID	Situs	Response
ANTILLEY MARGARET & MALONE JANE &	18892		
BARNHILL TAYLOR	19376	5154 FM 18	
LISTA STEVEN & LISA	19383	5191 FM 18	
BRIDGESTONE BANDAG LLC	19503	4962 FM 18	
BLACKBURN RUTH BROOKS	19752	1202 ELMDALE RD	
DEAVER DAVID CHAD & CORTNEY	19758	282 ELMDALE RD S	
VREELAND DEREK MATTHEW &	19885	144 ELMDALE RD S	
DEAVER CHAD	20835		
BANDAG INC	64975	4750 FM 18	

LOCATION MAP



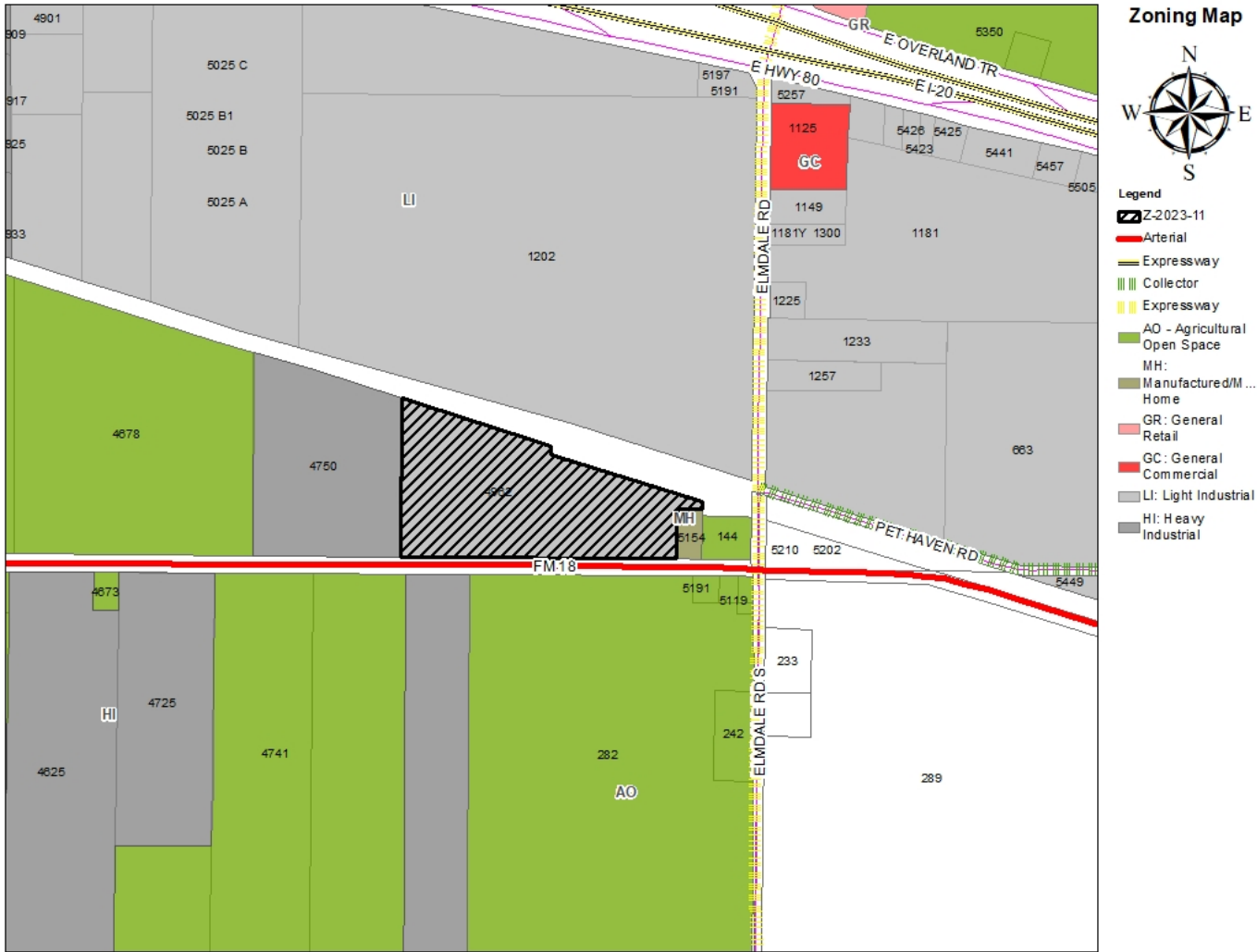
Location Map



Legend

 Z-2023-11

ZONING MAP





REZONE REQUEST

Case: Z-2023-11

Owner: Bridgestone Bandag, LLC

Agent: Chris Daniel

Request: Rezone from LI to HI

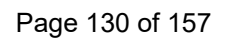
Location: 4962 FM 18

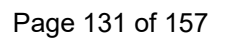
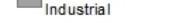
Notification: 0 in Favor, 0 Opposed

Planning & Zoning: May 2, 2023

City Council Hearing: May 25, 2023
June 8, 2023









PERMITTED USES IN LIGHT INDUSTRIAL (LI) ZONING

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-Through Facility
- TP Field Office or Construction Office (temporary)
- P Freight Container
- P Fuel Sales
- TP Itinerant Business
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- P Mobile Home or Temporary Building (office for sales and service)
- P Recreation Building, Multipurpose
- P Recycling Collection Point
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Adult Entertainment Enterprise
- C Cultural Facilities
- P Drive-in Theater
- C Motorized Racing
- P Recreation – Outdoors (passive)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Ambulance Service
- P Correction, Detention, or Penal Facilities
- P Fire/Police Station
- P Homeless/Emergency Shelter
- P Medical/Dental Laboratory
- P Military and Armed Forces Reserve Center
- P Post Office
- C Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P Educational and Scientific Research
- P School: Public/Private
- P Trade/Business School

SERVICE

- P/C Automobile Wash
- P Contractor Services
- P Funeral Home/ Mortuary/Morgue
- P 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 Printing, Copying, Reproduction, Publishing
- P 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)
- P Repair and Maintenance Services (outdoors)
- P Repair and Maintenance Services (truck and other large vehicles)
- P Scales (public)
- P Storage - Self-Service Units
- P Tattoo Parlor
- P Taxidermist
- P Veterinary Service (all size animals)
- P Veterinary Service (small animals)
- P Wrecker/Towing

TRADE – RETAIL USES

- P Aircraft and Accessories
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Head Shop
- P Liquor Store (Off Premises Consumption) *(Defined under Liquor Store)*
- P Liquor Store (On Premises Consumption) *(Defined under Liquor Store)*
- P Retail Sales/Rental (automobile/small truck)
- P Retail Sales/Rental (indoor)
- P Retail Sales/Rental (outdoors, non-vehicle)
- P Retail Sales/Rental (trucks and other large vehicles and equipment)

TRADE – WHOLESALE USES

- P Liquor, Wholesale/Distribution
- C Livestock – Wholesale or Auction
- P Wholesaling and Storage (indoor)
- P Wholesaling and Storage (outdoors)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Airport, Heliport and Flying Field Terminals - Commercial (passenger and freight)
- P 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
- P Railroad Switching and Marshaling Yard
- P Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

- C Mining
- P Petroleum or Gas Well
- P Liquor
- P Manufacturing (light)
- P Urban Garden

LEGEND

- P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses 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



CITY OF
ABILENE
TEXAS



PERMITTED USES IN HEAVY INDUSTRIAL (HI) ZONING

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
- TP Field Office or Construction Office (temporary)
- P Freight Container
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recycling Collection Point
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Adult Entertainment Enterprise
- C Motorized Racing

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Fire/Police Station
- P Homeless/Emergency Shelter
- P Post Office
- P Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- P Church or Place of Worship
- P Educational and Scientific Research
- P School: Public/Private

SERVICE

- P Contractor Services
- P Recycling Collection and Processing Center
- P Scales (public)
- P Wrecker/Towing

TRADE – RETAIL USES

- P Head Shop
- C Scrap and Waste Material

TRADE – WHOLESALE USES

- C Livestock – Wholesale or Auction
- P Wholesaling and Storage (indoor)
- P Wholesaling and Storage (outdoors)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Airport, Heliport and Flying Field Terminals - Commercial (passenger and freight)
- P Antenna Tower - Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Pressure Control Station
- P Public Utility Facility
- P Railroad Switching and Marshaling Yard
- P Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Mining
- P Petroleum or Gas Well
- P Liquor
- P Manufacturing (light)
- P Manufacturing (heavy)
- P Urban Garden

LEGEND

- P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
- C Permitted as a Conditional Use Permit, Requiring Approval by City Council
- TP Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment





Z-2023-11 VIEWS OF SUBJECT PROPERTY



West Neighboring Property



Subject Property



Subject Property



West Neighboring Property

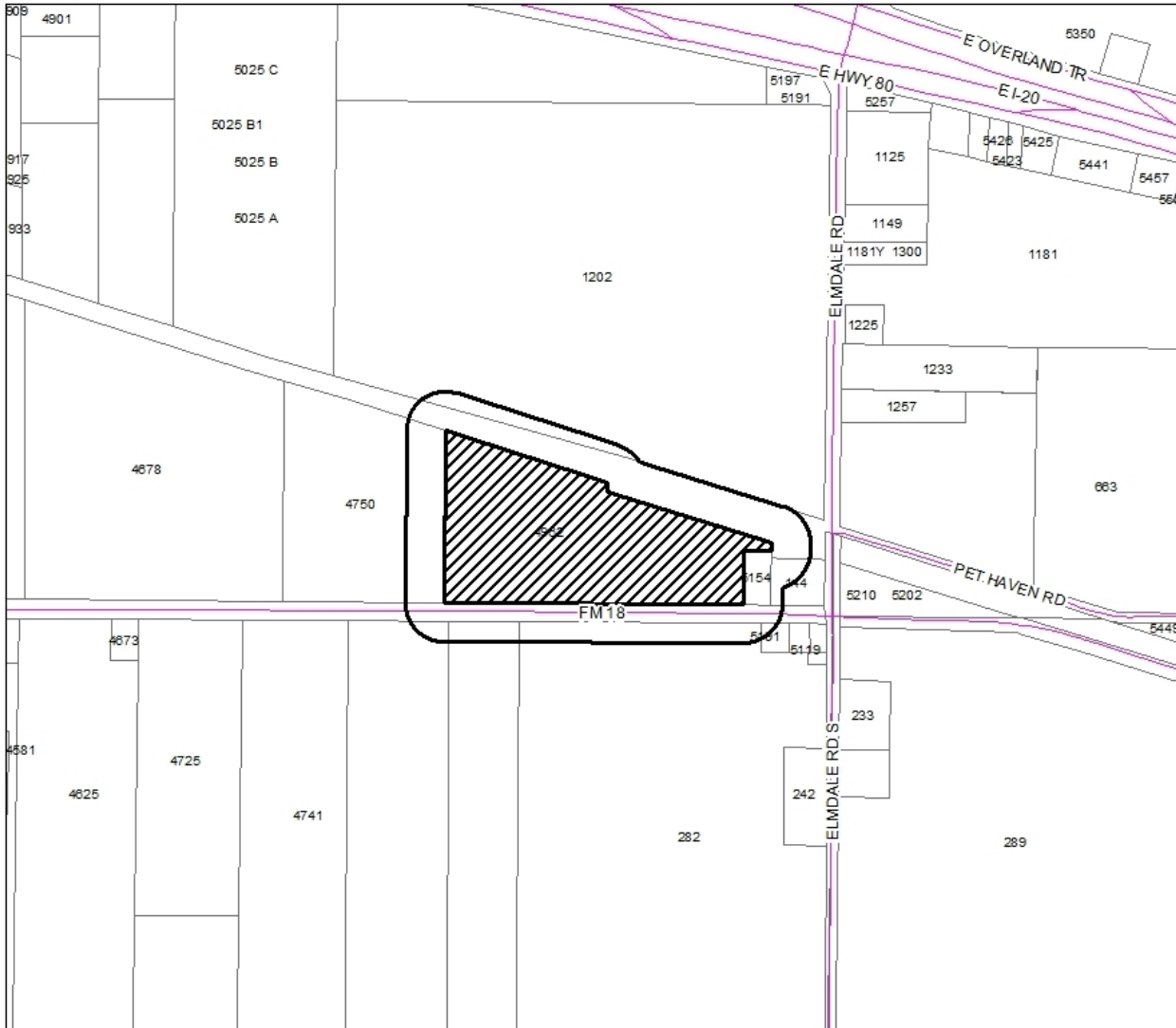


South Neighboring Property





Z-2023-11 NOTIFICATION AREA MAP

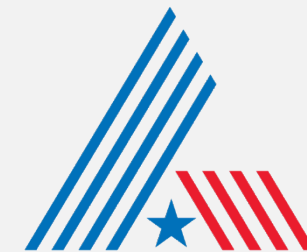


Notification Map



Legend
200' Buffer
Z-2023-11

0- In Favor- 
0- Opposed- 



CITY OF
ABILENE
TEXAS



FINDINGS AND RECOMMENDATIONS

The proposed request is consistent with:

- The Comprehensive Plan;
- The surrounding uses and zoning;
- Generally accepted planning principals; and
- The Criteria for Approval in the LDC.

P&Z Recommendation: **Approval**





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 6/8/2023

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **13. Ordinance (Final Reading) Z-2023-13:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request From Dennis Ray Dunnam II And Mollie Victoria Dunnam To Change Zoning From Agricultural Open (AO) And General Commercial (GC) To General Commercial, located at 411 ES 11th Street *(Tim Littlejohn)*

GENERAL INFORMATION

This request is for the rezoning of approximately 1.5 acres from General Commercial (GC) and Agricultural Open (AO) to GC. The owner proposes to rezone the entire lot to GC to allow for the full development of this lot for commercial use.

SPECIAL CONSIDERATIONS

Adjacent properties to the west are fully zoned GC, and are not divided into two zoning districts. Properties to the east have split zoning (GC/AO) matching the zoning of the subject site. South of the site is an elementary school with split zoning in the AO and RS-6 zoning districts. Property to the north is zoned GC. The predominant use along ES 11th Street in this area is commercial, with single-family residences east of the subject site.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

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

ATTACHMENTS:

1. Z-2023-13 Ordinance
2. Z-2023-13 Staff Report_draft
3. Z-2023-13

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 Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto. PASSED ON FIRST READING the 25th day of May, 2023.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the *Abilene Reporter-News*, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of April 2023, 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 8th day of June 2023, 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 8th day of June, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Change the zoning classification of the following described land from an Agricultural Open (AO) and General Commercial (GC) district to a GC district.

Location: 411 ES 11th Street

Lot 1 and the West ½ of Lot 2, Browne-Hall-Meyer-Fredeck Subdivision of Lot 1, Block 211 of the Original City of Abilene, Taylor County, Texas, According to Plat recorded ion Volume 1, Page 378, Plat Records, Taylor County, Texas (“Property”).



END

ZONING CASE Z-2023-13

STAFF REPORT



Scheduled Hearings

Planning & Zoning Commission: May 2, 2023

City Council 1st Reading: May 25, 2023

City Council 2nd Reading: June 8, 2023

Applicant

Owner: Dennis and Mollie Dunnam

Case Manager

Adam Holland – Planner

Request

Rezoning of approximately 1.5 acres from General Commercial (GC) and Agricultural Open (AO) to GC.

Location

411 East South 11th Street.

Background

The subject property is narrow and divided into two zoning districts. The north portion of the lot, along ES 11th Street, is zoned GC. The remainder of the site is zoned AO. The owner proposes to rezone the entire lot to GC to allow for the full development of this lot for commercial use.

Zoning, Existing and Proposed Land Use

Adjacent properties to the west are fully zoned GC, and are not divided into two zoning districts. Properties to the east have split zoning (GC/AO) matching the zoning of the subject site. South of the site is an elementary school with split zoning in the AO and RS-6 zoning districts. Property to the north is zoned GC. The predominant use along ES 11th Street in this area is commercial, with single-family residences east of the subject site.

Criteria Assessment

Section 1.4.1.4 of Abilene's Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

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

The Future Land Use Map recommends low density development for this site. The existing GC zoning is not consistent with that recommendation. The Comprehensive Plan states that

the subject site is also located in a suburban character area and GC uses would be a “complementary zoning district”.

Properties to the immediate west have the same depth from ES 11th Street and are used and zoned commercially. Five lots to the east is a property zoned RS-6 with the same depth from ES 11th Street that is used commercially. The proposed zoning change would match that existing zoning pattern to the west and the use pattern to the west and east. Further, ES 11th Street is an arterial street. All of those considerations result in a suburban character where GC zoning would be appropriate, thereby satisfying the recommendations of the Comprehensive Plan.

Prior to 1990, it was common for cities to split the zoning of properties having a deep long lot depth, such as the subject site. The depth of the zoning split would usually be arbitrary and had no relationship to a platted lot, a deed boundary, or a proposed development plan. The technique frequently resulted in zoning administration issues and was eventually deemed to be arbitrary and capricious and not appropriate. The split zoning of the subject property, and the four lots to the immediate east, appear to have been established in this manner. Current planning practices would be to rezone the entire lot as one district, unless the owner or developer proposed a plat or a development plan to form the basis for split zoning.

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

The proposed GC zoning is consistent with the uses surrounding the subject property and with the historic use of the property. The surrounding neighborhood has also historically been commercial uses.

(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.

This property has adequate utility service.

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

None known.

P&Z Recommendation

The Planning and Zoning Commission recommends **approval**.

TABLE

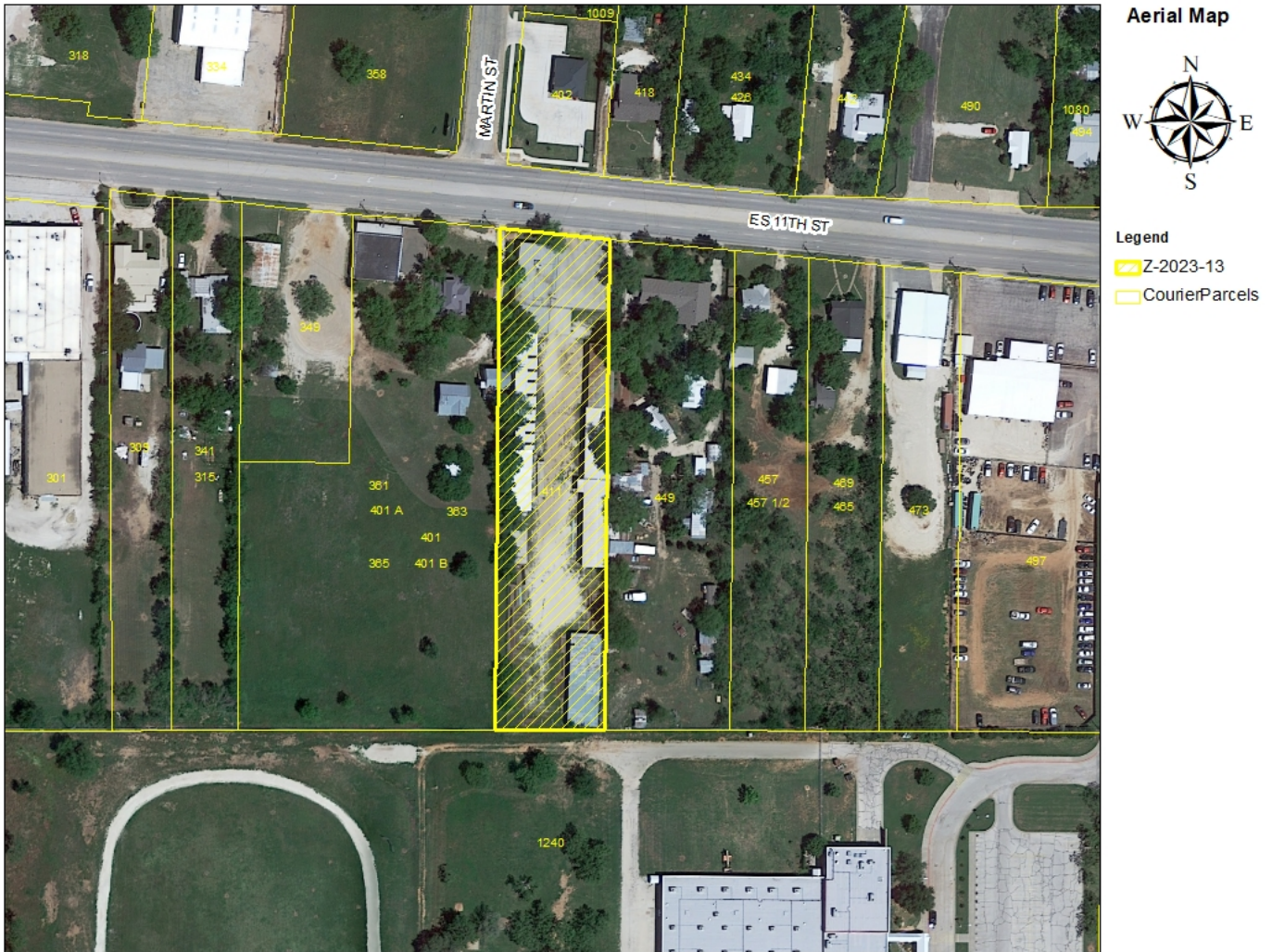
Owner

Owner	Property ID	Situs	Response
ABILENE IND SCHOOL DIST	43463	1240 LAKESIDE DR	
BILLINGS CYNTHIA KAY	41978	449 ES 11TH ST	
CHRISTIAN DORA SUE	45471	418 ES 11TH ST	
CHRISTIAN DORA SUE TRUST	46013	426 ES 11TH ST	
CHRISTIAN DORA SUE TRUST	46013	434 ES 11TH ST	
DUNNAM DENNIS RAY II &	41848	411 ES 11TH ST	
LATOUR VINCENT	45624	402 ES 11TH ST	
MC PHAIL MIKE	43228	365 ES 11TH ST	
MC PHAIL MIKE	43228	401 A ES 11TH ST	
MC PHAIL MIKE	43228	401 B ES 11TH ST	
MC PHAIL MIKE	43228	363 ES 11TH ST	
MC PHAIL MIKE	43228	361 ES 11TH ST	
MC PHAIL MIKE	43228	401 ES 11TH ST	
MC PHAIL MIKE	42222	457 1/2 ES 11TH ST	
MC PHAIL MIKE	42222	457 ES 11TH ST	
MC PHAIL MIKE	43349	349 ES 11TH ST	
SAR SAM & VONG YOKKIM	45750	358 ES 11TH ST	

Prop ID

Owner	Property ID	Situs	Response
DUNNAM DENNIS RAY II &	41848	411 ES 11TH ST	
BILLINGS CYNTHIA KAY	41978	449 ES 11TH ST	
MC PHAIL MIKE	42222	457 1/2 ES 11TH ST	
MC PHAIL MIKE	42222	457 ES 11TH ST	
MC PHAIL MIKE	43228	365 ES 11TH ST	
MC PHAIL MIKE	43228	401 A ES 11TH ST	
MC PHAIL MIKE	43228	401 B ES 11TH ST	
MC PHAIL MIKE	43228	363 ES 11TH ST	
MC PHAIL MIKE	43228	361 ES 11TH ST	
MC PHAIL MIKE	43228	401 ES 11TH ST	
MC PHAIL MIKE	43349	349 ES 11TH ST	
ABILENE IND SCHOOL DIST	43463	1240 LAKESIDE DR	
CHRISTIAN DORA SUE	45471	418 ES 11TH ST	
LATOUR VINCENT	45624	402 ES 11TH ST	
SAR SAM & VONG YOKKIM	45750	358 ES 11TH ST	
CHRISTIAN DORA SUE TRUST	46013	426 ES 11TH ST	
CHRISTIAN DORA SUE TRUST	46013	434 ES 11TH ST	

LOCATION MAP



ZONING MAP





REZONE REQUEST

Case: Z-2023-13

Owner: Dennis and Mollie Dunnam

Request: Rezone from GC and AO to GC

Location: 411 East South 11th Street

Notification: 0 in Favor, 0 Opposed

Planning & Zoning: May 2, 2023

City Council Hearing: May 25, 2023
June 8, 2023





Z-2023-13 LOCATION MAP



Aerial Map



Legend

- Z-2023-13
- CourterParcels



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Z-2023-13 ZONING MAP



Zoning Map



Legend

- Z-2023-13
- Arterial
- AO - Agricultural Open Space
- RS-6: Residential Single-Family
- MD: Medium Density Residential
- GC: General Commercial
- HC: Heavy Commercial



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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/C Day Care Operation – Home-Based*
- P Dwelling – Accessory*
- TP Field Office or Construction Office (temporary)*
- P Freight Container*
- 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)
- P/SE Wind Energy Conversion Systems*

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
- P Urban Garden



LEGEND

- P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses 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



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, Brew Pub
- 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 Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
- C Permitted as a Conditional Use Permit, Requiring Approval by City Council
- TP Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment

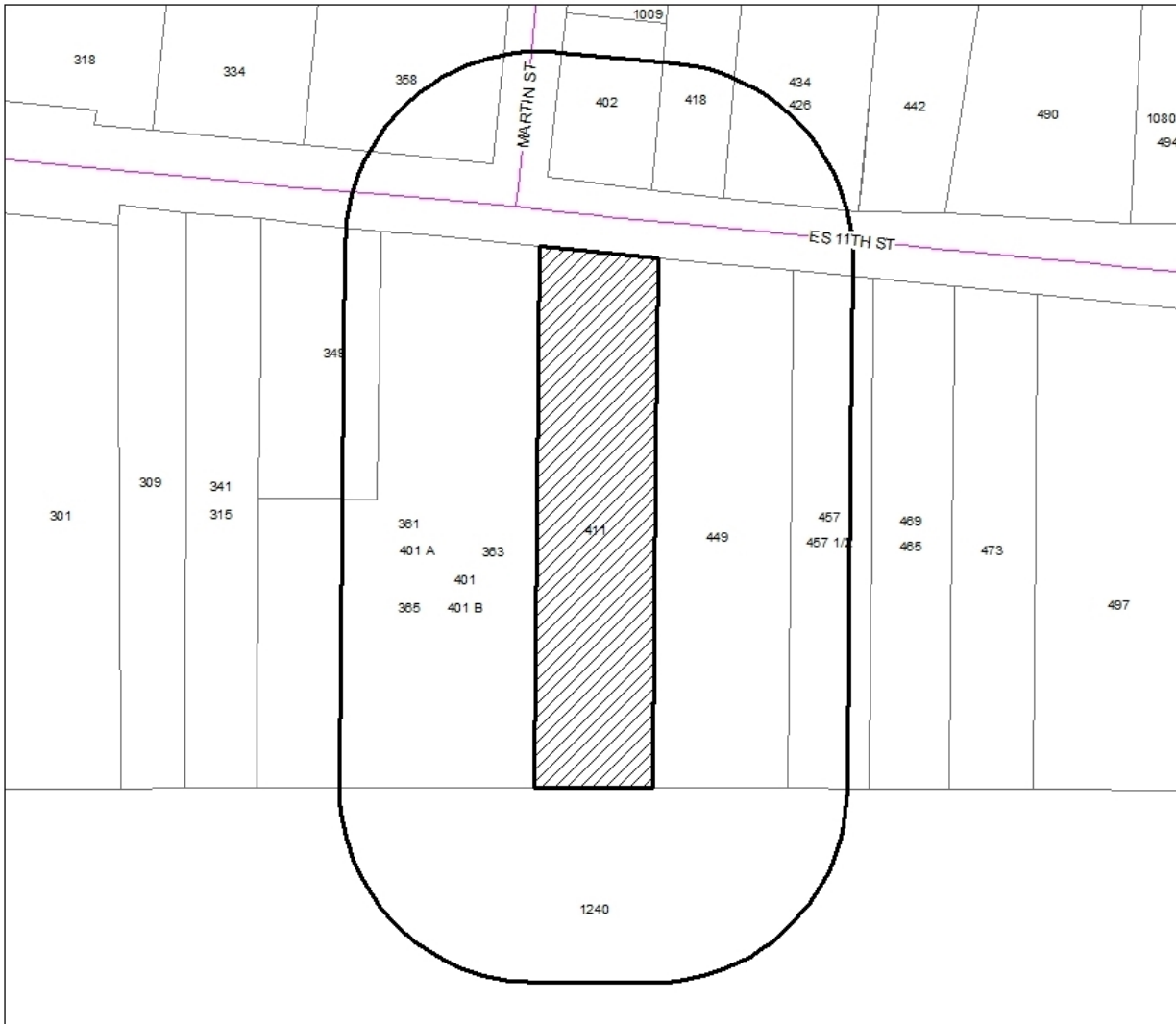


Z-2023-13 VIEWS OF SUBJECT & NEIGHBORING PROPERTIES





Z-2023-13 NOTIFICATION AREA MAP



Notification Map



Legend

- Notification Area
- Z-2023-13

0- In Favor- 
0- Opposed- 
0% Opposed



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FINDINGS AND RECOMMENDATIONS

The proposed request for GC rezoning is *consistent* with:

- The *Comprehensive Plan*;
- The surrounding uses and zoning;
- Generally accepted planning principals; and
- The Criteria for Approval in the LDC.

P&Z Recommendation: **Approval**





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 6/8/2023

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: 14. The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

GENERAL INFORMATION

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

A. 551.071 (Consultation with Attorney)

1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
2. 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
3. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-004598, In the 53rd Judicial District Court, Travis County, Texas; filed September 1, 2020
4. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
5. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
6. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
7. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
8. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021
9. Richard Scheriger, et al. v. City of Abilene; Cause No. CV33253, In the 90th Judicial District Court, Stephens County, Texas, filed April 21, 2023

B. 551.072 (Deliberations about Real Property)

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)

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None