

**NOTICE OF MEETING  
PLANNING AND ZONING COMMISSION  
CITY MUNICIPAL BUILDING, 2 NORTH MAIN STREET  
STAFF CONFERENCE ROOM, 1<sup>ST</sup> FLOOR  
MAY 7, 2012, 5:00 P.M.  
WORK SESSION AGENDA**

Staff will present the following items:

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Monday, May 7, 2012.
2. Receive and discuss the Planning Director's Report containing items for future meetings regarding subdivision plats, zoning cases, conditional use permits, annexations, and proposed text amendments to the Unified Development Code (UDC).

**NOTICE OF MEETING  
PLANNING AND ZONING COMMISSION  
CITY MUNICIPAL BUILDING, 2 NORTH MAIN STREET  
CITY COUNCIL CHAMBERS, 2<sup>ND</sup> FLOOR  
MAY 7, 2012, 5:30 P.M.  
REGULAR MEETING AGENDA**

1. \_\_\_\_\_ Invocation
2. \_\_\_\_\_ Pledge of Allegiance

**A. CONSENT ITEMS**

All items listed under this section, Consent Agenda, are considered to be routine by the Planning & Zoning Commission and may be enacted in one motion. If discussion is desired by the Commission, any item may be removed from the Consent Agenda at the request of any Commissioner and will be considered separately.

**Item 1:** [Approval of Minutes](#): Work session and the regular meeting of April 16, 2012.

**B. ACTION ITEMS:**

**Item 2:** **Z-FY-12-36** - Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (AG) to General Retail District (GR) on two 0.75 acre tracts of land situated in the John Simmons Survey, A-737, Bell County, Texas, located at 5412 North SH 317. (Sandy Adcock for James Ledger)

**Item 3:** **Z-FY-12-38** - Hold a public hearing to discuss and recommend action on a rezoning from Single Family Two District (SF2) to Single Family Three District (SF3) on Lots 12 and 13, Block 9, Carriage House Village Phase I. (Applicant: Mike Pilkington)

**Item 4:** **Z-FY-12-39** – Hold a public hearing to discuss and recommend action on a rezoning from Single Family One District (SF1) to Office One District (O1) on

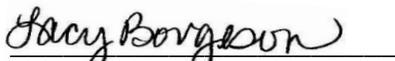
0.50 ± acres of land out of the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located at 3606 South 5th Street. (Applicant: Victor Pendleton)

- Item 5: Z-FY-12-40** - Hold a public hearing to discuss and recommend action to an amendment to Ordinance No. 2011-4493, originally approved December 15, 2011, Conditional Use Permit, to reduce the number of security lights from three to two on portions of Lots 11 and 12, Block 22, Original Town Addition, located at 11 East Central Avenue. (Applicant: Howard Leshikar)
- Item 6: Z-FY-12-42** - Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (AG) to Neighborhood Service District (NS) on 3.00 ± acres of land and from Agricultural District (AG) to Urban Estates District (UE) on 7.04 ± acres of land, both being part of the Redding Roberts Survey, Abstract No. 692, in the City of Temple, Bell County, Texas, located on the east side of South 31st Street, south of Fox Glen Lane and north of Venice Parkway. (Applicant: Bobby Arnold)
- Item 7: Z-FY-12-43** - Hold a public hearing to discuss and recommend action on a rezoning from Two Family District (2F) to General Retail District (GR) on Lot 1, Block 15, Freeman Heights Addition, located at 101 S. 31<sup>st</sup> Street. (Applicant: Rudy Garza for Diane Waters)

### C. REPORTS

- Item 8:** Receive and discuss the [Planning Director's Report](#) containing items for future meetings regarding subdivision plats, zoning cases, conditional use permits, annexations, and proposed text amendments to the Unified Development Code. ***(continued, if not completed in Work Session)***

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 8:10 AM, on May 3, 2012.



Lacy Borgeson  
City Secretary

**SPECIAL ACCOMMODATIONS: Persons with disabilities, who have communication or accommodation needs and desire to attend the meeting, should notify the City Secretary's Office by mail or by telephone 48 hours prior to the meeting.**

I certify that this Notice of Meeting Agenda was removed by me from the outside bulletin board in front of the City Municipal Building at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 2012. Title \_\_\_\_\_.

**PLANNING AND ZONING COMMISSION  
MONDAY, APRIL 16, 2012  
5:00 P.M.  
WORK SESSION**

**PLANNING AND ZONING MEMBERS PRESENT**

Chair Derek Martin

**COMMISSIONERS:**

David Jones  
H. Allan Talley  
Bert Pope  
Chris Magaña

Will Sears  
Mike Pilkington  
Greg Rhoads  
James Staats

**PLANNING AND ZONING MEMBERS ABSENT:**

**STAFF PRESENT:**

Autumn Speer, Dir. of Community Services  
Trudi Dill, Deputy City Attorney  
Kim Foutz, Assistant City Manager  
Tammy Lyerly, Planner  
Mary Maxfield, Planning Technician

**The agenda for this meeting was posted on the bulletin board at the Municipal Building in compliance with the Open Meetings Law.**

*The following is a summary of the proceedings of this meeting. It is not intended to be a verbatim translation.*

With a quorum present, Chair Martin opened the work session at 5:00 p.m., assigned the Invocation and Pledge, and asked Ms. Autumn Speer, Director of Community Services, to proceed.

Ms. Speer stated Item 2 was for the Dollar General final plat which required a public hearing since it is partial residential. The rezoning was approved at City Council.

Starbucks actual percent value triggered sign compliance and was not taken care of in the first appeal. City Staff is initiating Item 3. Starbucks has two freestanding signs, the large one is 75 feet tall and the small one near Whataburger is 40 feet tall. Technically, to comply with I35 standards, they would have to remove the 75 foot tall one and keep the 40 foot sign but would need to encase the pole with masonry. Staff initiated this as a cleanup and is recommending Starbucks keep their signs and make sure the appeal is on record.

Commissioner Jones asked if the Commission continues to get exceptions about the I35 standards, what good are the rules. Ms. Speer stated it would not be seen unless it is an exception. Commissioner Pope stated I35 has really improved due to the Ordinance. MW was an excellent example and they even asked for a variance.

Ms. Speer stated part of the recommendation included looking at the triggers. Vice-Chair Staats stated rules cannot be applied hard and fast in every case, especially in an older area. The spirit of the Ordinance has to be maintained.

Ms. Speer stated a lot of cities do not allow exceptions and stand fast to the rules, however, the City of Temple has an exception built in which allows for asking. Ms. Kim Foutz, Assistant City Manager, stated each case must be weighed or the wrong message is sent out. A variance means some special unique condition exists on the site that lends itself to a variance, such as topography.

Another I35 appeal for the old Albertsons' building located at West Adams and I35 is a great example of a special situation. The site requires approximately 700 parking spaces. TxDOT is taking various portions and the site will end up with about less than half of the required parking spaces. They are still asking for exceptions but have worked hard with Staff and done a good job trying to meet requirements. Ms. Speer shows the site plan. The applicant is also losing their entrances due to TxDOT. Options are being discussed.

To show how the triggers work, in 2010 they did a permit and got up to 9 percent cumulative percent then came back in with some retail finish at 13 percent, and now they are in their landscape, etc., percentage.

Commissioner Talley asked if the 200 foot rule worked with churches. Ms. Speer stated for on-premise but this was off-premise and the church came after the package store.

The last item is the 1<sup>st</sup> and 3<sup>rd</sup> Street overlay. Grant opportunities and funding were concerns from the last meeting. Ms. Foutz will be able to answer what type of grants and incentives are available. Commissioner Talley asked if any of the citizens came forward within the last two weeks to ask information about the grants and Ms. Foutz stated one person, Ms. Kristy Andrews, called and asked for information regarding funding. Ms. Foutz stated multiple grants could be done.

Ms. Foutz stated there was a section of the overlay that already has funding, a community development block grant, for the west side of South 1<sup>st</sup> from Avenue F to Avenue M and will fund a very high portion of the requirements in the proposed ordinance. The goal is to complete that side (from bridge to beginning of TMED area) go across the street and work our way up the other side.

Ms. Foutz stated there was a Strategic Investment Zone (SIZ) incentive program which has money designated to fund projects on Avenues F and G, MLK, 1<sup>st</sup> and 3<sup>rd</sup>, and that section of 1<sup>st</sup> Street. There are four categories where people can apply and approximately the same amount is funded each year. In the three plus years the program has operated, all applicants have been approved. Anyone in Temple is eligible to apply.

Ms. Foutz stated another grant that could be applied for is an oversized participation. If the general code requires five feet and the Ordinance requires eight feet, they can ask for 100 percent reimbursement from the City for the extra three feet.

Ms. Foutz stated part of the contract with Keep Temple Beautiful is to keep the various public entities informed about eligible grants and she would be happy to discuss it with KTB to ensure the information is available.

Ms. Foutz stated if the money is not used for one year, it will roll over to the next. Normally the money is allocated so there is not much money left to roll over.

Ms. Speer stated this overlay is not asking for a lot and is very minimal. There is no comparison with this overlay and the TMED or I35 overlays.

The suggestion was made that Ms. Foutz speak first at the meeting in order to give the additional grant/fund information before speakers come to the podium.

Ms. Speer gives the Director's Report and City Council status and states Ms. Foutz will be filling in for her during her maternity absence.

There being no further discussion, Chair Martin adjourned the meeting at 5:30 P.M.

**PLANNING AND ZONING COMMISSION  
MONDAY, APRIL 16, 2012  
5:30 P.M.**

**PLANNING AND ZONING MEMBERS PRESENT**

Chair Derek Martin

**COMMISSIONERS:**

Will Sears	James Staats
H. Allan Talley	Mike Pilkington
David Jones	Greg Rhoads
Chris Magaña	Bert Pope

**PLANNING AND ZONING MEMBERS ABSENT:**

**STAFF PRESENT:**

Autumn Speer, Director of Community Services  
Trudi Dill, Deputy City Attorney  
Kim Foutz, Assistant City Manager  
Tammy Lyerly, Planner  
Mary Maxfield, Planning Technician

**The agenda for this meeting was posted on the bulletin board at the Municipal Building, April 12, 2012 at 2:10 p.m. in compliance with the Open Meetings Law.**

*The following is a summary of the proceedings of this meeting. It is not intended to be a verbatim translation.*

Chair Martin called Meeting to Order at 5:34 P.M.

Invocation by Commissioner Sears; Pledge of Allegiance by Commissioner Rhoads.

**A. CONSENT ITEMS**

**Item 1: Approval of Minutes:** Work session and the regular meeting of April 2, 2012.

Approved by general consent.

**B. ACTION ITEMS**

**Item 2: P-FY-12-18** - Hold a public hearing to consider and take action on the Final Plat of RBA Third Street Subdivision, a 1.289 ± acre 1-lot, 1-block nonresidential subdivision located on the west side of North 3rd Street, south of an existing Family Dollar Store, being a replat of Lot 3, Block 8 and a portion of abandoned North 7th Street right-of-way, both shown on the Subdivision Plat of Park Lawn Addition according to the map

or plat thereof recorded in Volume 384, Page 292, of the Deed Records of Bell County, Texas.

Ms. Tammy Lyerly, Planner, stated this applicant has not requested any exceptions to the plat so the P&Z Commission will be the final authority on this request.

The subject property fronts North 3<sup>rd</sup> Street. The applicant went through an abandonment process for a portion of North 7<sup>th</sup> (indicated on the map) along with a small residential lot. Because these two portions are part of the Park Lawn Addition, and being a replat, this matter requires a public hearing.

The request was deemed administratively complete on March 27, 2012. The property is zoned General Retail (GR) and Single Family One (SF1); however, a rezoning request is currently pending and was approved by City Council at first reading on April 5, 2012 and scheduled for second reading on April 19<sup>th</sup>.

The plat has a vehicular non-access easement along the abandoned portion of North 7<sup>th</sup> which was a condition added in by City Council. The property will be served by an eight inch sewer line and six inch water line. A plat note regarding sidewalks states a six foot wide sidewalk is required along North 3<sup>rd</sup> Street, an arterial. If the City of Temple requires a wider sidewalk in the future, the City would pay for the additional sidewalk width.

The applicant is proposing to combine all three lots into one lot with easements, etc.

The development will also be required to put up a privacy fence in the area to keep people from accessing the area.

Twelve notices were mailed to property owners. Two notices were received in favor and two notices were opposed.

Public notice of hearing was published on March 31, 2012 in accordance with State law and local Ordinance.

Staff recommends approval of the final plat of RBA Subdivision.

Commissioner Pilkington asked about the sewer line and Ms. Lyerly stated it was being relocated.

Chair Martin opened the public hearing.

There being no speakers, the public hearing was closed.

Commissioner Rhoads made a motion to approve Item 2, P-FY-12-18, and Commissioner Talley made a second.

*Motion passed: (9:0)*

**Item 3: Z-FY-12-41** - Consider and make a recommendation on an Appeal of Standards in Sec. 6.7 of the Unified Development Code related to the I-35 Corridor Overlay Zoning

District for sign requirements for Starbucks Coffee, located at 111 North General Bruce Drive.

Ms. Autumn Speer, Director of Community Services, stated this was an I35 appeal request which coincided with a more recent appeal request that Starbucks Coffee did. The applicant proposed the interior remodel that triggered I35 compliance at 50% or higher level signs are suppose to be addressed at P&Z level. However, Staff was working with P&Z and City Council to rewrite the I35 sign ordinance and it was not brought up. The applicants did get approval for an appeal from City Council on March 1<sup>st</sup> and this matter is being brought back to make sure the appeal is on the record and they have this with their other appeal.

There are two existing freestanding signs: one on North General Bruce that measures 75 feet tall which was previously allowed on I35, and one between Whataburger and Starbucks that measures 40 feet tall. The current I35 standards allow up to a 45 feet tall pylon sign so the sign between Whataburger and Starbucks would be allowed to remain. The 75 foot tall sign would have to be removed if they were in full compliance with the trigger percentage.

The site plan is shown for location of signs.

The 40 foot tall sign could remain and would also have to be wrapped in masonry for a total of 3.75 feet in width and could be done with one or two poles.

Staff recommends approval of this appeal to allow those two remaining signs because of the timing of their appeal request. Staff also recommends coming back before P&Z and City Council to discuss the sign requirements as they relate to existing signs and how they are triggered. This site did not extend their footage, only interior remodeling.

Vice-Chair Staats asked if this would apply to the 75 foot sign even if Starbuck's closed and another business moved in. Ms. Speer stated yes, the sign could remain, even if the face changed.

Commissioner Talley made a motion to approve Item 3, Z-FY-12-41, as presented, and Commissioner Pope made a second.

*Motion passed: (9:0)*

**Item 4: Z-FY-12-44** - Consider and make a recommendation on an Appeal of Standards in Sec. 6.7 of the Unified Development Code related to the I-35 Corridor Overlay Zoning District for the commercial property located at 2001 West Adams Drive.

Ms. Speer stated this was an I35 appeal request and the applicant is addressing several topics required by I35 related to an existing building (old Albertsons) located at Adams Avenue and I35. The building is approximately 193,000 square feet and they have four tenant lease spaces: two spaces are occupied with a liquor store and bingo hall. The other two available spaces would be a proposed church and proposed bakery.

Ms. Speer shows an aerial of the subject property before TxDOT takes I35 acquisition (in red). I35 triggers are incorporated through building permits. Ms. Speer shows the applicant's previous permits which did not trigger any I35 standards. However, in February of 2012, the applicant submitted three permits for interior finishes which equals 31 percent and trigger the

site plan review, tree preservation, parking, screening and wall standards, landscaping and lighting. The site plan review is basic and there are no trees on the site.

Part of the issue on this site is their retail space would technically require 772 parking spaces. TxDOT is taking approximately 45 feet off of the Adams side and some property on the I35 frontage road side (unsure of the amount). After this property is taken there will only be space for 311 spaces. Curb and gutter meet requirements. Parking isles must be designed to be perpendicular to the entry. Currently they are parallel on both sides, however, if they do them perpendicular to the entry they would lose more spaces and has been discussed with the applicant.

Parking areas must be planned so drivers do not back out of the spaces onto a street. The applicant meets this requirement along with no parking in the landscaping aisle.

Screening and wall standards and loading zones—all of the service bays, loading and other items are in the back so the applicant meets these requirements.

Landscaping is right at 15 percent after the I35 acquisition for total landscaping so they need to meet that requirement. Foundation plantings are very close but 70% is required in visible areas. The landscape buffer is required to be 25 feet adjacent to I35 and Adams—they have 10 feet on Adams and 16 feet on I35 and do not meet the standard. However, if they met this requirement, they would lose additional parking spaces.

The required landscape buffer has native grass or wildflowers and the parking screen of hedge row should be two and a half to four feet high for parking areas and the applicant meets these standards. Interior parking islands, one per 10 spaces, are also met.

Terminal parking islands at the end of each row meet standards except for the rear which is employee and ancillary parking and is partially met. Median islands, one median island 10 feet in depth on the north side, are normally required, but again, the applicant would lose more parking spaces so they do not meet that standard.

Landscape buffer in the rear requires 10 feet but they do not have this space for this and do not meet the requirement. The 10 foot landscape buffer on the side is met.

The required 60 percent of the trees must be evergreen and the applicant has 100 percent deciduous proposed red oaks and crepe myrtles due to the size of the buffer. They also have a two foot tall berm on 50 percent of the buffer area and applicant exceeds the standards.

The applicant is located on the City Entry Sub District which requires extra landscaping standards and additional 10 percent vegetation is required in the landscape area. The applicant has nothing proposed over the standard requirements so technically they do not meet the standards. However, they have a reduction in the buffer area which would make it difficult to add even more.

The applicant requires one three-inch caliper tree per 25 feet of frontage. They have 16 required on I35 and eight on West Adams. The applicant is providing 10 on I35 and eight on West Adams (one per 30 feet) which partially meets the standards and Staff feels is adequate. Ornamental trees require 14 on I35 and seven on West Adams and this is partially met too.

Driveways must have enhanced paving of stone or brick but applicant does not meet this since they do not have the space. The applicant is taking access from the adjacent property and would have to put the entrance there but that has not yet been proposed.

Lighting is required to be full cut off and the applicant currently has no proposed lighting. This will be reviewed when they come in for the parking. Decorative lighting fixtures are also required for the lot and they are not proposed as yet.

Staff recommends approval for this applicant.

Commissioner Rhoads asked about the lighting and Ms. Speer stated if it was approved it would be part of the appeal. Commissioner Pope asked if lighting was currently there and Ms. Speer stated there was. The applicant would only need security cut off lighting in the parking lot, no decorative lighting.

Ms. Speer shows the green space for the subject area.

Commissioner Pilkington stated the applicant has shown good intent to comply with the standards as much as possible. Chair Martin agreed.

Commissioner Pope made a motion to approve Item 4, **Z-FY-12-44**, as presented, and Commissioner Talley made a second.

*Motion passed: (9:0)*

**Item 5: Z-FY-12-04** - Discuss and make a recommendation on an amendment to the City of Temple Unified Development Code to amend Article 6 of the Unified Development Code to create an overlay called the 1st and 3rd Street Overlay and add standards for development in the specified area and consider a zoning map amendment defining the boundaries of the 1st and 3rd Street Overlay generally being defined as tracts of land that abut or adjoin South 1<sup>st</sup> Street from the north intersection of Avenue M to the south intersection of Avenue E and from the north intersection of Avenue E and South 3rd Street to the north intersection of S 3rd Street and Avenue D, generally following the curve where S 1st and S 3rd join and tracts of land that abut or adjoin North 3rd Street from the north intersection of Houston Avenue to the south intersection with West Bellaire North.

Ms. Speer stated Ms. Kim Foutz, Assistant City Manager, would be presenting information on the available grant programs in relation to this item.

An overlay is a planning tool used to put standards in place for specific areas. It is a special zone which may be used on top of existing zoning or in place of.

A SWOT (strength, weakness, opportunity, threat) exercise was done with City Council in January 19, 2012. A Visual Preference Survey (VPS) was done with City Council on February 9<sup>th</sup> and a P&Z work shop on March 5<sup>th</sup> and a public meeting was held on March 27, 2012.

The general themes heard from City Council had to do with public realm, aesthetics, residential uses, non-residential uses, impacts, incentives, and economic impacts.

For purposes of the presentation, the proposed overlay is divided into two sections, residential and non-residential. The boundary for this overlay would be 1st Street from Avenue M up to the bridge, North 3rd Street, Houston to Munroe, is predominately residential, and from Nugent to the Mayborn Center is a mixed use area.

Residential: The only time anything in the proposed ordinance would apply is with brand new construction. If a house is torn down and a new one rebuilt, or if a vacant lot is being built on, the proposed ordinance would apply. The items that would specifically apply are General Standards and Public Frontage Standards.

General Standards deal with Article 4, Zoning District of the UDC, and the use standards.

Public Frontage is an eight foot landscaped strip of grass, back of curb, a five foot sidewalk, and street trees behind the sidewalk. The City would like to maintain the existing character and feel of the area.

Non-residential properties have applicability triggers. New construction requires compliance with all of the new standards.

Ms. Speer gives the formulas for applicability which is based on Bell County appraisal value of improvements.

At 50 percent or more, or a change in use from residential to non-residential, the following standards will apply:

- General Standards
- Landscaping
- Screening
- Public Frontage
- Circulation
- Signs

Twenty-five to 49 percent:

- General Standards
- Private property landscaping
- Screening

Ten to 24 percent requires compliance to General Standards only.

Interior or exterior maintenance with like or similar materials, no triggers apply.

General Standards: (10 to 24%) deal with Article 4 of the Zoning District (the only addition is the maximum impervious (paved or built upon) lot coverage of 70 percent; Article 5, Use Standards, and Article 7, General Development Standards.

Landscaping (25 to 49%) ratios are given. Foundation plantings for 50 percent of the façade visible from the right-of-way would be required and counted towards the total.

Screening and Fencing (25 to 49%) is required for HVAC, waste containers, loading docks, etc. Any vegetation will count towards the total landscaping.

New chain link fences are prohibited for both residential and non-residential uses.

New outdoor storage will not be permitted in the proposed overlay. Any current outdoor storage is permitted to remain.

Outdoor retail display is provided for in the Ordinance.

Public Frontage (50%+) includes sidewalks and street trees.

From Avenue M to the bridge, a required eight foot sidewalk with a concrete band on both sides and pavers, and a four foot planting bed with street trees, shrubs and river rock. This matches the design the City will be installing on the west side only from Avenue M to F.

From Munroe to the Mayborn Center is an eight foot sidewalk (reduced from ten feet) and a four foot landscaping strip with street trees.

If parking is in between the building and street, shrubs are required for the street scape area.

Circulation standards also apply at 50%. Cul-de-sacs and flag lots are prohibited.

Existing businesses are permitted one 24 foot curb cut per street frontage unless they take up the entire block.

Sign standards kick in at 50%+ or if a new sign is needed. Only monument signs are permitted freestanding signs in the overlay district.

Public frontage lighting has been removed from the requirements after the public meeting. If installed it will be included by the City, not the developer(s).

Underground utilities apply to 50%+ for non-residential which is standard practice.

Approximately 380 notification letters were mailed to property owners. Six responses were received in favor, twenty responses were received in opposition. Approximately 306 notification letters were mailed to 200 foot radius owners with 16 responses received in favor and 15 opposed.

Staff recommends approval of Unified Development Code Amendment Article 6, the map change as shown with the exclusion of properties at 307, 319, 401, 405, 409 and 415 S. 1st Street. This section was originally added to the proposal and Staff would like to exclude it for a potential downtown overlay.

The next step is a public hearing on May 3<sup>rd</sup> with City Council.

Ms. Kim Foutz stated the incentive program is under the Strategic Zone Investment program and has been in existence for about four years. There are several types of incentives available and cover four separate areas. South 1<sup>st</sup> Street, North 3<sup>rd</sup>, Martin Luther King area, and Avenue G and H. All of these areas encompass part of downtown.

There are number of grants that may be applied for in this area and there are also tax abatements. Categories eligible for the grant program include façade improvements, signs, landscaping, irrigation, demolition, asbestos abatement, sidewalk improvements, and waiver of permits and fees. The City accepts applications for grants four times a year which are then submitted to the City Manager's office and then City Staff process the applications.

Depending on the level of the grant, some can be approved by the City Manager's office and all others go straight to City Council for consideration. Anyone awarded a grant is required to enter into a Development Agreement which basically states what the City will be reimbursing for and what improvements will be made.

The other funding program referenced by Ms. Speer is located on the west side of South 1<sup>st</sup> Street between Avenue F and M. A Public Works project is scheduled that will pay for and install all the sidewalks to the specifications in the Ordinance along the west side including a strip of landscaping. Once this project is completed, the other side will be considered.

Ms. Foutz stated the sidewalk project should be started within the next few months.

Vice-Chair Staats asked where this grant information was located and Ms. Foutz stated it was located on the City's website under the Business Section under Strategic Investment Zones and can also be found through the Planning Department. The applications are available through the City Manager's office and through Keep Temple Beautiful. Ms. Foutz is the contact for the program.

Although this item does not require a public hearing, Chair Martin asked if anyone wanted to speak on this matter and to state the individual's name and address for the record.

Mr. James Dean, 1301 S. 1<sup>st</sup> Street, asked about underground utilities and what was meant by 'typical.' Ms. Speer explained underground utilities are required from the right-of-way to the property throughout the City and overhead utilities are allowed in the right-of-way. Mr. Dean felt the overhead utilities looked tacky if the concern was mainly aesthetics. Commissioner Sears stated safety issues would be a potential reason for putting utilities underground. Vice-Chair Staats stated multiple overhead utilities would not be feasible if everyone did it. Mr. Dean stated it put a burden on the property owner to have them install underground utilities.

Mr. Dean asked when this overlay was being studied, what was the percentage of property owners on South 1<sup>st</sup> Street whose property will be deemed basically worthless because of this proposal. Mr. Dean stated that his property would be worthless and knows of numerous other properties that would have the same result. It is an old section of town with different structures, lot sizes, etc. If you take away the right-of-way and install an eight foot sidewalk, the lots will not be large enough to accommodate this. Ms. Speer stated the right-of-way is TxDOT right-of-way and no one should be parking in the right-of-way. None of the items will be triggered until an owner proposes to do something to the property. The circulation standards do not apply until 50 percent of the value or square footage is proposed. If there is not enough to add on to the existing portion, it will be very hard to get to the triggers.

Mr. Dean commented if the City comes in and puts in the sidewalk project and narrows down your driveway, that is something they can do because of the right-of-way. Some of the properties on the west side are in better shape than the east side for this. Mr. Dean stated

there were a number of properties that currently have access to 1<sup>st</sup> Street now so their customers can have access to their properties. If the sidewalks were put in, they would not. He continued that In Mr. Dean's case, his business at 1301 South 1<sup>st</sup> Street, has no curb so people can pull in to the front of his business. If the proposed sidewalk were put in, he would literally not have any parking. Mr. Dean stated there were other properties on South 1<sup>st</sup> Street with the same situation.

Chair Martin stated he also has property located on South 1<sup>st</sup> Street that is in the same situation with his parking in the right-of-way. Chair Martin stated he is cutting down the size of his building to accommodate parking since he has no other choice. Mr. Dean stated he does not have the finances to do that with his business. Chair Martin asked Mr. Dean what he would do if the City decided to come in and install an eight foot sidewalk, taking up all of the parking. Mr. Dean stated it would basically put him out of business but it is not capable of that type of remodeling. Chair Martin stated the reason Mr. Dean's business was thriving currently is because the parking is located in the right-of-way. Mr. Dean stated that is the way it has existed for a number of years and now someone wants to change that which he understands.

Ms. Speer stated Mr. Dean's business is located on the east side and if the City moves in and does the east side sidewalk improvements, it will affect his parking. In all probability, Mr. Dean will not trigger having to put in the public frontage himself.

Ms. Foutz stated the City will work with the property owners. It is not the City's intent to do projects without working with the public, especially if it affects curb cut and/or circulation, and even if public right-of-way is being used.

Mr. Scot Andrews, 319 S. 1<sup>st</sup> Street, Temple, Texas stated as investors and property owners, they were against this proposal. This is not I35. The triggers of 15 to 20 percent are significant remodel projects. The property value along 1<sup>st</sup> Street corridor, according to Bell County tax records, is in the range of \$50,000 to \$100,000. Any remodeling or upgrades will be discouraged with this type of ordinance. Mr. Andrews stated fifty percent of the property owners cannot comply based on space, not cost.

Mr. Andrews was looking at two properties in the corridor but based on the amount of money needed to remodel in order to meet the proposed requirements, he is no longer interested. The properties would also have no parking except in the right-of-way, which is typical of the properties along 1<sup>st</sup> Street. Vice-Chair Staats stated the building Mr. Andrews was interested in was not included in the discussion and Mr. Andrews agreed but stated it was very similar to other business properties along South 1<sup>st</sup> Street.

Mr. Andrews stated the four foot sidewalk has worked for 50 years and the City wants to put in an eight foot sidewalk. He finds this offensive as a business and property owner.

Mr. Andrews objects to this proposal and would welcome other alternatives which would allow the business and property owners to work as a team and not feel forced to comply.

Commissioner Pope asked what Mr. Andrews would like to have done, short of providing funding, to encourage development in the area. A lot of complaints have been voiced but would like to hear some positive suggestions. Mr. Andrews stated personally if there were a standard that was trying to be achieved, not forced to achieve, as property owners they would

be eager to cooperate. Mr. Andrews stated he fears doing anything and opening the door to eight foot sidewalks, losing property, losing parking, and maybe dealing with the unknown, but he does not want to have to come before P&Z and beg to keep his parking. Commissioner Pope stated in all the years he has lived in Temple, very little change has occurred in some areas and has even deteriorated in others which is unfortunate. Mr. Andrews agreed but did not feel the proposal was the way to encourage development.

Commissioner Pope encouraged anyone with suggestions to contact the P&Z Commission. Mr. Andrews's suggestion was to table this ordinance and get together to work and make the area better.

Vice-Chair Staats stated the Staff was asked if anyone had contacted them to discuss this since the last meeting and the answer was no. Vice-Chair Staats how long everyone should wait? Mr. Andrews stated he were in a waiting mode for this presentation. It takes time to make improvements but there is a definite fear of improvements in triggering the ordinance. Mr. Andrews does not want to be forced into doing it.

Vice-Chair asked Mr. Andrews about his comment regarding not being required to do things and working as a team. If there are no standards set then there is nothing. Mr. Andrews stated the difference between standards and ordinances forcing compliance when one is trying to do improvements in the first place. Vice-Chair Staats stated that was standards are. Mr. Andrews agreed but stated standards could be applied up and down the entire street or apply standards that trigger based on when someone remodels. He felt as a City they would want to encourage remodeling and development, not discourage it. Mr. Andrews stated if a standard were applied to make your business better, that was fine; globally apply it up and down the entire street. Right now there is some federal money, City money, lots of developer money and mostly nothing up and down the 1<sup>st</sup> Street corridor. Mr. Andrews fears it is selective with one side of the street being paid for and the other is not.

Vice-Chair Staats asked what would make the public do it if there were not requirements. Mr. Andrews responded there were no requirements and then there was discouragement. The requirements the City is proposing discourage the exact activity they want to accomplish.

Vice-Chair Staats stated he agreed with Commissioner Pope that there have been a lot of complaints but no viable constructive suggestions have been offered. There have been no meetings with City Staff since last meeting. Mr. Andrews stated he and his wife wanted to hear what would be said at this meeting.

Commissioner Magaña agreed with Commissioner Pope and stated for the last 50 years the businesses on South 1<sup>st</sup> Street have been neglected and if the City did not start somewhere the area would continue to deteriorate. There had to be a starting point and not everyone would be happy but standards were needed for the area. Commissioner Magaña stated the major objection previously stated at the meeting was money. Commissioner Magaña stated the City has shown there are grants available to assist the public with this proposal and that grant information was offered to the public. Ms. Speer stated the link to this grant information was placed on the City's website the day after the meeting.

Mr. Andrews said he understood the comments by Commissioner Magaña but stated his issue was the way the ordinance is written and targeted at businesses trying to remodel is going to

directly discourage what the City is trying to achieve. It is the other businesses not remodeling and all of the businesses being discouraged from remodeling that this ordinance will hurt. Mr. Andrews stated it was wonderful to set a standard but when standards discourage development people will go elsewhere and the area will go downhill. Mr. Andrews stated this was the first they heard about available City funds which was great.

Commissioner Pilkington asked Ms. Speer about McGuire Tire. Ms. Speer stated she has spoken with the McGuires and they would need to request an exception if the 50 percent were triggered. The McGuires have legitimate issues, as do others, but there are some options available for them.

Mr. Randall Simmon, 816 S. 1<sup>st</sup> Street, Temple, Texas, asked Ms. Foutz how much money has the City been giving out each year per project and how would this affect small properties. Ms. Foutz stated this was a one to one matching program and if \$30,000 were spent on the façade then the City would match up to \$15,000 for the façade. Same thing on the sidewalks; the grants go up to \$10,000. The owner pays half and the City would pay half.

Ms. Foutz also stated there was an Oversized Program. If there were an eight foot sidewalk and the general provisions required a six foot sidewalk, the City would pay 100 percent for the two feet, 50/50 on the balance, and this amount would include labor and materials.

Mr. Simmon asked what utilities would cost and Ms. Foutz stated that issue is still being misunderstood because we are talking about the service lines to the building for putting electric underground for service lines. We are not affecting the distribution lines that are running parallel to the street. Ms. Foutz stated utilities would not be an eligible expense. The eligible categories are available on the City's website. Mr. Simmon asked how much the program provided last year and Ms. Foutz stated approximately \$135,000, which is about the same amount as this year. Fortunately, the City has never been in the situation where an applicant who has applied was denied. If an application is received which exceeds the amount already allocated, then City Council is asked for possible grant supplementation.

Ms. Foutz stated grant applications do not have to be associated with this overlay and some limitations do exist.

Ms. Kristine Andrews, 319 S. 1<sup>st</sup> Street, Temple, Texas, stated she spoke with Ms. Foutz about these improvements and there has been some discussion not presented. Ms. Andrews agrees with the comments made against this proposed ordinance so far. The Commission has heard from the very business owners the improvements are to be made from and those people are telling you that this proposed ordinance will discourage people from making improvements. Ms. Andrews urged the Commission to listen to them because they are the ones that will be making the improvements. What is wanted will not be accomplished by this ordinance.

Ms. Andrews stated up until two weeks ago most of the business owners did not know about the incentive programs. Now that the information is known, give the business owners a chance to utilize the grants to make improvements.

Ms. Andrews stated Chair Martin and Commissioner Pope had property directly affected by this proposed overlay. Chair Martin stated his property was affected by the TMED standards which were stricter than this overlay. Ms. Andrews then asked Commissioner Pope if he were

going to recuse himself from voting on this item. Commissioner Pope asked Ms. Trudi Dill, Deputy City Attorney, if he needed to recuse himself and was told no, he only resides there. Commissioner Pope stated it had little effect on his residential status.

Ms. Andrews asked the Commission to consider doing the same for businesses as the residential areas and not having the ordinance kick in or be triggered unless new construction takes place.

Ms. Andrews stated she was asked by another business owner to please convey to the Commission to please consider the realistic impact this overlay will have which will be to discourage business improvements, the very thing the City encourages.

Vice-Chair Staats asked Ms. Andrews what kind of time frame she have in mind to allow the businesses involved to take advantage of the incentives available. Ms. Andrews replied somewhere between two to four years because of the various aspects involved such as remodeling, design, pricing, etc., and allowing time for City Council, if needed, actual construction time, etc. Ms. Andrews clarified this time allotment was for the completion of everything involved.

Mr. Thomas Baird, 15 N. Main, Temple, Texas, stated he has been a developer and property owner up and down 1<sup>st</sup> and 3<sup>rd</sup> and all over Temple. Mr. Baird was attending the meeting to represent himself since he is concerned about the community and the future. Temple needs to do something to bring it up to date. The only through streets in Temple are 5<sup>th</sup>, 3<sup>rd</sup> and 1<sup>st</sup>. Mr. Baird's own business is on the property line and understands the comments made by other property owners. Mr. Baird stated the City of Temple has bent over backwards time and again to work with people to improve the community and help during difficult times.

Mr. Baird stated the standards being requested from the City of Temple are minimal. These steps will make a huge difference in the future and the City continues to look for grant money, city, state and federal money, etc., to assist with these matters to create a better environment for its current and future citizens. The process has to be allowed to work a little at a time. The proposal has been cut back, pared, changed for consideration of comments, and presents a minimum of requirements.

There being no further speakers, Chair Martin allowed for further comments from citizens with a three minute time limit.

Mr. James Dean stated he also wanted to live in a great place and good looking community and realized the City was trying to make improvements. Mr. Dean urged the Commission to at least know what properties will be affected and hindered by this proposal. Mr. Dean stated a number of properties on South 1<sup>st</sup> Street would be put in a very poor position if this proposal is approved. Mr. Dean realized it was not the City's intent to put anyone out of business or in more of a financial bind.

Mr. Randall Simmon stated there was an inclination this proposal would pass but with respect to South 1<sup>st</sup> Street there are buildings people are considering purchasing that once this additional cost is included, they will not purchase the buildings which stops progress. Mr. Simmon stated the investment numbers do not match for the types of properties and

improvements even with the City's assistance. Mr. Simmon stated South 1<sup>st</sup> Street will be stalled because of this proposal.

Mr. Scot Andrews stated this was the wrong area to ask for this type of money and this type of ordinance and expect to encourage improvement. These are low dollar properties and not the right area even though the City has painted a great picture with the matching funds but not near what it would cost to fix the area. Mr. Andrews stated when this was presented to the public, there were some landscape only funds which would not affect or benefit his property. Now that the program has improved, give the owners a chance to take advantage of it and let them do it on their own terms. Mr. Andrews commended the work done for residential properties but for property directly in the zone, he felt it was unethical for Commissioner Pope to vote on.

Ms. Trudi Dill, Deputy City Attorney, stated how potential conflicts are analyzed and a member may need to abstain when the matter is reasonably foreseeable that action on the matter would confer an economic benefit to the real property that is distinguishable from the affect on the general public. The analysis for this was in the event of a major remodel or tearing down a house and building a new one that the Ordinance would not confer an economic benefit but there would be additional costs to the owner to meet the requirements. The Commission is not voting on grants or offering the incentives, those are already in place.

Commissioner Pope stated he did not know how this could benefit him residentially since his house is 100 years old. The Masonry Ordinance created a huge stir, especially with TABA, but at the end when it was passed, TABA asked that records be kept of all the people that do not build because of this and two years later there were no names. The Ordinance did not sound good to them but the City did not want metal buildings on the main streets. Commissioner Pope stated this proposal was altogether different but felt it was minimal and deserved a try.

Commissioner Sears stated some of the concerns about delaying progress by these ordinances are actually hindering new development to come in. This corridor started in the TMED area and has improved already so there is progress being made. To encourage the progress to continue down 1<sup>st</sup> Street, changes need to occur. Commissioner Sears stated the City has been cooperative with individual properties and it was not the intent to put anyone out of business. Commissioner Sears felt this would encourage more development in the area due to the existing improvements and possibly increase property values and felt this was a good way to start.

Commissioner Talley thanked everyone for participating in the discussion and appreciated the concessions the City has made in order to try and get this Ordinance through. Commissioner Talley also stated this was very difficult for him since he empathized with Mr. Dean and was uncomfortable being on the panel for this issue. Commissioner Talley stated it was not an easy decision for anyone on the P&Z and even harder since he was not in the same dilemma as the property owners involved. Commissioner Talley stated last time Commissioner Pope made a motion and Commissioner Talley could not make a second. However, he would be agreeable this time if Commissioner Pope made a motion.

Commissioner Rhoads stated he also grew up in the area and even though he was not always ready for changes, Temple has to move forward somehow even if it is a hard decision. Commissioner Pilkington agreed it was a difficult issue for the P&Z members. He was not in

favor of the Masonry Ordinance when it came up and still sees developers having issues but felt the Staff has been working hard with the public to accommodate changes.

Commissioner Magaña stated at the last meeting no one wanted to make a second to the motion made, including him, since he was against it at the time. Since then, the matter has weighed heavy on his mind and he has made several trips to the area and talked with different business owners. This is not an easy decision for the Commissioners.

Chair Martin agreed with all the comments made by the Commissioners and stated as hard as it was the Commissioners want to do what is best for all concerned.

Commissioner Jones stated he appreciated the citizens participating in this issue over time and his main concern was, if the City waited, and those who have not done anything during that waiting period, then what? That would be another several years Temple would be behind where nothing has happened. Even with all the valid arguments presented by the citizens, Commissioner Jones felt the City should move forward since nothing has been improved over the past.

Commissioner Pope made a motion to approve Item 5, **Z-FY-12-04**, to amend the Unified Development Code, Article 6, and create an overlay called the 1<sup>st</sup> and 3<sup>rd</sup> Street Overlay per Staff recommendation (which includes the excluded properties). Commissioner Talley made a second.

*Motion passed: (9:0)*

## **C. REPORTS**

**Item 6:** Receive and discuss the **Planning Director's Report** containing items for future meetings regarding subdivision plats, zoning cases, conditional use permits, annexations, and proposed text amendments to the Unified Development Code. ***(continued, if not completed in Work Session)***

There being no further business, the meeting was adjourned at 7:22 p.m.

Respectfully submitted,

Leslie Evans



# PLANNING AND ZONING COMMISSION AGENDA ITEM

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05/07/12  
Item #2  
Regular Agenda  
Page 1 of 4

**APPLICANT / DEVELOPMENT:** Sandy Adcock for James Ledger

**CASE MANAGER:** Tammy Lyerly, Planner

**ITEM DESCRIPTION:** PUBLIC HEARING - Z-FY-12-36 Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (AG) to General Retail District (GR) on two 0.75 acre tracts of land situated in the John Simmons Survey, A-737, Bell County, Texas, located at 5412 North SH 317.

**STAFF RECOMMENDATION:** Conduct a public hearing and recommend approval of the ordinance for a rezoning from AG to GR.

Staff recommends approval of Z-FY-12-36, the requested rezoning to GR District for the following reasons:

1. The request complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan Map; and
3. Public facilities are available to serve the property.

**ITEM SUMMARY:** The applicant requests this rezoning to allow a real estate office and future retail uses associated with hunting and shooting sports on the subject properties. A rezoning from the AG to the GR zoning district would allow many uses that would not have been allowed before on the subject properties. Those uses include, but are not limited to, the following:

Residential uses

Single Family Attached  
Single Family Detached  
Duplex  
Home for the aged

Nonresidential uses

Retail Sales and Service Uses  
Office  
Restaurant  
Business School

Some uses prohibited in the General Retail District include: apartment, triplex, mini-storage warehouse, welding or machine shop, wrecking yard, and building material sales.

**SURROUNDING PROPERTY AND USES:**

The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Property	AG	Residential	
North	AG	Residential	
South	AG	Residential	
East	SF1	Residential	
West	AG	Residential	

**COMPREHENSIVE PLAN COMPLIANCE:**

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Site Conditions	Compliance?
CP	Map 3.1 - Future Land Use and Character	The future land use and character map designates the entire property as Suburban Commercial. This designation is appropriate for office, retail and services uses adjacent to and abutting residential neighborhoods and other areas where the community's image and aesthetic value is to be promoted, such as at "gateways" and high-profile corridor locations.	Yes
CP	Map 5.2 - Thoroughfare Plan	The Thoroughfare Plan designates North State Highway 317 as a major arterial. Major arterials are appropriate for office and retail uses.	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	A water line runs along the property's frontage at North State Highway 317. A sewer line runs along a portion of the east side of North State Highway 317 in this area.	Yes
CP	Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area.	GR development complies with the recommended Suburban Commercial designation along North State Highway 317 and is compatible with the existing mix of uses.	Yes
STP	Trails Master Plan Map	The Sidewalk and Trails Plan calls for a local connector trail along the east side North State Highway 317.	Yes

\* = See Comments Below    CP = Comprehensive Plan    STP = Sidewalk and Trails Plan

**DEVELOPMENT REGULATIONS:**

The General Retail District allows most retail uses including retail sales, restaurants, grocery stores, department stores, offices, and residential uses except apartments. It is intended to serve larger service areas than neighborhoods. The General Retail District should be located at the intersection of major arterials and should provide total on-site traffic maneuvering such that traffic entering and exiting the facility should have room to turn, stack and park within the confines of the retail facility.

**STAFF ANALYSIS:**

The requested rezoning from AG to GR is a reasonable request with the subject properties being located along a major arterial such as North State Highway 317. It is typical to see undeveloped land and residential properties along a major arterial transition to a mix of non-residential uses. The requested General Retail zoning district agrees with the recommendation of Suburban Commercial development is this area.

If approved, this rezoning would require the existing residential property to be brought into compliance with codes associated with nonresidential development such as access/circulation/drive approach standards, parking requirements, signage, and buffer screening with a privacy fence or hedge adjacent to residential uses.

**PUBLIC NOTICE:**

Eight notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200 feet of the property in question, as required by State law and City Ordinance. As of Wednesday, May 2, 2012, at 5:00 PM, no notices were returned in favor of the request and one notice was returned in opposition to the request.

The newspaper printed notice of the Planning and Zoning Commission public hearing on April 26, 2012, in accordance with state law and local ordinance.

**STAFF RECOMMENDATION:**

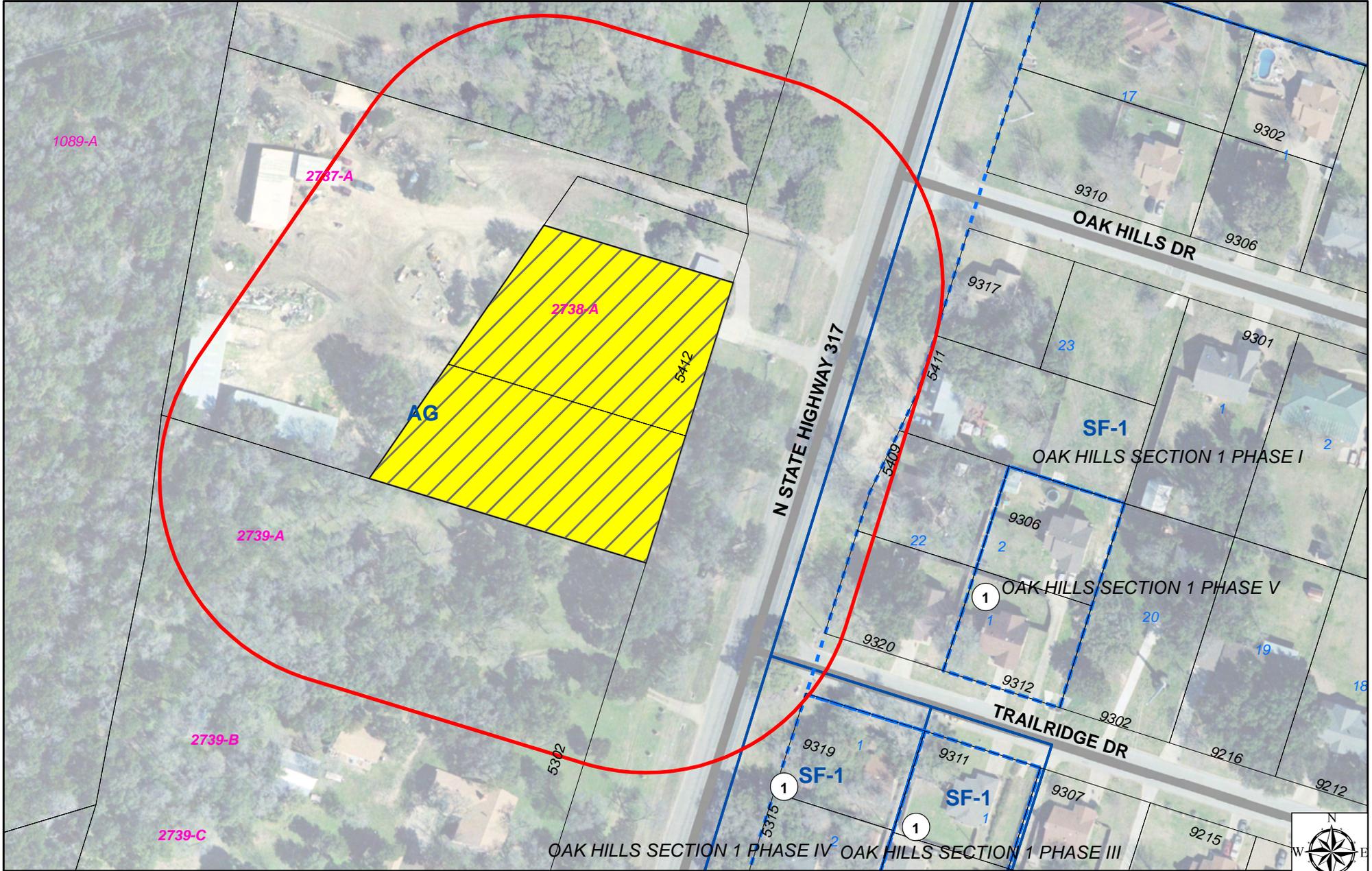
Staff recommends approval of a rezoning from AG to GR for the following reasons:

1. The request complies with the Future Land Use and Character Map.
2. The request complies with the Thoroughfare Plan.
3. Public facilities are available to serve the property.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

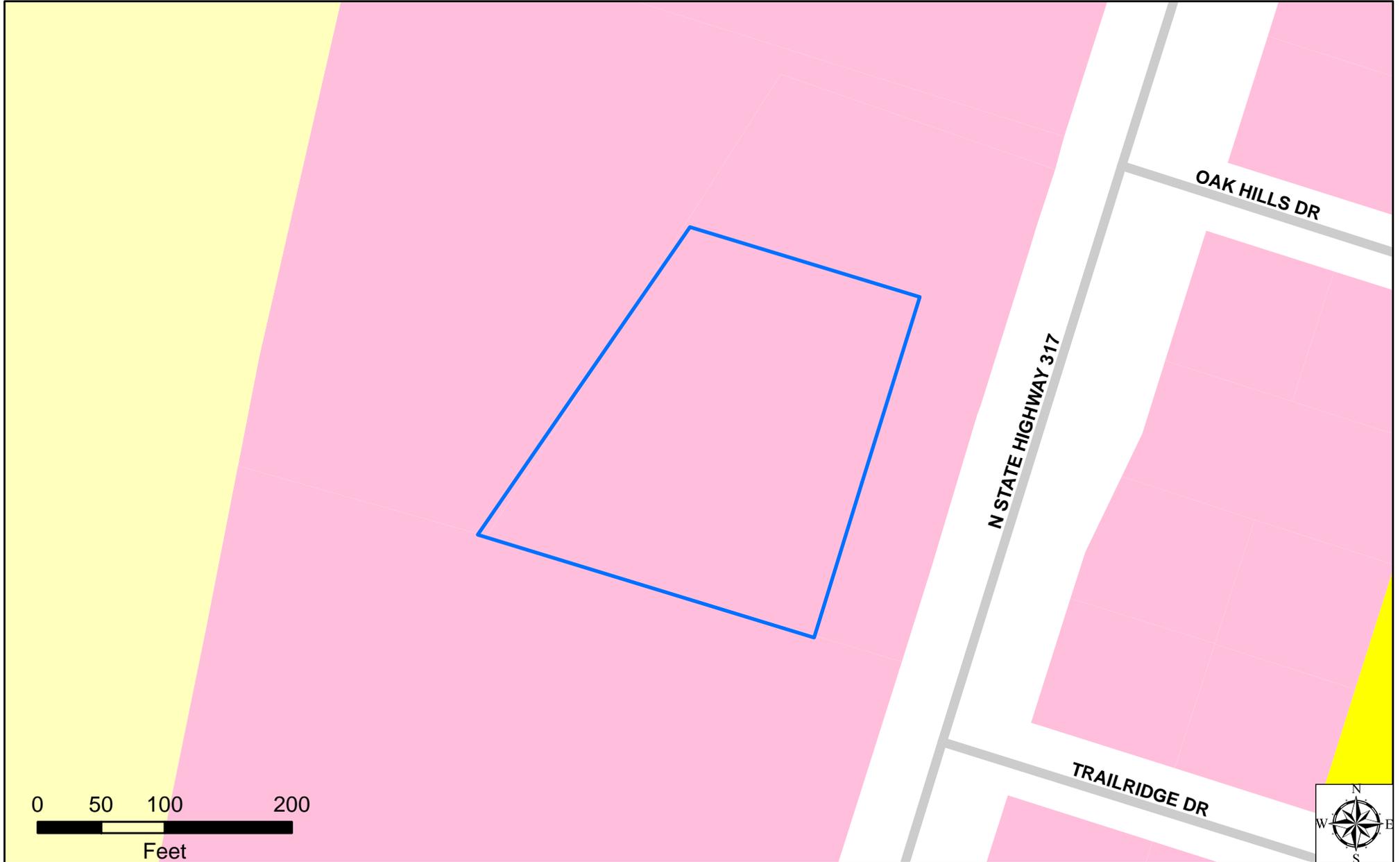
[Aerial & Zoning Map](#)  
[Land Use and Character Map](#)  
[Utility & Thoroughfare Plan Map](#)  
[Notice Map](#)  
[Response Letter](#)



- Case
- 200' Buffer
- 1234 Address
- 1234-A Outblock Number
- Block Number
- 1 Lot Number



GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



**Future Land Use**

- |                           |                         |                       |                                   |                      |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| Neighborhood Conservation | Auto-Urban Residential  | Auto-Urban Commercial | Temple Medical Education District | Public Institutional |
| Estate Residential        | Auto-Urban Multi-Family | Suburban Commercial   | Industrial                        | Parks & Open Space   |
| Suburban Residential      | Auto-Urban Mixed Use    | Urban Center          | Business Park                     | Agricultural/Rural   |

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Z-FY-12-36

AG to GR

5412 N. Hwy. 317



- Case
- Sewer Line
- Major Arterial
- + Fire Hydrant
- Water Line
- Minor Arterial



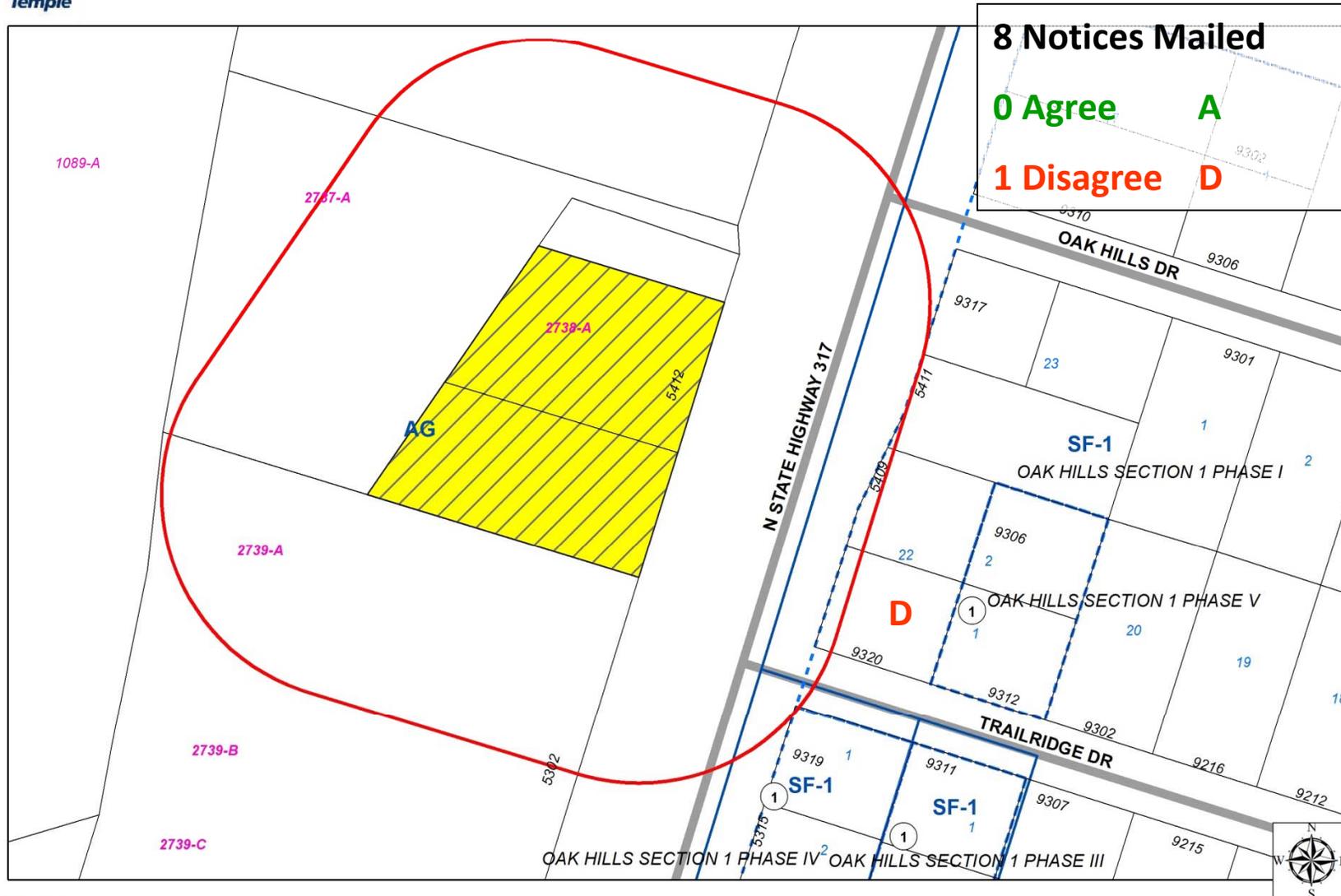
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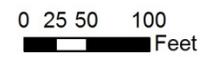
Z-FY-12-36

A to GR

5412 N. Hwy. 317



- Case
- 200' Buffer
- 1234 Address
- 1234-A Outblock Number
- Block Number
- 1 Lot Number



GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

Jimmy Etux Martha Beaver  
9320 Trailridge Drive  
Temple, Texas 76502

Zoning Application Number: Z-FY-12-36      Project Manager: Tammy Lyeriy

Location: 5412 N SH 317

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ( ) approval       denial of this request.

**Comments:**

*Traffic is already so heavy on Hwy 317 that it is very noisy & unpleasant. Having commercial property across the road from our home will be insurmountable. We both deny this request & pray that the city will deny the request for the rezoning of that property.*

*Jimmy L. Beaver Martha A. Beaver*      *Jimmy L. Beaver MARTHA A. Beaver*  
Signature *4-27-12*      Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

**RECEIVED**

MAY 02 2012

City of Temple  
Planning & Development

Number of Notices Mailed: 8

Date Mailed: April 26, 2012



## PLANNING AND ZONING COMMISSION ITEM MEMORANDUM

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05/07/12  
Item #3  
Regular Agenda  
Page 1 of 5

### **DEPT. / DIVISION SUBMISSION & REVIEW**

Kim Foutz, Assistant City Manager/Acting Planning Director

**APPLICANT / DEVELOPMENT:** Mike Pilkington / Carriage House Village

**ITEM DESCRIPTION:** Z-FY-12-38 Hold a public hearing to discuss and recommend action on a rezoning from Single Family Two District (SF2) to Single Family Three District (SF3) on Lots 12 and 13, Block 9, Carriage House Village Phase I, located at 1917 and 1921 Carriage House Village Drive.

### **STAFF RECOMMENDATION:**

Staff recommends approval of a rezoning from SF2 to SF3 for the following reasons:

1. The request does comply with the Future Land Use and Character Map
2. The request complies with the Thoroughfare Plan.
3. Public facilities will be available to subject property.

### **DEVELOPMENT REGULATIONS:**

The SF3 zoning district permits single-family detached residences and related accessory structures and provides single-family development at urban densities in locations well served by public utilities and roadways. The district should have adequate thoroughfare access and be relatively well connected with community and neighborhood facilities such as schools, parks, and shopping areas and transit services.

**BACKGROUND:** The SF2 District requires a setback of 25'. The developer requests this rezoning to allow a 15' front yard setback in order to accommodate the existing utilities that have been installed and a bulb-out that was originally planned.

### **SURROUNDING PROPERTY AND USES:**

The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Properties	SF2	Undeveloped Land	
North	SF2	Single-Family Residential	

South	SF2	Single-Family Residential and undeveloped land	
East	SF2	Single Family Residential	



**COMPREHENSIVE PLAN COMPLIANCE:**

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character (FLUP)	Y*
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y**
STP	Temple Trails Master Plan Map	Y*

\* = See Comments Below    CP = Comprehensive Plan    STP = Sidewalk and Trails Plan

Future Land Use and Character Plan (FLUP) (CP Map 3.1)

The future land use and character map designates the entire property as Auto Urban Residential. The requested SF3 does comply with this designation.

Thoroughfare Plan (CP Map 5.2)

Carriage House Village Drive is a local street.

Availability of Public Facilities (CP Goal 4.1)

Water and wastewater lines are located along Carriage House Village Drive directly adjacent to and south of the subject property.

Temple Trails Master Plan Map

The Trails Master Plan does not call for any trails in the vicinity. Carriage House Village is a local street therefore sidewalks are not required.

**PUBLIC NOTICE:**

10 notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200-feet of the property in question, as required by State law and City Ordinance. As of Wednesday, May 2 at 10 AM, no notices were returned in favor of and no notices were returned in opposition to the request.

The newspaper printed notice of the Planning and Zoning Commission public hearing on April 26, 2012 in accordance with state law and local ordinance.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

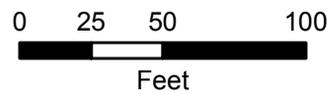
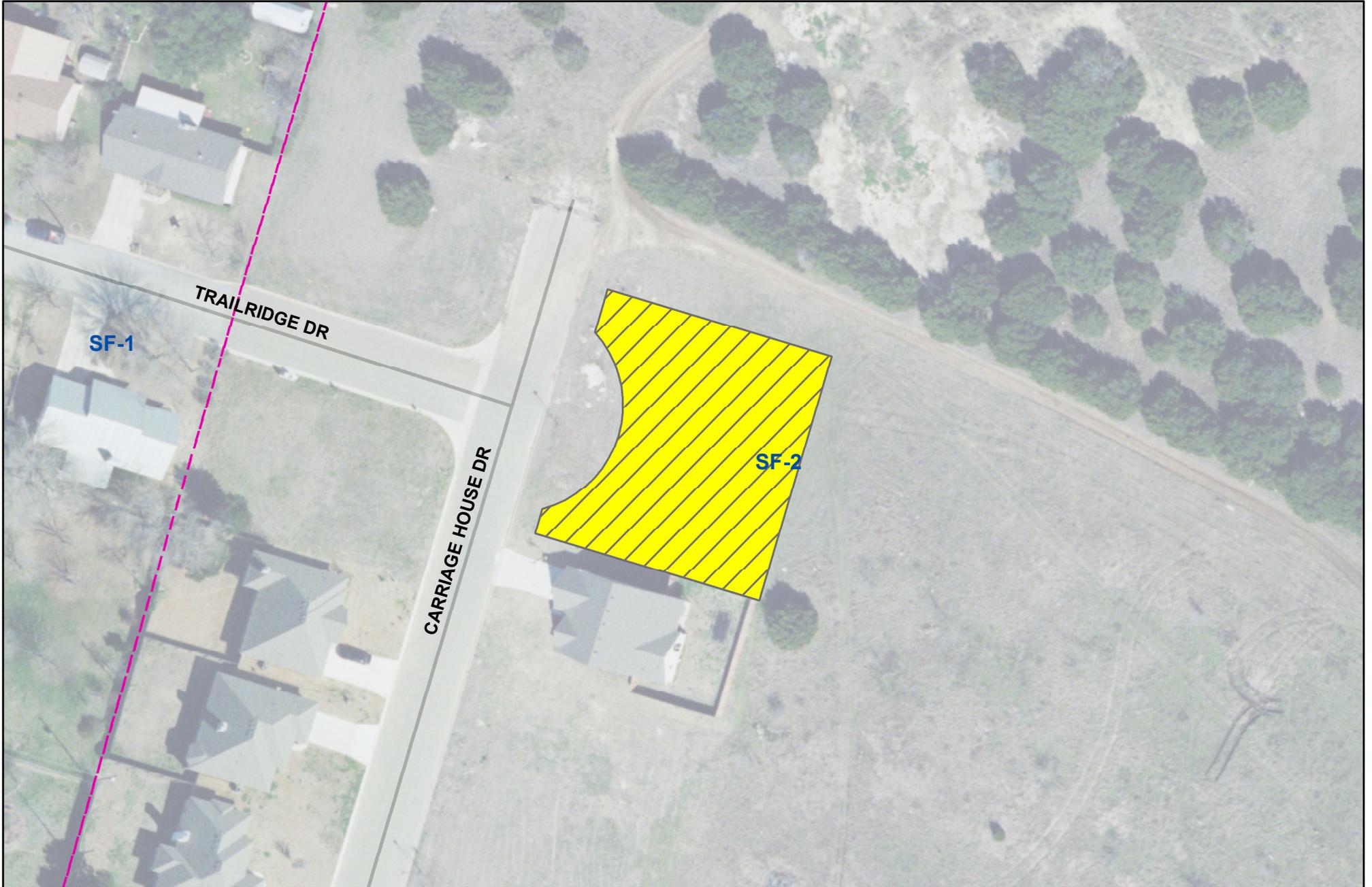
Aerial Zoning and Location Map  
Aerial Thoroughfare, Sidewalk, and Trails Plan Map  
Land Use and Character Map  
Utility & Thoroughfare Plan Map  
Notice Map



Z-FY-12-38

SF2 To SF3

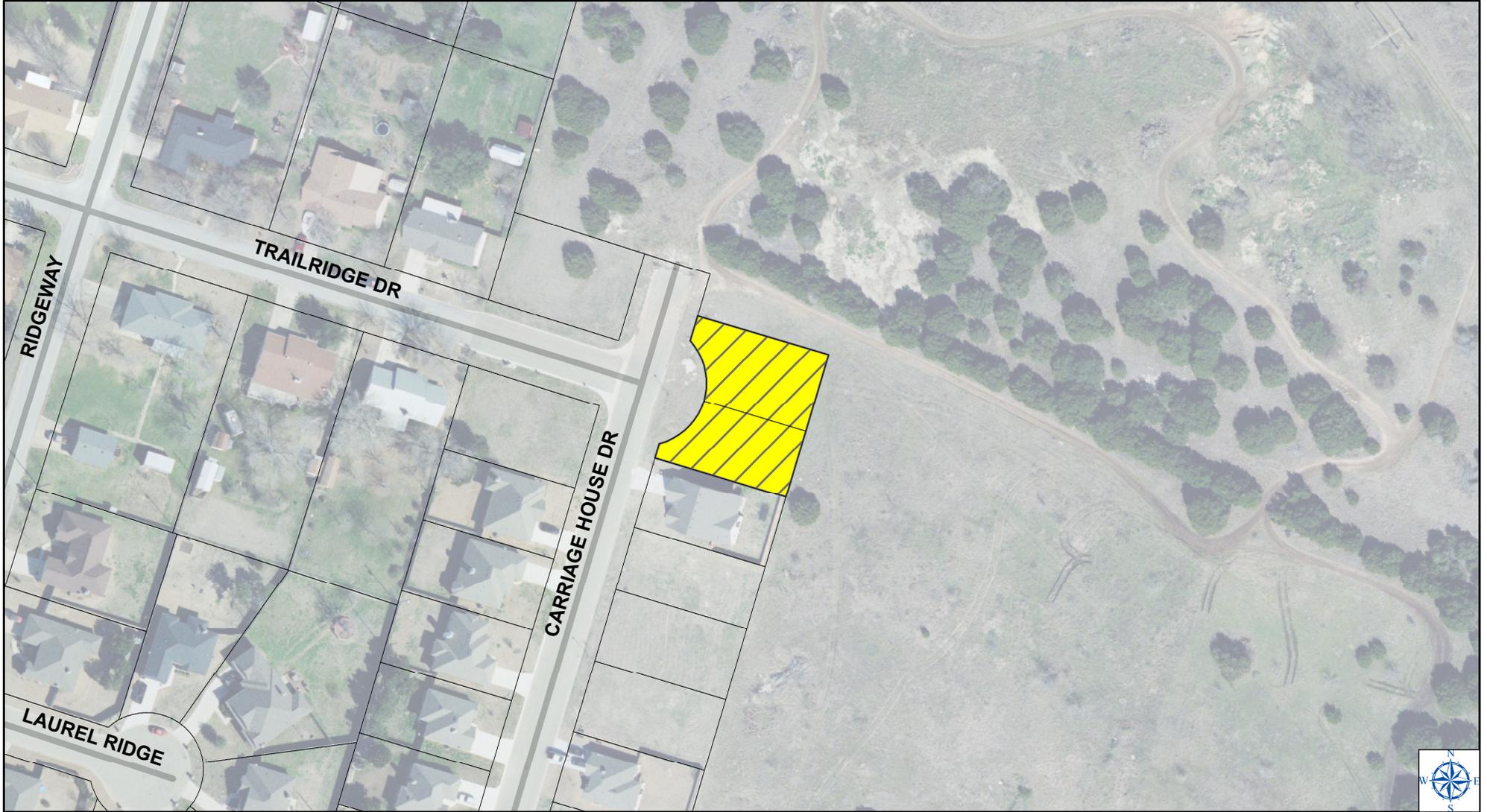
1917 + 1921  
Carriage House Drive



 Case 
  Zoning Boundary

4/18/12  
City of Temple GIS

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



Trails

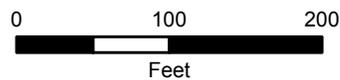
- Existing Citywide Spine Trail
- Under Design/Construction Citywide Spine Trail
- Proposed Citywide Spine Trail
- Existing Community-Wide Connector Trail

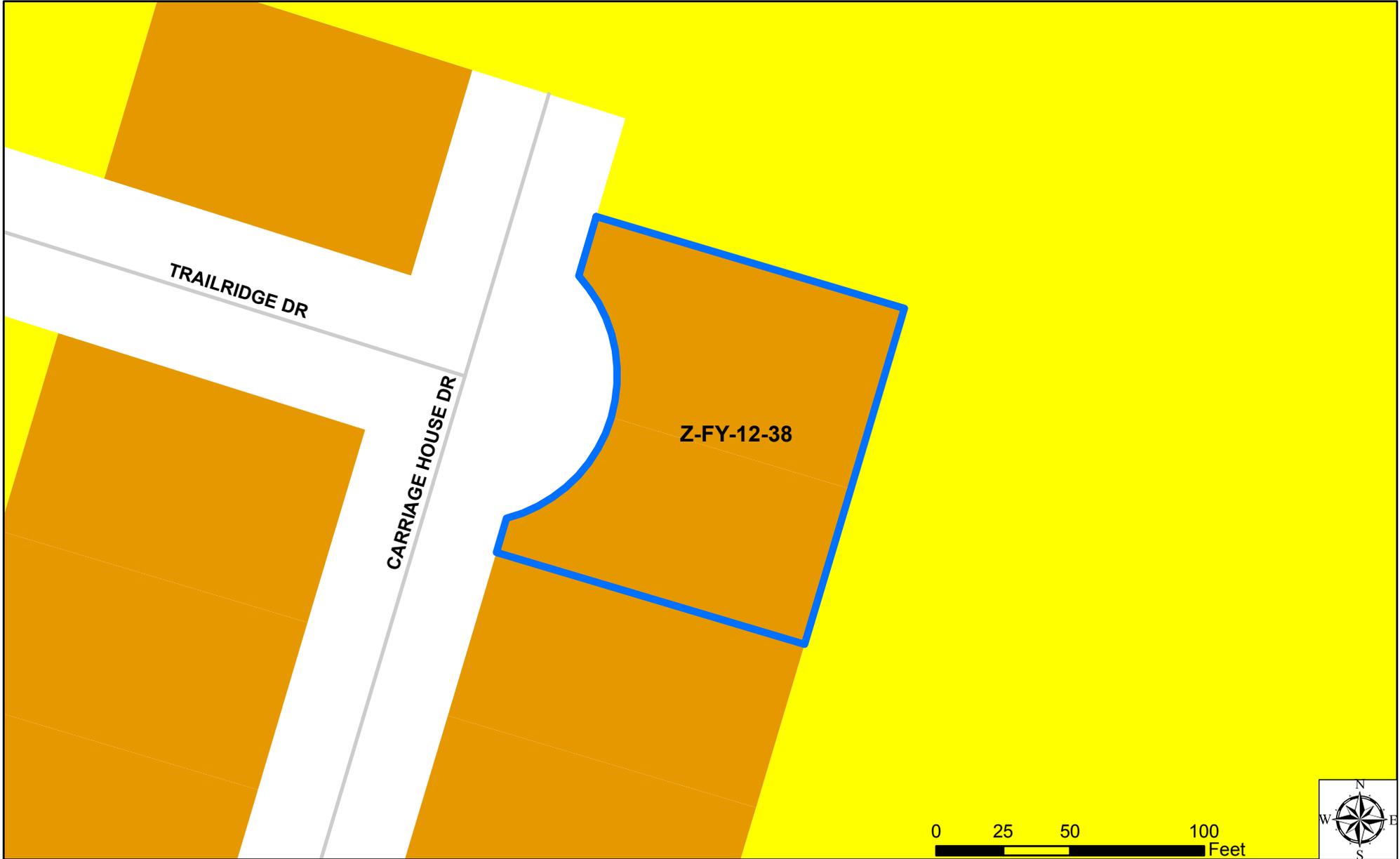
- Under Design/Construction Community-Wide Connector Trail
- Proposed Community-Wide Connector Trail
- Existing Local Connector Trail
- Proposed Local Connector Trail

Thoroughfare

- Expressway
- Major Arterial
- Proposed Major Arterial

- Proposed K-TUTS
- Minor Arterial
- Proposed Minor Arterial
- Collector
- Conceptual Collector





**Future Land Use**

- |                           |                         |                       |                                   |                      |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| Neighborhood Conservation | Auto-Urban Residential  | Auto-Urban Commercial | Temple Medical Education District | Public Institutional |
| Estate Residential        | Auto-Urban Multi-Family | Suburban Commercial   | Industrial                        | Parks & Open Space   |
| Suburban Residential      | Auto-Urban Mixed Use    | Urban Center          | Business Park                     | Agricultural/Rural   |

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



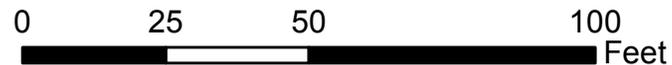
**Z-FY-12-38**

SF2 TO SF3

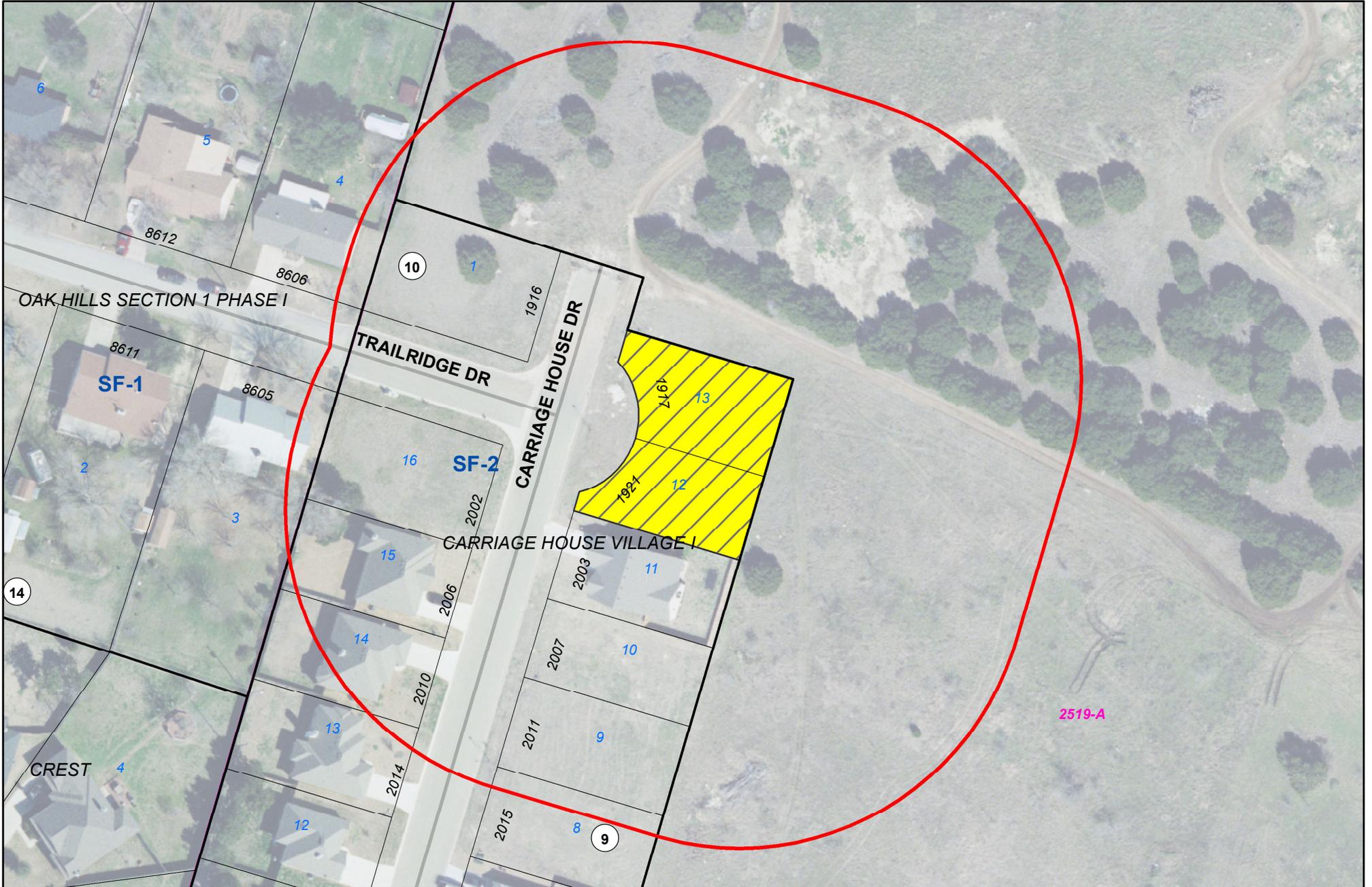
1917 + 1921  
Carriage House Drive



- Case
- Sewer Line
- Major Arterial
- + Fire Hydrant
- Water Line
- Minor Arterial



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Case



Zoning Boundary



1234-A Outblock Number



Block Number



0 25 50 100

Feet

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200' Buffer



Subdivision Boundary

1234 Address



Lot Number



## PLANNING AND ZONING COMMISSION ITEM MEMORANDUM

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05/07/12  
Item #4  
Regular Agenda  
Page 1 of 5

### **DEPT. / DIVISION SUBMISSION & REVIEW:**

Kim Foutz, Assistant City Manager/Acting Planning Director

**APPLICANT:** Victor Pendleton

**ITEM DESCRIPTION:** PUBLIC HEARING - Z-FY-12-39 Hold a public hearing to discuss and recommend action on an ordinance authorizing a rezoning from Single Family One District (SF1) to Office One District (O1) on a 0.50 ± acre tract of land out of the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located at 3606 South 5<sup>th</sup> Street.

**STAFF RECOMMENDATION:** Conduct a public hearing and consider the ordinance for a rezoning from SF1 to O1.

Staff recommends approval of Z-FY-12-39, the requested rezoning to O1 District for the following reasons:

1. The request complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan Map; and
3. Public facilities are available to serve the property.

**ITEM SUMMARY:** A rezoning from the SF1 to the O1 zoning district would allow many uses that would not have been allowed before. Those uses include, but are not limited to, the following:

Residential uses

Single Family Attached  
Single Family Detached  
Townhouse  
Duplex  
Home for the aged (C)

Nonresidential uses

Pre-school  
Office  
Labs (med, dental, science, research)  
Veterinary office (no kennels)  
Bank  
Studio

More intense or atypical uses include: group home or halfway house, and home for aged.

**SURROUNDING PROPERTY AND USES:**

The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Property	SF1	Single family residential	
North	SF1	Single family residential	

South	SF1	Undeveloped land	
East	SF1	Undeveloped land	
West	SF1	Undeveloped land backing up to city trail	

**COMPREHENSIVE PLAN COMPLIANCE:**

The proposed Planned Development amendment relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Site Conditions	Compliance?
CP	Map 3.1 - Future Land Use and Character	Suburban commercial with TMED to the east across 5 <sup>th</sup> St and open space to the west	Yes
CP	Map 5.2 - Thoroughfare Plan	S. 5 <sup>th</sup> is a Major Arterial Street	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	3 and 6" water line and 12" across the street. 8" sewer line to rear	Yes
CP	Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area.	O1 development is complimentary to the existing residential and serves well as a transition to suburban commercial dev.	Yes
STP	Trails Master Plan Map	A city-wide spine is required. An existing trail is already constructed west of the property	Yes

\* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

**DEVELOPMENT REGULATIONS:**

The Office 1 zoning district permits low rise garden-type office development providing professional, financial, medical, and other office services to residents in nearby neighborhoods. The O1 District should be located convenient to residential areas and should be complimentary to the character of the residential neighborhood served. This district is designed to be a transitional zone.

Buildings in the Office 1 District may be built to any legal height. Nonresidential buildings over 40 feet in height must provide additional front and side setbacks. Minimum lot sizes, setbacks, and building coverage provisions apply. Continuous buffering is required between nonresidential or multiple-family uses and residential zoning districts. Buffering must consist of either evergreen hedges a minimum of 6 feet high or a wood fences or masonry wall 6 to 8 feet high.

**STAFF ANALYSIS**

This developed property is located on a heavily traveled Major Arterial street, South 5th. The entire developable area is comprehensive planned for Suburban Commercial, primarily due to its location on a Major Arterial and near a major intersection. Surrounding properties are all zoned SF1, however over a period of time, the surrounding properties will likely convert to commercial uses also. The O1 zoning district serves well for this transition.

Due to the proposed change in use, when the property is utilized for commercial purposes, the property would need to be brought into compliance with specific codes including but not limited to access/circulation/drive approach, parking, buffer fence or hedge, sidewalks/trails, and signage.

**PUBLIC NOTICE:**

Staff mailed notices of the Planning and Zoning Commission's public hearing to the 4 property owners within a 200-foot radius surrounding the subject property. As of Wednesday, May 2, 2012 at 10:00 AM, no notices were returned in favor of the request and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on April 26, 2012 in accordance with state law and local ordinance.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

- Aerial Zoning and Location Map
- Aerial Thoroughfare, Sidewalk, and Trails Plan Map
- Land Use and Character Map
- Utility & Thoroughfare Plan Map
- Notice Map



 Case	 Subdivision	<span style="color: pink;">1234-A</span> Outblock Number	 Block Number
 Zoning	 Parcel	1234 Address	<span style="color: blue;">1</span> Lot Number

0 25 50 100  
 Feet

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



**Trails**

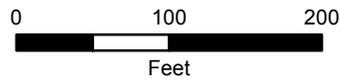
- Existing Citywide Spine Trail
- Under Design/Construction Citywide Spine Trail
- Proposed Citywide Spine Trail
- Existing Community-Wide Connector Trail

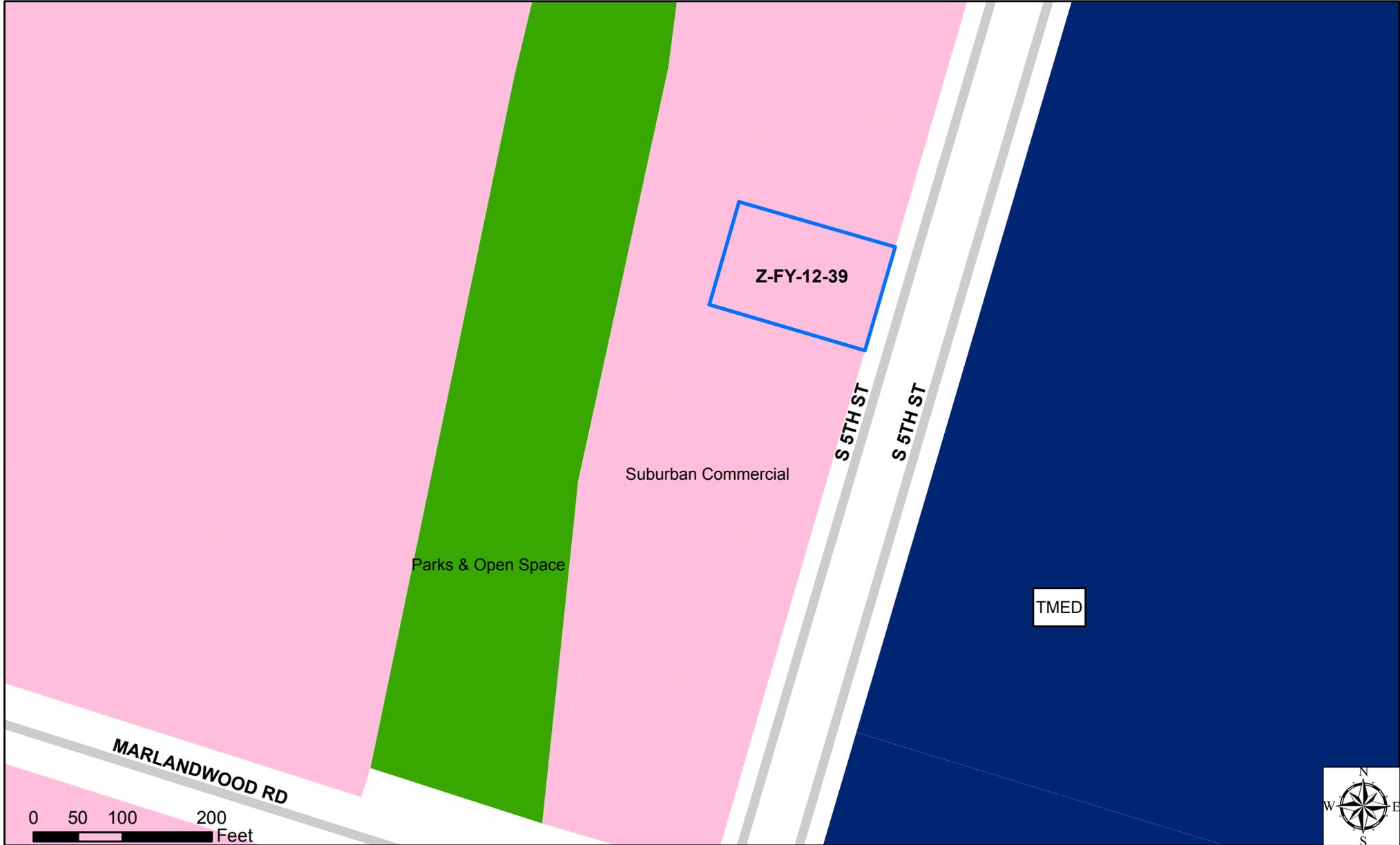
- Under Design/Construction Community-Wide Connector Trail
- Proposed Community-Wide Connector Trail
- Existing Local Connector Trail
- Proposed Local Connector Trail

**Thoroughfare**

- Expressway
- Major Arterial
- Proposed Major Arterial

- Proposed K-TUTS
- Minor Arterial
- Proposed Minor Arterial
- Collector
- Conceptual Collector





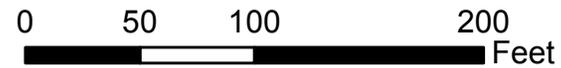
**Future Land Use**

- |                           |                         |                       |                                   |                      |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| Neighborhood Conservation | Auto-Urban Residential  | Auto-Urban Commercial | Temple Medical Education District | Public Institutional |
| Estate Residential        | Auto-Urban Multi-Family | Suburban Commercial   | Industrial                        | Parks & Open Space   |
| Suburban Residential      | Auto-Urban Mixed Use    | Urban Center          | Business Park                     | Agricultural/Rural   |

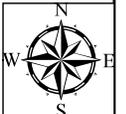
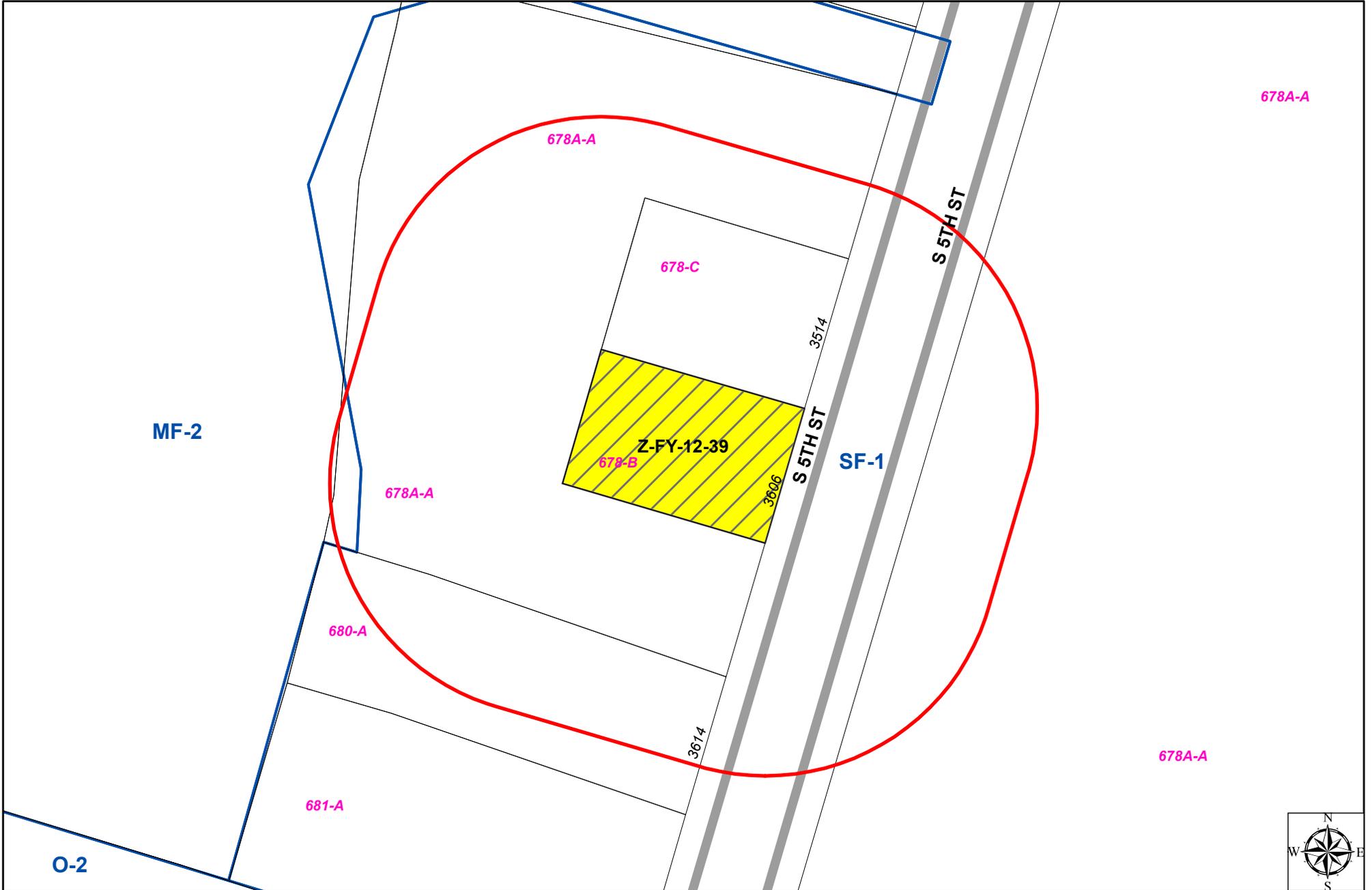
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- Case
- Sewer Line
- Major Arterial
- + Fire Hydrant
- Water Line
- Minor Arterial



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Case



Zoning Boundary



1234-A Outblock Number



Block Number



0 25 50 100

Feet



200' Buffer



Subdivision Boundary

1234 Address



Lot Number

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## PLANNING AND ZONING COMMISSION AGENDA ITEM

05/7/12  
Item #5  
Regular Agenda  
Page 1 of 2

### **DEPT. / DIVISION SUBMISSION & REVIEW:**

Planning Department / Kim Foutz

**APPLICANT:** Ryan Leshikar of O'Brien's Pub

**ITEM DESCRIPTION:** Z-FY-12-40 Hold a public hearing to discuss and recommend an amendment to Ordinance No. 2011-4493, originally approved December 15, 2011, Conditional Use Permit, to reduce the number of security lights from three to two on portions of Lots 11 and 12, Block 22, Original Town Addition, located at 11 East Central Avenue.

**STAFF RECOMMENDATION:** Staff recommends approval of the requested CUP amendment, reducing the security lights from three to two to be installed on the west wall of the subject building a minimum of 30 days after approval of the amended CUP by the City Council.

**ITEM SUMMARY:** On December 15, 2011, the City Council approved a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption with more than 75% revenue from alcohol sales in an existing bar, O'Brien's. The adopted ordinance specified that three security lights were to be installed on the west wall of the building adjacent to the alleyway, within 30 days of the CUP approval. The wall extends approximately 60 feet and the security lights were added to increase general safety for bar patrons walking to and from the City-owned parking lot. The applicant has had an electrician perform an analysis of the security lighting needs for the site and wishes to reduce the security lights from three to two.





Western wall of pub along alley where security lighting is to be installed.

This request conforms to the CUP general evaluation criteria: “The design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development.”

**PUBLIC NOTICE:**

Fourteen notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Wednesday, May 2nd at 12:00 PM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on April 26, 2012, in accordance with state law and local ordinance. Additionally 31 courtesy notices were sent to surrounding business operators within 300-feet of the subject property.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

- Aerial and CUP Location Map
- CUP Site Plan
- Notice Map
- Ordinance NO. Z-FY-11-52 (original case)

# Aerial and CUP Location Map



Z-FY-11 -52

Portion of Lots 11 and 12,  
Block 22, Original Town Addition

CUP for Alcohol Sales  
11 E. Central Avenue



2008 Bell County Aerial



Z-FY-11-48

Feet 0 50 100 150

LMatlock Planning 9.29.11



Example of Appropriate Dark Sky Wall Pack that would focus light down into alley increasing pedestrian safety.



2010 Bell County Aerial

3 Commercial Wall Pack Light Locations

Door or Blocked Window



# Notice Area



**Z-FY-11-51**

Portion of Lots 11 and 12,  
Block 22, Original Town Addition

CUP for Alcohol Sales  
11 E. Central Avenue



200-ft notification buffer and 300-ft business complementary notification

**14 Notices Mailed**  
**1 Agree (A)**  
**0 Disagree (D)**  
**0 Returned Mail (R)**

[PLANNING NO. Z-FY-11-52]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION WITH MORE THAN 75% REVENUE FROM ALCOHOL SALES IN AN EXISTING BAR, ON A PORTION OF LOTS 11 AND 12, BLOCK 22, ORIGINAL TOWN ADDITION, COMMONLY KNOWN AS 11 EAST CENTRAL AVENUE; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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WHEREAS, the Unified Development Code of the City of Temple, Texas, provides for the issuance of conditional use permits under certain conditions and authorizes the City Council to impose such developmental standards and safeguards as the conditions and locations indicate to be important to the welfare or protection of adjacent property and for the protection of adjacent property from excessive noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view or other undesirable or hazardous conditions, and for the establishment of conditions of operation, time limits, location, arrangement and construction for any use for which a permit is authorized;

WHEREAS, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the conditions, operation and location at 11 East Central Avenue, recommends that the City Council approve the application for this Conditional Use Permit for an on-premises consumption with more than 75% alcohol revenue from alcohol sales in an existing bar; and

WHEREAS, the City Council of the City of Temple, Texas, after public notice as required by law, has at a public hearing, carefully considered all the evidence submitted by the applicant concerning the proposed plans for operation of said establishment and has heard the comments and evidence presented by all persons supporting or opposing this application at said public hearing, and after examining the conditions, operation and the location of said establishment, finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

**Part 1:** The City Council approves a Conditional Use Permit to allow for the sale of alcoholic beverages for on-premise consumption with more than 75% revenue from alcohol sales in an existing bar located on a portion of Lots 11 and 12, Block 22, Original Town Addition, commonly known as 11 East Central Avenue, more fully shown on Exhibit A, attached hereto and made a part of for all purposes.

**Part 2:** The owner/agent, his employees, lessees, agents or representatives, hereinafter called "permittee" shall comply with the following developmental standards and conditions of operation:

**General:**

- (a) The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
- (b) The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within 6 months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
- (c) The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours. (Not applicable for package stores).
- (d) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (e) The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet the obligations hereunder.
- (f) The establishment must provide adequate parking spaces in accordance with the standards in Section 7.4 of the Unified Development Code.
- (g) The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
- (h) The City Council may deny or revoke this conditional use permit in accordance with Section 3.5 of the Unified Development Code if it affirmatively determines that the issuance of the permit is incompatible with the surrounding uses of property, or detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
- (i) A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.
- (j) All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 3.5. of the Unified Development Code.

**Specific to this CUP:**

- (k) The permittee's site plan is an exhibit to the conditional use permit, attached hereto as Exhibit B.
- (l) Three security lights are to be installed on the west wall of the subject building a minimum of 30 days after approval of CUP.

These conditions run with the land and will be express conditions of any building permit issued for construction on the property. These conditions may be enforced by the City of Temple by an action either at law or in equity, including an action to specifically enforce the requirements of the ordinance.

**Part 3:** The Director of Planning is hereby directed to make the necessary changes to the City Zoning Map accordingly.

**Part 4:** The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

**Part 5:** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

**Part 6:** This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

**Part 7:** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the 1<sup>st</sup> day of December, 2011.

PASSED AND APPROVED on Second Reading on the 15<sup>th</sup> day of December, 2011.

THE CITY OF TEMPLE, TEXAS

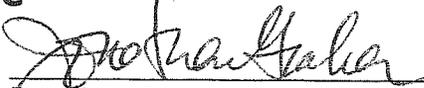
  
WILLIAM A. JONES, III Mayor

ATTEST:

  
Lacy Borgeson  
City Secretary



APPROVED AS TO FORM:

  
Jonathan Graham  
City Attorney



**RESPONSE TO PROPOSED  
CONDITIONAL USE PERMIT  
AMENDMENT REQUEST  
CITY OF TEMPLE**

Heartland Resources Inc.  
6 South 1<sup>st</sup> Street  
Temple, Texas 76501

**Zoning Application Number:** Z-FY-12-40      **Project Manager:** Kim Foutz

**Location:** 11 East Central Avenue (O'Brien's Irish Pub)

The proposed amendment to reduce the number of security lights from three to two is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend (  ) approval      (  ) denial of this request.

**Comments:**

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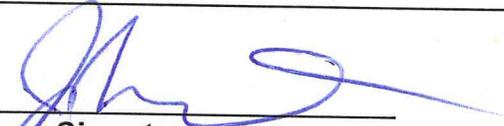
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\_\_\_\_\_  
Signature

Joe Sheppard  
\_\_\_\_\_  
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

**RECEIVED**  
APR 30 2012  
City of Temple  
Planning & Development

Number of Notices Mailed: 14

Date Mailed: April 26, 2012



## PLANNING AND ZONING COMMISSION ITEM MEMORANDUM

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05/07/12  
Item #6  
Regular Agenda  
Page 1 of 5

**APPLICANT / DEVELOPMENT:** Bobby Arnold

**CASE MANAGER:** Kim Foutz, Asst City Manager/Acting Planning Director

**ITEM DESCRIPTION:** Z-FY-12-42 Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (AG) to Neighborhood Service District (NS) on 3.00 ± acres of land and from Agricultural District (AG) to Urban Estates District (UE) on 7.04 ± acres of land, both being part of the Redding Roberts Survey, Abstract No. 692, in the City of Temple, Bell County, Texas, located on the east side of South 31<sup>st</sup> Street, south of Fox Glen Lane and north of Venice Parkway.

**STAFF RECOMMENDATION:**

Staff recommends approval of a rezoning from AG to NS and UE for the following reasons:

1. The request does not comply with the Future Land Use and Character Map but is compatible with surrounding uses, and a future amendment to the Future Land Use and Character Map is reasonable with the property's location along South 31<sup>st</sup> Street.
2. The request complies with the Thoroughfare Plan.
3. Public facilities will be available to subject property.

**DEVELOPMENT REGULATIONS:**

The purpose of the Neighborhood Service zoning district permits limited retail services, usually for a small neighborhood area, with uses such as a convenience store, bank, barber or beauty shop, small cleaners or florist, as well as any residential use except apartments. This district should be located convenient to residential areas in locations such as a corner of a local road and a collector that serves the neighborhood.

The purpose of the Urban Estates zoning district permits single-family detached residences and related accessory uses and accommodates large lot single-family residential developments. This district is suitable for estate development or areas in which it is desirable to permit only low-density development.

**ITEM SUMMARY:** The developer requests this rezoning to allow development of the next phase of Residences at D'Antoni's Crossing. He proposes a Neighborhood Service District (NS) adjacent to South 31<sup>st</sup> Street with site access from South 31<sup>st</sup> Street. The Urban Estates District (UE) is

proposed along the east side of the proposed Neighborhood Service District (NS) with access from within the established Residences at D’Antoni’s Crossing development.

Once City Council renders a decision on this rezoning request, the developer will proceed with the platting process for the subject property.

**SURROUNDING PROPERTY AND USES:**

The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Property	AG	Undeveloped Land	
North	SF1	Single-Family Residential	

Direction	Zoning	Current Land Use	Photo
			
South	SF3 and UE	Single Family Residential	 
East	AG and SF1	Undeveloped Land	Picture not available

West	AG	Undeveloped Land	
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**COMPREHENSIVE PLAN COMPLIANCE:**

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character (FLUP)	N *
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Temple Trails Master Plan Map	Y*

\* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

**Future Land Use and Character Plan (FLUP) (CP Map 3.1)**

The future land use and character map designates the entire property as Suburban Residential. Although the requested Neighborhood Service District (NS) does not comply with the Suburban Residential designation, staff supports it because the subject property fronts South 31<sup>st</sup> Street.

The requested Urban Estates District (UE) is more appropriate within an Estate Residential designation, but is compatible since the property borders the Estate Residential designation to the north and east.

**Thoroughfare Plan (CP Map 5.2)**

The Thoroughfare Plan designates South 31<sup>st</sup> Street as a major arterial, which is appropriate for NS development. Venice Parkway is classified as a local street, which is appropriate for Urban Estates development. The rezoning request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

Water lines are located along South 31<sup>st</sup> Street (12" line), along Venice Parkway, and along Fox Glen Lane. A sewer line runs through the subject property, as well as Venice Parkway, Fox Glen Lane, and the west side of South 31<sup>st</sup> Street (12" line).

Temple Trails Master Plan Map

The Sidewalk and Trails Plan calls for local connector trail along the north property line and along Friar's Creek. The developer received an exception to the Trails Master Plan for these two trails from City Council with the approval of the property's preliminary plat in 2010 with Resolution 2010-6131-R. However, a local connector trail (6'-8' width) is still required along South 31<sup>st</sup>. Upon development of this tract, a 6' wide trail will be installed by the developer.

**DEVELOPMENT REGULATIONS:**

The purpose of the Neighborhood Service zoning district permits limited retail services, usually for a small neighborhood area, with uses such as a convenience store, bank, barber or beauty shop, small cleaners or florist, as well as any residential use except apartments. This district should be located convenient to residential areas in locations such as a corner of a local road and a collector that serves the neighborhood.

The purpose of the Urban Estates zoning district permits single-family detached residences and related accessory uses and accommodates large lot single-family residential developments. This district is suitable for estate development or areas in which it is desirable to permit only low-density development.

**PUBLIC NOTICE:**

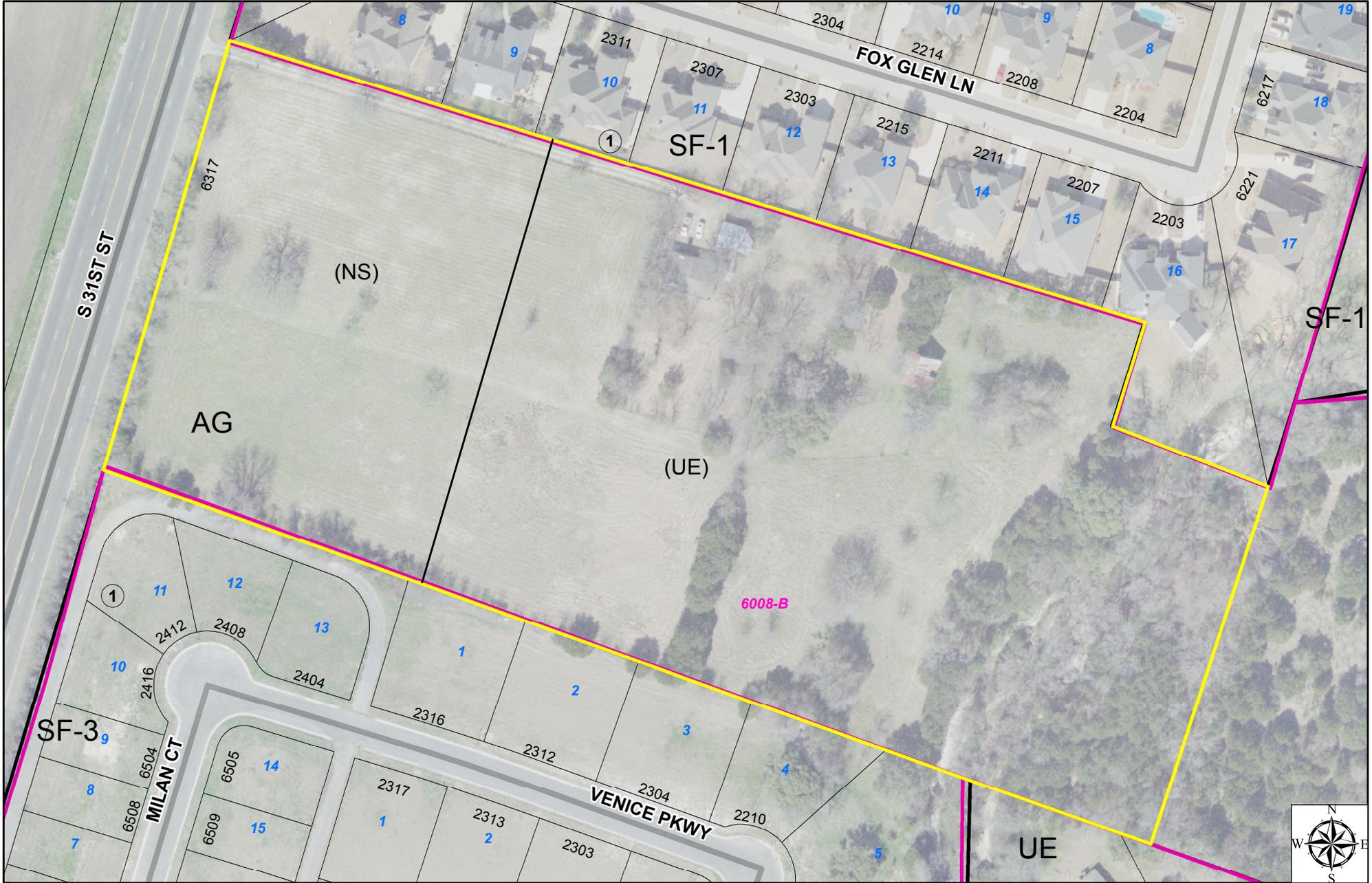
30 notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200-feet of the property in question, as required by State law and City Ordinance. As of Wednesday, May 5 at 12 PM, three notices were returned in favor of and three notices were returned in opposition to the request.

The newspaper printed notice of the Planning and Zoning Commission public hearing on April 26, 2012, in accordance with state law and local ordinance.

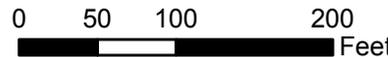
**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Aerial Zoning and Location Map  
Aerial Thoroughfare, Sidewalk, and Trails Plan Map  
Land Use and Character Map  
Utility & Thoroughfare Plan Map  
Notice Map



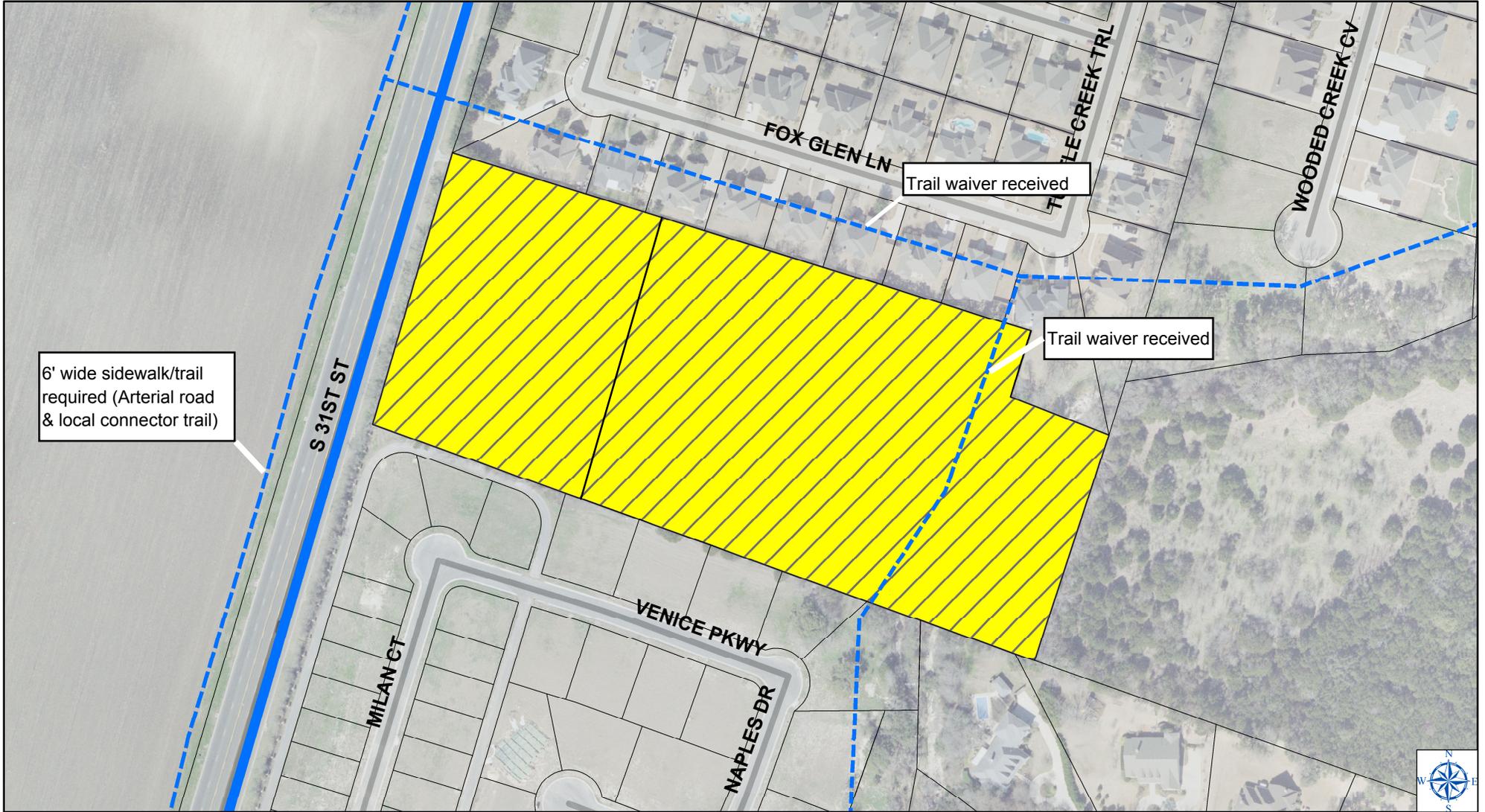
  Case   
   Subdivisions   
 1234-A Outblocks   
 ① Blocks  
  Zoning   
   Parcel   
 1234 Addresses   
 1 Lots



4/30/2012  
City of Temple GIS



GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



**Trails**

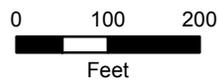
- Existing Citywide Spine Trail
- Under Design/Construction Citywide Spine Trail
- Proposed Citywide Spine Trail
- Existing Community-Wide Connector Trail

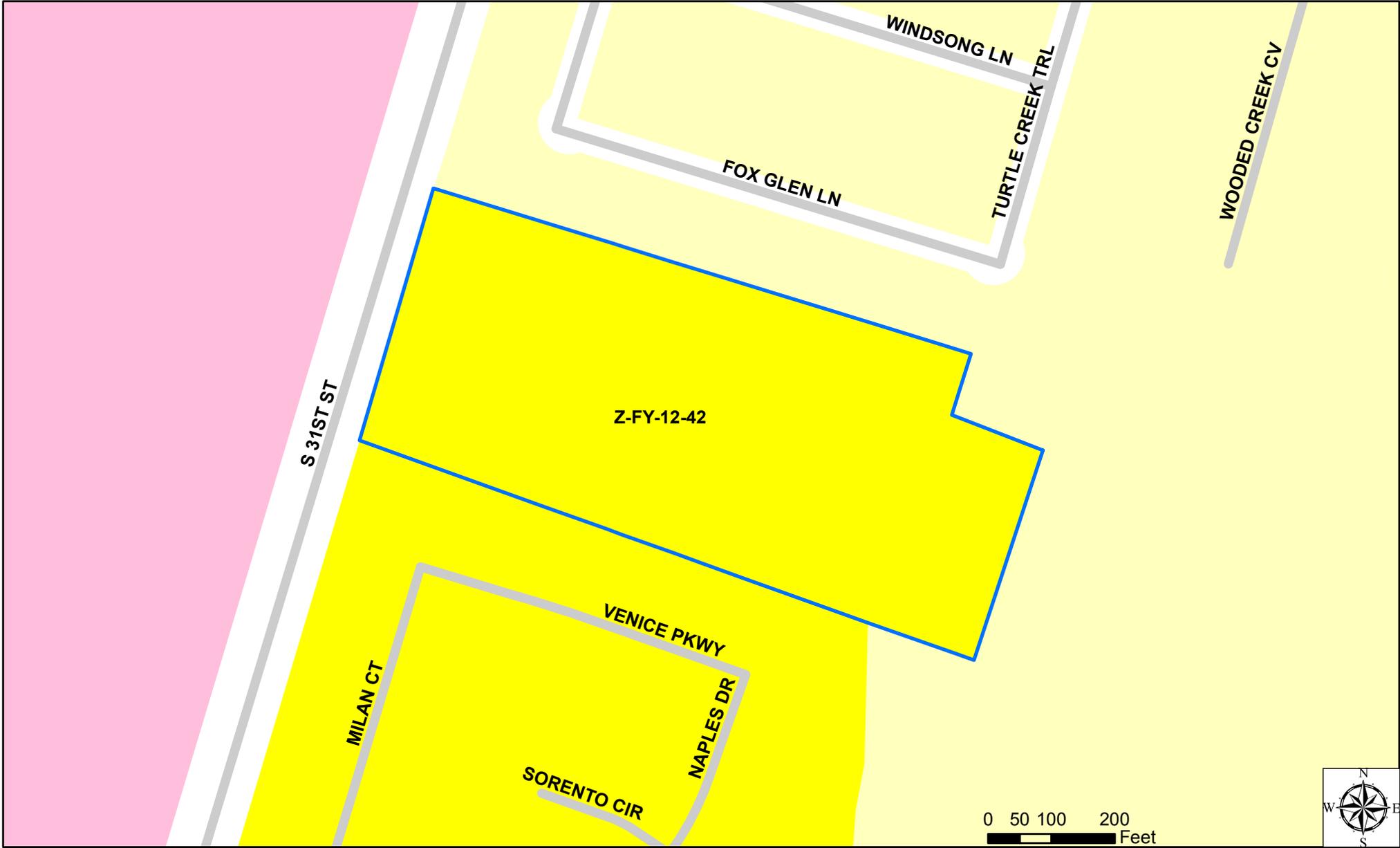
- Under Design/Construction Community-Wide Connector Trail
- Proposed Community-Wide Connector Trail
- Existing Local Connector Trail
- Proposed Local Connector Trail

**Thoroughfare**

- Expressway
- Major Arterial
- Proposed Major Arterial

- Proposed K-TUTS
- Minor Arterial
- Proposed Minor Arterial
- Collector
- Conceptual Collector

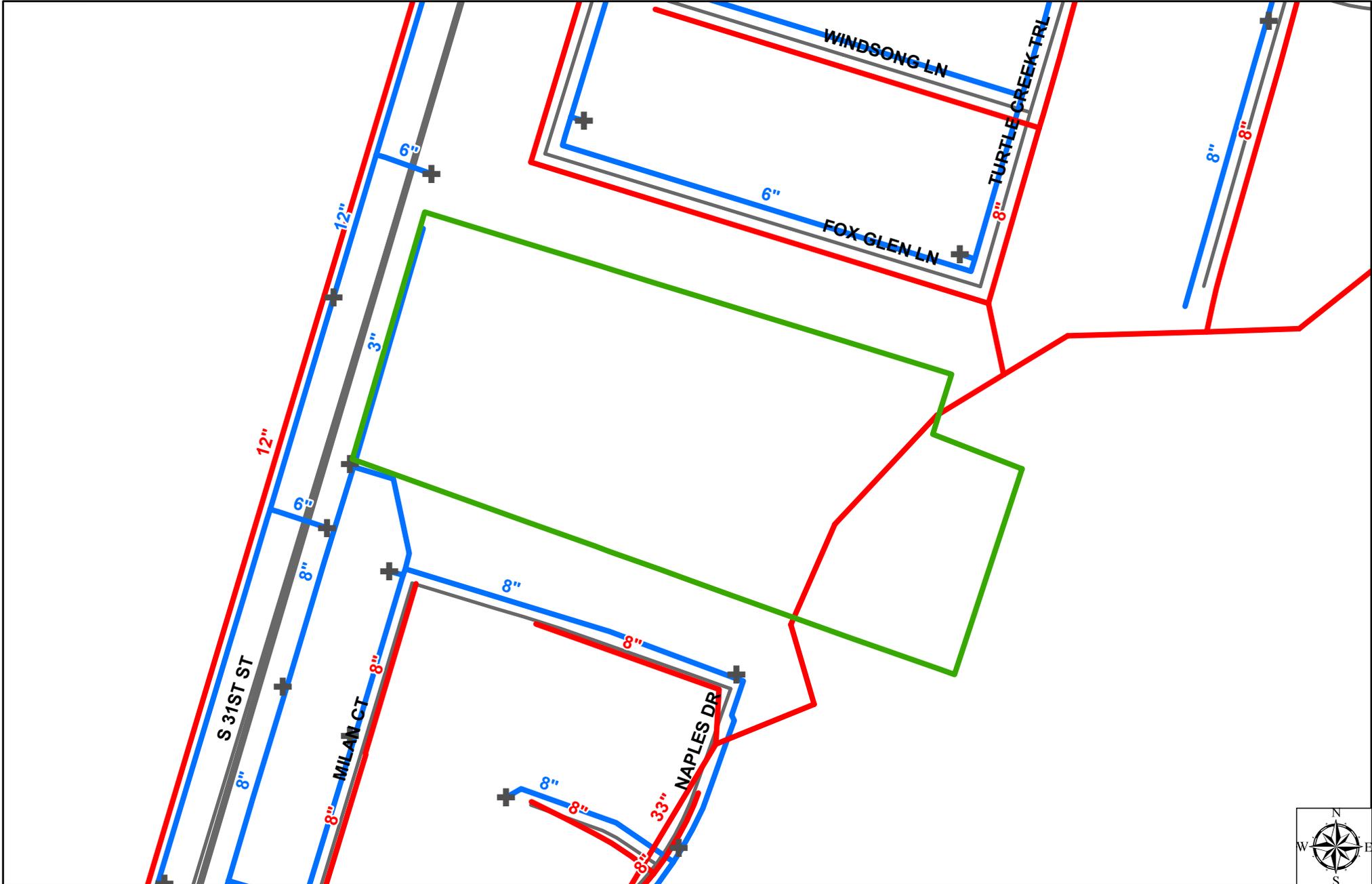




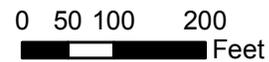
**Future Land Use**

Neighborhood Conservation	Auto-Urban Residential	Auto-Urban Commercial	Temple Medical Education District	Public Institutional
Estate Residential	Auto-Urban Multi-Family	Suburban Commercial	Industrial	Parks & Open Space
Suburban Residential	Auto-Urban Mixed Use	Urban Center	Business Park	Agricultural/Rural

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- Case
- Sewer Line
- Major Arterial
- Water Line
- Minor Arterial
- + Fire Hydrant



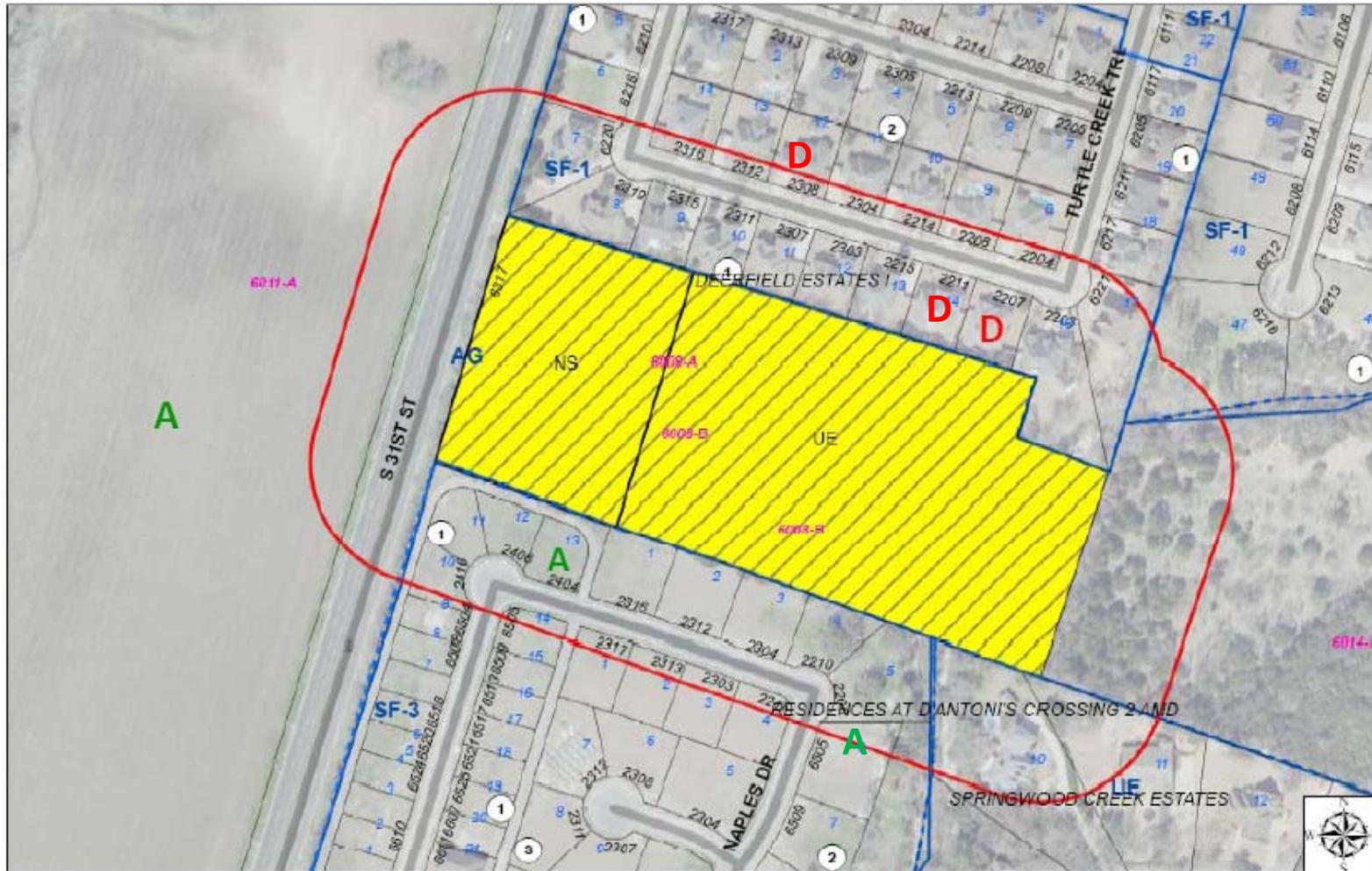
GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



Z-FY-12-42

AG To NS & UE

6317 S. 31st. Street



Case



Zoning Boundary

1234-A Outblock

① Block

0 50 100 200 Feet



200' Buffer



Subdivision Boundary

123# Address

1 Lot

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

William Etux Marilyn Frank  
2308 Fox Glen Lane  
Temple, Texas 76502

**Zoning Application Number:** Z-FY-12-42      **Project Manager:** Kim Foutz

**Location:** East side of South 31<sup>st</sup> Street between Fox Glen Lane & Venice Parkway

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ( ) approval       denial of this request.

**Comments:**

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**Signature**  
Marilyn L. Frank

WILLIAM F. FRANK  
**Print Name**  
MARILYN L. FRANK

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

**RECEIVED**

MAY 02 2012

City of Temple  
Planning & Development

Number of Notices Mailed: 30

Date Mailed: April 26, 2012



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

Jeremy Etux Anna Mauldin  
2207 Fox Glen Lane  
Temple, Texas 76502

**Zoning Application Number:** Z-FY-12-42      **Project Manager:** Kim Foutz

**Location:** East side of South 31<sup>st</sup> Street between Fox Glen Lane & Venice Parkway

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ( ) approval      (X) denial of this request.

**Comments:**

*would prefer to see further and more complete development  
of D'Antonio's Crossing before allowing Mr. Arnold to begin a  
second development in my back yard.*

*JA Mauldin*  
**Signature**

Jeremy Mauldin  
**Print Name**

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

**RECEIVED**

**MAY 02 2012**

City of Temple  
Planning & Development

Number of Notices Mailed: 30

Date Mailed: April 26, 2012



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

Glen Etux Nell Brindley  
2902 Olympia Drive  
Temple, Texas 76502

**Zoning Application Number:** Z-FY-12-42      **Project Manager:** Kim Foutz

**Location:** East side of South 31<sup>st</sup> Street between Fox Glen Lane & Venice Parkway

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend  approval      ( ) denial of this request.

**Comments:**

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Glen Brindley  
Signature

Glen Brindley  
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

**RECEIVED**  
MAY 02 2012  
City of Temple  
Planning & Development

Number of Notices Mailed: 30

Date Mailed: April 26, 2012



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

Dennis & Ruth Ready  
2404 Venice Parkway  
Temple, Texas 76502

**Zoning Application Number:** Z-FY-12-42      **Project Manager:** Kim Foutz

**Location:** East side of South 31<sup>st</sup> Street between Fox Glen Lane & Venice Parkway

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend  approval      ( ) denial of this request.

**Comments:**

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\_\_\_\_\_  
Signature

Dennis Ready  
\_\_\_\_\_  
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

**RECEIVED**

MAY 02 2012

City of Temple  
Planning & Development

Number of Notices Mailed: 30

Date Mailed: April 26, 2012



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

Benjamin J. Cuba  
P.O. Box 1003  
Temple, Texas 76503-1003

**Zoning Application Number: Z-FY-12-42      Project Manager: Kim Foutz**

Location: East side of South 31<sup>st</sup> Street between Fox Glen Lane & Venice Parkway

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend  approval      ( ) denial of this request.

**Comments:**

I AM PLEASED TO RECOMMEND APPROVAL.  
MR. ARNOLD IS A QUALITY DEVELOPER AND  
BUILDS AND DEVELOPS DESIRABLE HOMES  
AND NEIGHBORHOODS.

*Benjamin J. Cuba*  
Signature

BENJAMIN J CUBA  
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

**RECEIVED**  
MAY 02 2012  
City of Temple  
Planning & Development



## PLANNING AND ZONING COMMISSION ITEM MEMORANDUM

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05/07/12  
Item #7  
Regular Agenda  
Page 1 of 5

### **DEPT. / DIVISION SUBMISSION & REVIEW:**

Kim Foutz, Assistant City Manager/Acting Planning Director

**APPLICANT:** Rudy Garza

**ITEM DESCRIPTION:** PUBLIC HEARING - Z-FY-12-43 Hold a public hearing to discuss and recommend action on an ordinance authorizing a rezoning from Two Family Dwelling District (2F) to General Retail District (GR) on Lot 1, Block 15 of the Freeman Heights Addition, located at 101 South 31<sup>st</sup> Street, Temple Texas.

**STAFF RECOMMENDATION:** Conduct a public hearing and consider the ordinance for a rezoning from 2F to GR.

Staff recommends approval of Z-FY-12-43, the requested rezoning to GR for the following reasons:

1. The request complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan Map; and
3. Public facilities are available to serve the property.

**ITEM SUMMARY:** A rezoning from the 2F to the GR zoning district would allow many uses that would not have been allowed before. Those uses include, but are not limited to, the following:

Lithographic or print shop  
Plumbing shop  
Hospital  
Office  
Hotel or motel

On-premise consumption of beer and wine -  
less than 75% revenue  
Restaurant  
Car wash  
Fuel sales  
Auto sales, leasing, rental:

**SURROUNDING PROPERTY AND USES:**

The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Property	2F	Single Family Residential	
North	GR	Commercial building – Properties Mart	

Direction	Zoning	Current Land Use	Photo
South	GR	Commercial retail – Advance Auto Parts	 <p>A photograph of an Advance Auto Parts store. The building is white with a prominent red and black sign that reads "Advance Auto Parts". There are various signs in the windows, including one that says "19.99". A white car is parked in the lot in front of the store. The store is situated on a street corner with a paved parking area and a small landscaped area with green grass and a small bush.</p>
East	2F	Single Family Residential	 <p>A photograph of a single-family residential property. The house is white with a grey roof and a basketball hoop on the side. The property is enclosed by a chain-link fence. There is a large area of overgrown grass and weeds in the foreground. In the background, there are other houses and trees under a cloudy sky.</p>
West	GR	Commercial retail – Hair Corral	 <p>A photograph of a Hair Corral store. The building is a single-story structure with a brown roof and light-colored siding. A dark car is parked in the lot in front of the store. The store is surrounded by green trees and a paved parking area with yellow and white markings. The sky is overcast.</p>

**COMPREHENSIVE PLAN COMPLIANCE:**

The proposed Planned Development amendment relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Site Conditions	Compliance?
CP	Map 3.1 - Future Land Use and Character	Auto-Urban commercial with Auto-Urban across street to north, west, and south and Neighborhood Conservation to east	Yes
CP	Map 5.2 - Thoroughfare Plan	31st Street. is a Major Arterial Street	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	8" water line on 31st and 6" sewer line in alley	Yes
CP	Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area.	GR zoning is the prevalent zoning and use including to the north, west, and south. To the east is 2F which would be addressed with buffering.	Yes
STP	Temple Trails Master Plan Map	A community-wide connector trail is required for 31 <sup>st</sup> Street	*

\* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

**DEVELOPMENT REGULATIONS:**

The requested GR zoning district is the standard retail district and allows most retail sales, restaurants, grocery stores, department stores, or offices and all residential uses except apartments, with a maximum building height of 3 stories. There is no minimum lot area, width or depth. The building setback for the front yard is 15 feet from the front property line. There is a minimum side yard setback requirement of 10 feet. If a residential use borders the subject property use, as in this case, then a 10-foot setback and fence or vegetative screening is required.

**STAFF ANALYSIS**

This property is currently developed as a single family use and is located on a heavily traveled Major Arterial Street, 31<sup>st</sup> Street. The GR zoning district is to the north, west, and south of the subject property and the 2F zoning district is to the east. The GR zoning district would be appropriate for the subject property due to its direct frontage on a Major Arterial Street and its proximity to other conforming retail uses.

Due to the proposed change in use, when the property is utilized for commercial purposes, the property would need to be brought into compliance with specific codes including but not limited to parking, buffer fence or hedge, landscaping, sidewalk/trail\*, and signage.

**PUBLIC NOTICE:**

Staff mailed notices of the Planning and Zoning Commission's public hearing to the 17 property owners within a 200-foot radius surrounding the subject property. As of Wednesday, May 2, 2012 at 10:00 AM, no notices were returned in favor of the request and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on April 26, 2012 in accordance with state law and local ordinance.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

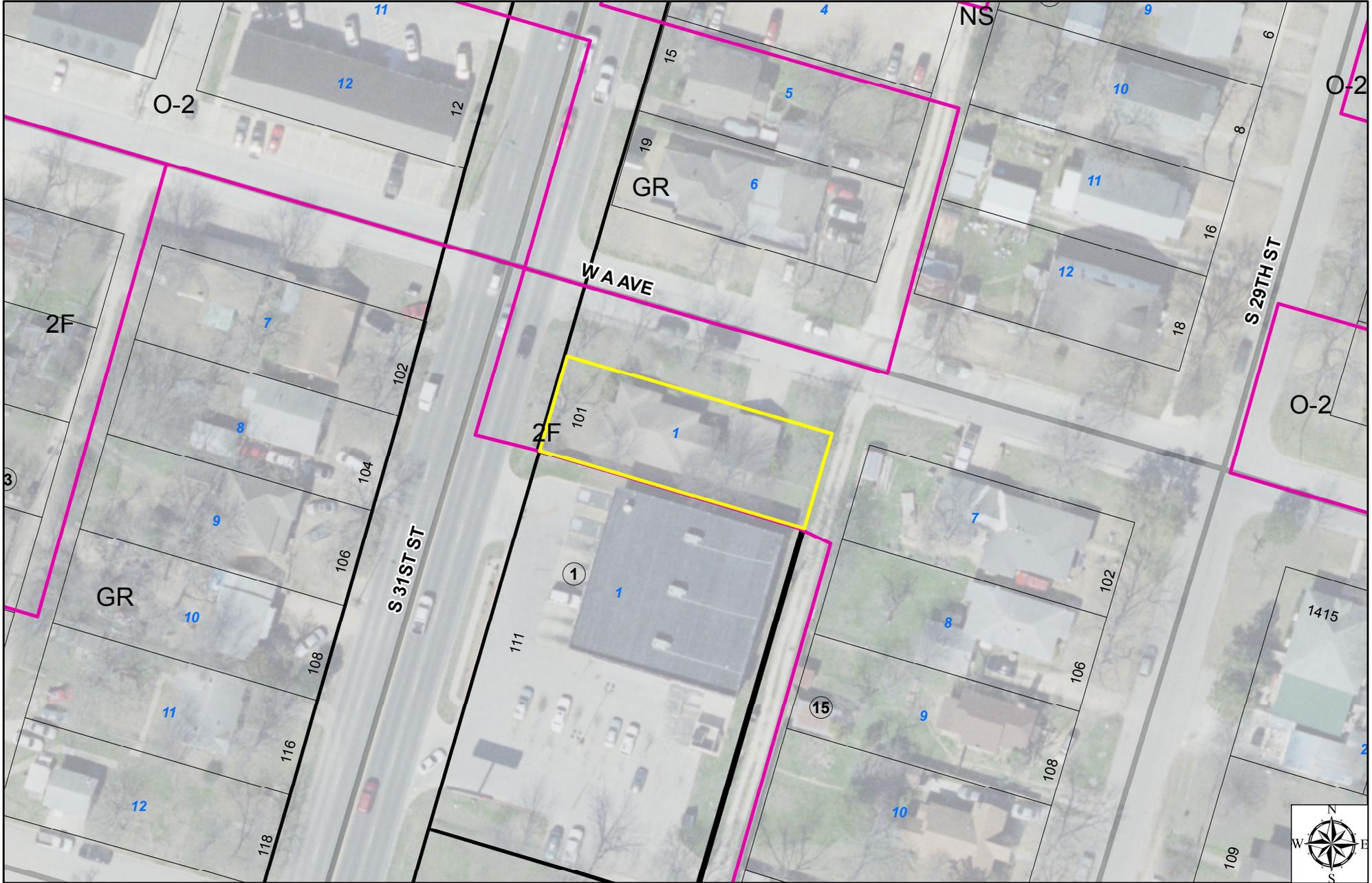
Aerial Zoning and Location Map  
Aerial Thoroughfare, Sidewalk, and Trails Plan Map  
Land Use and Character Map  
Utility & Thoroughfare Plan Map  
Notice Map



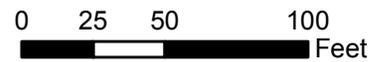
Z-FY-12-43

2F To GR

101 S. 31st. Street

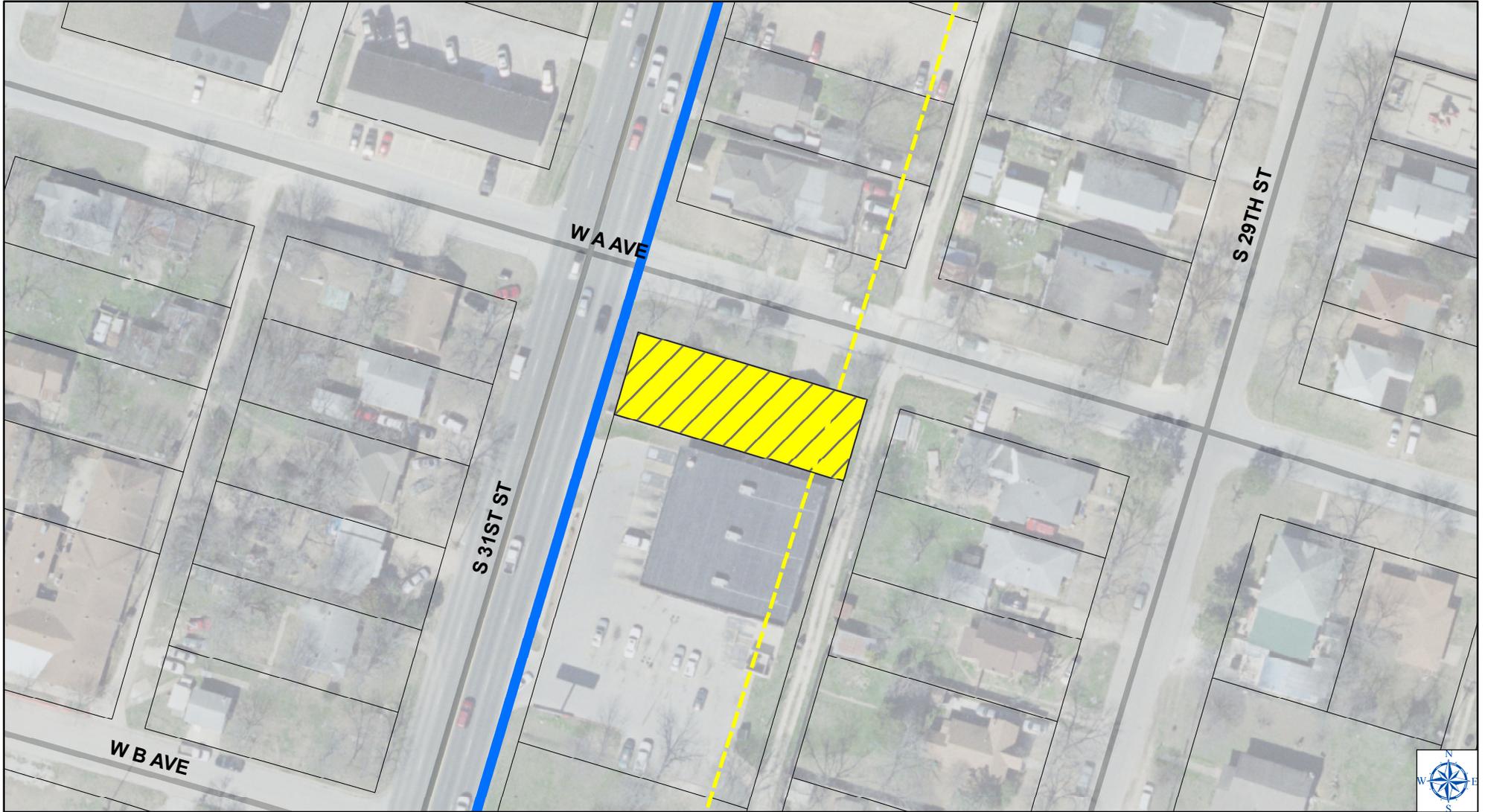


- Case
- Subdivisions
- 1234-A Outblocks
- 1 Blocks
- Zoning
- Parcel
- 1234 Addresses
- 1 Lots



4/30/2012  
City of Temple GIS

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**Trails**

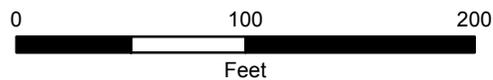
- Existing Citywide Spine Trail
- Under Design/Construction Citywide Spine Trail
- Proposed Citywide Spine Trail
- Existing Community-Wide Connector Trail

- Under Design/Construction Community-Wide Connector Trail
- Proposed Community-Wide Connector Trail
- Existing Local Connector Trail
- Proposed Local Connector Trail

**Thoroughfare**

- Expressway
- Major Arterial
- Proposed Major Arterial

- Proposed K-TUTS
- Minor Arterial
- Proposed Minor Arterial
- Collector
- Conceptual Collector





**Future Land Use**

- |                           |                         |                       |                                   |                      |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| Neighborhood Conservation | Auto-Urban Residential  | Auto-Urban Commercial | Temple Medical Education District | Public Institutional |
| Estate Residential        | Auto-Urban Multi-Family | Suburban Commercial   | Industrial                        | Parks & Open Space   |
| Suburban Residential      | Auto-Urban Mixed Use    | Urban Center          | Business Park                     | Agricultural/Rural   |

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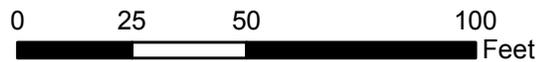
Z-FY-12-43

2F To GR

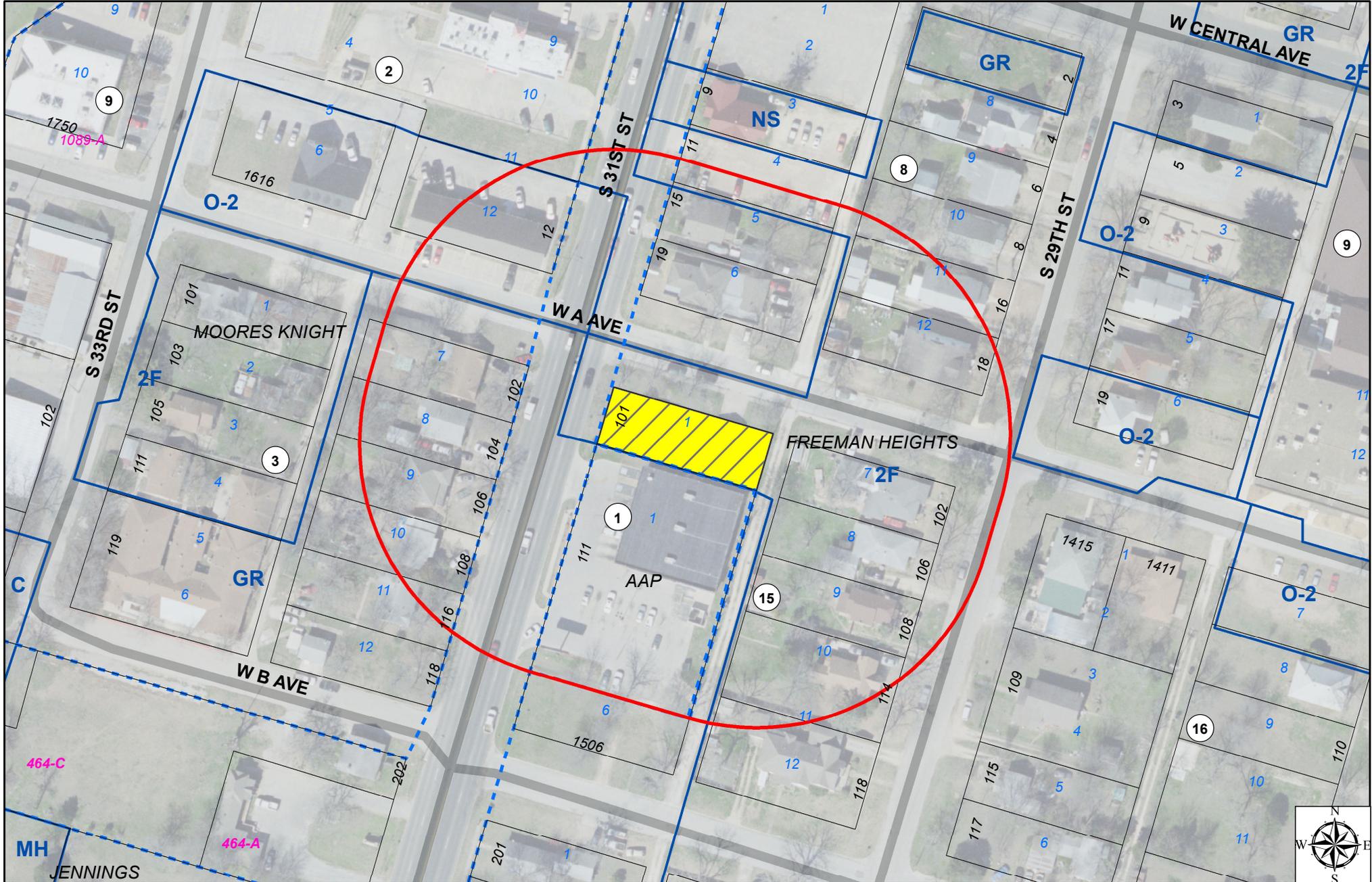
101 S. 31st. Street



- Case
- Sewer Line
- Major Arterial
- + Fire Hydrant
- Water Line
- Minor Arterial



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Case



Zoning Boundary

1234-A

Outblock Number



Block Number

0 25 50 100



Feet



Subdivision Boundary

1234 Address



Lot Number

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# PLANNING AND ZONING COMMISSION AGENDA ITEM

05/07/12  
Item #8  
Regular Agenda  
Page 1 of 1

**APPLICANT:** Planning & Zoning Commission

**CASE MANAGER:** Kim Foutz, Assistant City Manager

**ITEM DESCRIPTION:** Receive and discuss the Planning Director's Report containing items for future meetings regarding subdivision plats, zoning cases, conditional use permits, annexations, and proposed text amendments to the Unified Development Code (UDC).

**BACKGROUND:** The Planning & Zoning Commission will consider several items at future meetings which may also require City Council review for a final decision, shown on the following table.

Future Commission Projects	Status	Comments
<b>P-FY-12-19</b> - Final Plat of The Campus At Lakewood Ranch Phase VIII, a 15.047 ± acres, 19-lot, 3 block residential subdivision, located at the north end of Richland Drive, north of The Campus At Lakewood Ranch Phase VII.	DRC 5/07/12	Turley Assoc.

City Council Final Decisions	Status
<b>Z-FY-12-29:</b> Rezoning SF1 to GR on Lot 3, Block 8, Parklawn Addition, located at 2007 North 7th Street for Dollar General site.	APPROVED on 2 <sup>nd</sup> Reading April 19, 2012
<b>Z-FY-12-30:</b> Rezoning from GR, SF1, and SF2 to MF2 on a 15 ± acre tract of land, located on the north side of SW H.K. Dodgen Loop, west of Bird Creek Crossing shopping center and east of Hopi Trail near Western Hills Subdivision.	APPROVED on 2 <sup>nd</sup> Reading April 19, 2012
<b>Z-FY-12-32:</b> CUP for Smashburger sale of alcoholic beverages for on-premise consumption less than 75% in the Market Place, located at 3008 South 31st Street.	APPROVED on 2 <sup>nd</sup> Reading April 19, 2012
<b>Z-FY-12-33:</b> Consider adopting an ordinance approving a conditional Use Permit for the sale of alcoholic beverages for on-premise consumption of more than 50% and less than 75% of the gross revenue for Spare Time Entertainment, on Lot 5, Block 1, Friendship Plaza, located at 5434 205 Loop.	APPROVED on 1 <sup>st</sup> Reading April 19, 2012



**PLANNING AND ZONING COMMISSION  
MEETING EVALUATION  
May 7, 2012**

**Rating Scale**

**Excellent    Average    Poor**

- 1. What is your overall rating of the P & ZC's Meeting?
- 2. How would you rate the content of the staff's reports?
- 3. How would you rate the clarity of the meeting agenda?
- 4. How would you rate the staff presentation?

Excellent	Average	Poor

5. In what ways did tonight's meeting meet (or not meet) your expectations?

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6. Please provide any comments and suggestions that you feel would be useful for the next meeting (content, speakers, materials, resources, etc.).

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**P&Z COMMISSION ATTENDANCE**

2012															
	Jan 3	Jan 17	Feb 6	Feb 21	Mar 5	Mar 19	Apr 2	Apr 16	May 7	May 21	June 4	June 18	P	A	
James Staats	P	P	P	P	A	P	P	P					7	1	
Mike Pilkington	P	P	P	P	P	P	P	P					8		
Allan Talley	P	P	P	P	P	P	P	P					8		
Derek Martin	P	P	P	P	P	P	A	P					7	1	
Will Sears	P	P	P	A	P	P	P	P					7	1	
Greg Rhoads	A	A	P	P	P	P	P	P					6	2	
David Jones	P	P	P	P	P	P	P	P					8		
Chris Magaña				P	A	P	P	P					4	1	
Bert Pope					P	P	P	P					4		

	July 2	July 16	Aug 6	Aug 20	Sept 4	Sept 17	Oct 1	Oct 15	Nov 5	Nov 19	Dec 4	Dec 17	P	A
James Staats														
Mike Pilkington														
Allan Talley														
Derek Martin														
Will Sears														
Greg Rhoads														
David Jones														
Chris Magaña														
Bert Pope														

 not a Board member