

**City Council
Agenda Memo**



**City Council
Meeting Date: December 16, 2010**

TO: Larry D. Gilley, City Manager
FROM: Administrative Staff
SUBJECT: Richard J. Leidl, P.C.

GENERAL INFORMATION

In 2005, the City of Abilene began using the professional services of Richard J. Leidl, a Washington D.C. area legislative and regulatory consultant, to assist in identifying sources of federal funding for City projects. With their assistance the City has received funding for use in projects ranging from paratransit vehicles to law enforcement training facility improvements. While Senate Republicans are not proposing to seek Congressional funding for FY 2011 and FY 2012, Mr. Leidl proposes to assist the City in seeking funding through agency grants, as well as continuing to assist with other on-going projects that involve Federal funding and oversight.

FUNDING/FISCAL IMPACT

Estimated annual cost will not exceed \$72,000 and will be funded from various sources.

STAFF RECOMMENDATION

Staff recommends that the City Council, by oral resolution, approve a contract with Richard J. Leidl, P.C. for an estimated annual amount of \$72,000 to cover the period January 1 through December 31, 2011, and authorize the City Manager to execute the contract.

Prepared by: Name: Larry D. Gilley <i>LG</i> Title: City Manager	Item No. <u>6.1</u>	Disposition by City Council <input type="checkbox"/> Approved Ord/Res# _____ <input type="checkbox"/> Denied <input type="checkbox"/> Other _____ City Secretary
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RICHARD J. LEIDL, P.C.
5335 WISCONSIN AVENUE, N.W.
SUITE 440
WASHINGTON, D.C. 20015

TEL. 202.686.4847
rleidl@rjleidlpc.com

CELL 202.306.3253
FAX 202.686.2877

November 29, 2010

Mr. Larry Gilley
City Manager
City of Abilene
555 Walnut Street
Abilene, TX 79601

Re: Proposal for Representation in 2011

Dear Mr. Gilley:

Based on our discussions, we submit this proposal to continue to assist the City of Abilene ("City") during 2011 on Federal legal and legislative issues in Washington, D.C., including efforts to obtain Federal funding and Federal support for various City projects, such as the proposed reservoir, and assistance on Federal legislative and regulatory issues.

During 2010, as in prior years, we assisted the City in its efforts to obtain Congressionally-directed funding for several projects. The Senate included, in its version of the applicable appropriations bill, \$200,000 in Army Corps of Engineers funding for the Elm Creek Flood Prevention Study. However, the Senate Republicans subsequently decided not to pursue Congressional funding for FY 2011 and FY 2012. Accordingly, for 2011 we propose to focus our efforts on seeking Federal funding for the City through agency grants. This will include advising the City of grant programs, meetings with Federal agencies at the headquarters level here in Washington, D.C., and seeking Congressional support for the City's grant applications.

In 2010, we continued our ongoing efforts to have the Federal Aviation Administration ("FAA") build a new control tower at the Abilene Regional Airport ("Airport"). The results have been good, with the groundbreaking for the control tower taking place in April and construction well under way. We propose to continue these efforts and recommend meeting with FAA officials in Washington in order to ensure that the project stays on schedule and to address other issues of concern regarding the Airport.

In 2009, Congress began the process for reauthorizing the Surface Transportation Bill and we submitted the City's request for funding for a Transit Center for bus operations. The bill did not proceed and it is unclear whether Congress will take up the legislation in 2011 and, if so,

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whether Congress will provide funding for individual projects. We will monitor this process closely and advise the City if there is an opportunity for funding.

During 2010, we also supported the City's efforts on several legislative issues, including opposition to legislation concerning proposed Aircraft Rescue and Fire Fighting requirements that would impose costly, unfunded mandates on the City. At this point, it appears that the provision, which is in the House version of the FAA Reauthorization Bill, will not become part of the final bill. We also worked with the Congressional delegation in opposing legislation that would impose new collective bargaining requirements on communities. For 2011, we propose to continue to assist the City on Federal legislative and regulatory issues that are of concern.

Based on our meetings on November 15 and 16, we understand that the City continues to explore the construction of a new water reservoir. We propose to support the City's efforts through meetings here in Washington, D.C., with Members and staff of the Congressional delegation and senior officials at Federal agencies that may be involved in providing necessary approvals and funding, such as the Army Corps of Engineers, the Environmental Protection Agency, and the U.S. Fish and Wildlife Service. The goals of these initial meetings will be to advise Federal officials about the reservoir's importance to the City and other communities in the region and to lay the foundation for support for this long term project. We propose that City officials have the initial set of meetings in the February, 2011, timeframe and then follow on meetings later in the year, as necessary.

In 2010, as in prior years, we arranged and participated in meetings in Washington with Members and staff of the Congressional delegation and with Federal officials at various agencies. We recommend that City officials continue their practice of visiting Washington for these types of meetings. These meetings can be arranged during the trip to Washington on the reservoir project or during a separate trip. Based on developments, we will advise the City whether additional visits are necessary to address specific issues.

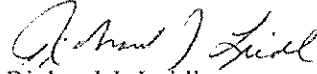
It has been our practice to work very closely with the City as part of its team and we will be in regular contact through telephone calls and emails with City officials to keep you apprised of developments. Typically, we will be in contact on a weekly basis and more frequently when the Congressional process is moving. If you wish, we will also provide written reports updating the City on developments.

We propose to assist the City on the foregoing matters for a retainer of \$72,000 for the period January 1, 2011 through December 31, 2011, which would be \$6,000 per month. Since we will be in contact on a regular basis and since we will send invoices each month, the City will be able to track our efforts.

If this proposal is acceptable, please confirm the City's agreement by executing a copy of this letter in the space provided and returning it to me.

It continues to be a privilege to be a part of the City's team here in Washington and we appreciate the opportunity to be of assistance.

Sincerely,



Richard J. Leidl
President

The foregoing is agreed to:

The City of Abilene

By: _____

Larry D. Gilley
City Manager

Dated:

**City Council
Agenda Memo**



**City Council
Meeting Date: December 16, 2010**

TO: Larry D. Gilley, City Manager

FROM: Don Green, Director of Aviation

SUBJECT: Ann's Airport Café Operating Agreement

GENERAL INFORMATION

The City conducted a Request For Proposals (RFP), CB-1105, with proposals to be received by November 9, 2010. One proposal was received from Ann Smith to operate Ann's Airport Café. The operating agreement will be for a three-year term with no rent or fees due to the city the first year and an option for no rents/fees the second year at the discretion of the Airport Development Board. The restaurant will provide the city monthly revenue reports, which will help determine the need for continuing no rent in the second year. Rent will be set at \$450.00 per month, when implemented. The agreement would be effective January 1, 2011.

Ann's Airport Café is currently operating under a temporary use agreement that expires December 31, 2010.

FUNDING/FISCAL IMPACT

The aviation department has not budgeted revenue from the restaurant; therefore, there is no fiscal impact.

STAFF RECOMMENDATION

Staff recommends that City Council approve the three-year operating agreement with Ann Smith, dba Ann's Airport Café.

BOARD OR COMMISSION RECOMMENDATION

The Airport Development Board voted to approve this agreement during its December 8 meeting.

Prepared by: Name: <u>Don Green</u> Title: <u>Director of Aviation</u>	Item No. <u>6.2</u>	Disposition by City Council <input type="checkbox"/> Approved Ord/Res# <input type="checkbox"/> Denied <input type="checkbox"/> Other _____ _____ City Secretary
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**City Council
Agenda Memo**



**City Council
Meeting Date: December 16, 2010**

TO: Larry D. Gilley, City Manager
FROM: Don Green, Director of Aviation
SUBJECT: Buffalo Trading Post Operating Agreement

GENERAL INFORMATION

The City conducted a Request For Proposals (RFP), CB-1105, for the Terminal Restaurant and Gift Shop with proposals to be received by November 9, 2010. No proposals for the gift shop were received. However, I was contacted after the deadline by Rusty Emmons, who is interested in operating the gift shop as an extension of his current business, "RockinRE Tack for the Cowgirl". Mr. Emmons wants to use the name "Buffalo Trading Post" for the gift shop. The operating agreement will be for a three-year term with no rent or fees due to the city the first year and an option for no rents/fees the second year at the discretion of the Airport Development Board. The gift shop will provide the city monthly revenue reports, which will help determine the need for continuing no rent in the second year. Rent will be set at \$200.00 per month, when implemented. The agreement would be effective January 1, 2011.

City staff is working with Buffalo Trading Post to execute a temporary use agreement so it can open December 15. The temporary use agreement will expire December 31, 2010.

FUNDING/FISCAL IMPACT

The aviation department has not budgeted revenue from the gift shop; therefore, there is no fiscal impact.

STAFF RECOMMENDATION

Staff recommends that City Council approve the three-year operating agreement with Rusty Emmons, dba Buffalo Trading Post.

BOARD OR COMMISSION RECOMMENDATION

The Airport Development Board voted to approve this agreement during its December 8 meeting.

<p>Prepared by: Name: <u>Don Green</u> Title: <u>Director of Aviation</u></p>	<p>Item No. <u>6.3</u></p>	<p>Disposition by City Council <input type="checkbox"/> Approved Ord/Res# <input type="checkbox"/> Denied <input type="checkbox"/> Other _____ _____ City Secretary</p>
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City Council
Agenda Memo



City Council
Meeting Date: 12-16-10

TO: Larry D. Gilley, City Manager
FROM: Megan R. Santee, Interim Director of Public Works *MRS*
SUBJECT: Oral Resolution for a Street Use License Request by Cirrus Associates, L.L.C., on behalf of Dickies Industrial Services

GENERAL INFORMATION

Cirrus Associates, L.L.C. (Cirrus), on behalf of Dickies Industrial Services (Dickies), has applied for a Street Use License (SUL) to install additional groundwater monitoring wells in the public right of way where necessary along the east side of the right of way of Almond Street between East North 10th Street and East North 13th Street. Cirrus is conducting additional site assessment of the groundwater at and around the Cintas facility located at 768 Walnut Street. During the course of the assessment, groundwater samples collected from monitoring wells located on the Dickies property and down gradient of the Dickies property indicate there are constituents of concern present in the groundwater above the Texas Commission on Environmental Quality (TCEQ) Residential Protective Concentration Levels (PCLs). In order to delineate the extent of the release, additional monitoring wells need to be installed at down gradient positions from the Cintas facility. A previous SUL was granted to Cirrus on 8/28/08 for the installation of groundwater monitoring and remediation wells in the area bounded by/from North 7th Street to North 12th Street, between Pine Street and Treadaway Blvd.

STAFF RECOMMENDATION

The staff recommends that the City Council, by oral resolution, authorize the Mayor to execute the attached Street Use License Agreement with Cirrus Associates, L.L.C.

ATTACHMENTS

Street Use License Agreement, Extended Term
Location Map

Prepared by:

Name: Travis McClure

Title: Land Agent

Item No. 4.4

Disposition by City Council

- Approved Ord/Res#
 Denied _____
 Other

City Secretary



STREET USE LICENSE AGREEMENT
EXTENDED TERM

APPLICATION

Applicant: Cirrus Associates, L.L.C.

Phone: 972-680-8555

Address: 600 South Sherman Street, Suite 102, Richardson, Texas 75081

Agent: Carol Townsend, P.G.

Phone: 972-680-8555 (office) or 972-841-4557 (mobile)

Description of Public Right-of-Way to be used: The monitor well (s) would be installed on the southeast corner of the intersection of E.N. 11th Street and Almond Street, located approximately 390 feet north of the intersection of E. N 10th Street and Almond Street. An additional monitor well will be installed approximately 138 feet south on the intersection of N. 13th Street and Almond Street on the east side of Almond Street.

If there are underground or overhead utility lines present that would obstruct these locations, the location for the wells would move slightly north or south of these locations. We would like to have access to the east side of the city block from the intersection of E.N. 11th Street and Almond Street to the intersection of N. 13th Street and Almond Street to make sure that we are completely clear of all utilities, which would be determined in the field prior to installing the wells.

Owner of adjacent property:

Adjacent Owner for E.N. 11th and Almond Street –Nine-Point Grain, Inc. (Property ID No. 63890)

Adjacent Owner for N. 13th Street and Almond Street – Abilene Christian University (Property ID No. 76855).

Proposed use of public right-of-way: Installation of monitoring wells.

Reasons for the request: Cirrus Associates, L.L.C. (Cirrus) on the behalf of Dickies Industrial Services is conducting additional site assessment of the groundwater at and around the Cintas Facility located at 768 Walnut Street. During the course of the assessment, groundwater samples collected from monitoring wells located on the Dickies property and down gradient of the Dickies property indicate there are constituents of concern present in the ground water above the

Texas Commission on Environmental Quality (TCEQ) Residential Protective Concentration Levels (PCLs). In order to delineate the extent of the release, additional monitoring wells need to be installed at downgradient positions from the Cintas facility. Each monitor well will be installed to approximately 30 to 40 feet below surface, will be constructed of 2-inch diameter PVC, and will be placed into a flush mounted concrete 2' x 2' pad. Cirrus will coordinate the exact drilling locations with the city of Abilene based on the location of overhead and underground utilities. We ask that the city council approve our application for street use which would include Almond Street from the intersection of N. E.10th Street and Almond Street north to the intersection on N. 13th Street and Almond Street.

A site map and aerial photograph are attached to show the approximate locations of the new monitor wells. We do anticipate having to block or close traffic lanes, but if necessary cones and "men working signs" will be posted on either side of the drilling locations to notify drivers that work is in progress. In general, it takes 1.5 hours at each location to install the monitoring well.

Cirrus will contact the City's Inspection Services Division (325-676-6077) prior to commencing work in the right-of-way to get final approval for the drilling locations.

Cirrus will contact the Traffic Engineering Office (325-676-6489) for location of traffic signal facilities and shall contact the Texas Excavation Safety System for location of underground utilities before drilling in the right-or-ways.

Cirrus will contact the Refuse Collection Division (325-676-6059) to confirm when refuse activities occur in order to schedule the installation of the monitoring wells around refuse pickup.

All surface completions of the drilling locations will be completed with flush mount surface covers before the end of each working day and will be capable of supporting all traffic loadings permitted on public streets.

Cirrus will place locking well caps on all monitoring wells in order to prevent unauthorized access to the monitoring wells.

Cirrus will provide a detailed list of wells shown on a map and will coordinate with the appropriate city departments the type, data, and status of the monitoring wells.

All the monitoring wells placed on right-of-ways will be marked with the well ID on the concrete pad and should not require ballads to be placed around the wells, as they will be flush with the ground surface.

It is understood that if the city determines the subject right-of-way is needed for purposes that would be adversely impacted by the permitted use; the permitted facilities shall be removed within 30 days notice.

Preferred City Council meeting for request to be considered: December 2, 2010.

Application is not complete unless all of the following are included:

- Application fee- \$300
- Certificate or other evidence of insurance
- A dimensioned drawing showing existing and proposed features in the public right-of-way and on adjacent property (sidewalks, curbs, fire hydrants, buildings, fences, etc.)

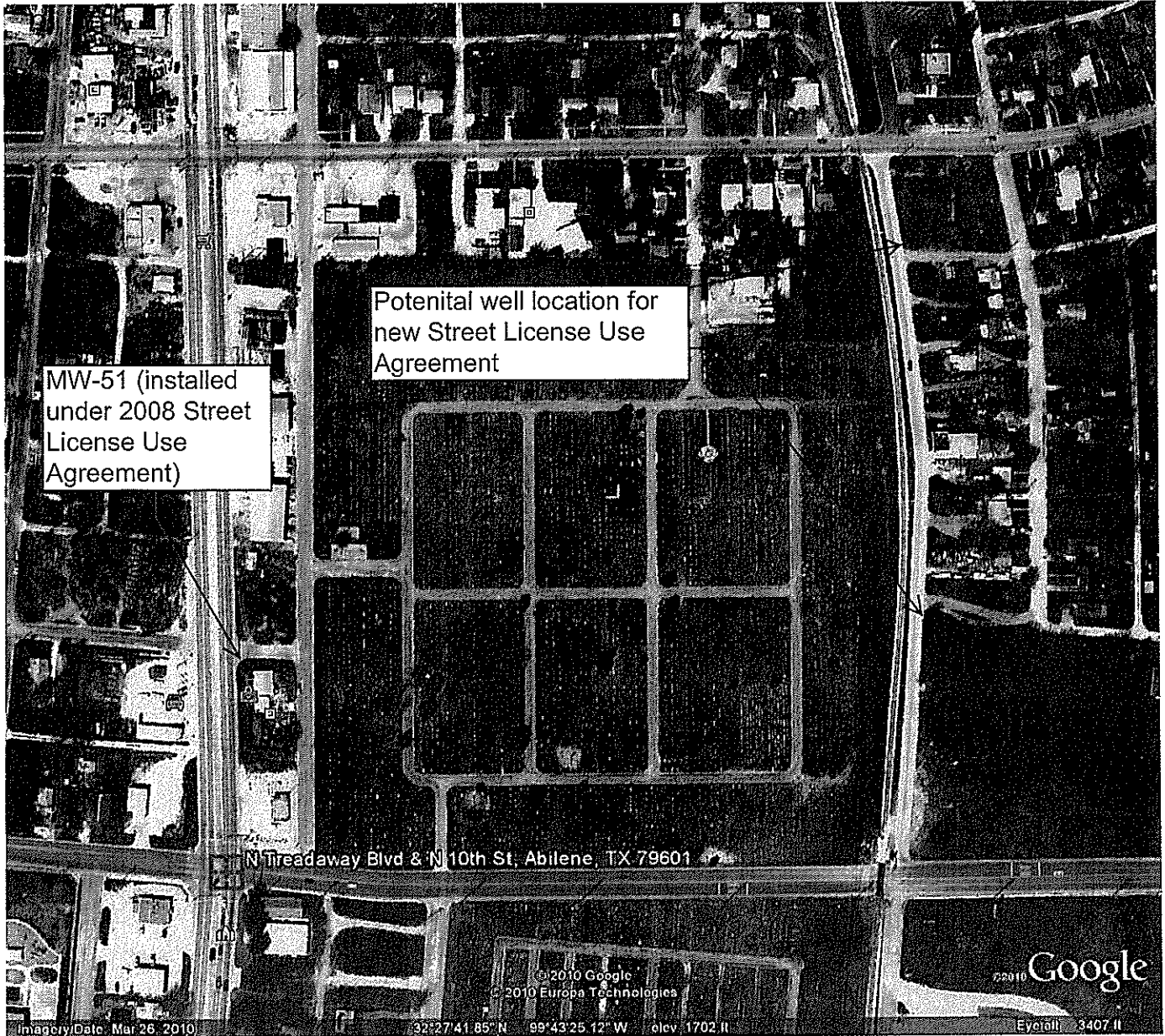
Paul Townsend

Signature of Applicant or Agent

11/8/2010

Date

Return Application to: Land Agent City of Abilene PO Box 60 Abilene TX 79604
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MW-51 (installed under 2008 Street License Use Agreement)

Potential well location for new Street License Use Agreement

N Treadaway Blvd & N 10th St, Abilene, TX 79601

© 2010 Google
© 2010 Europa Technologies

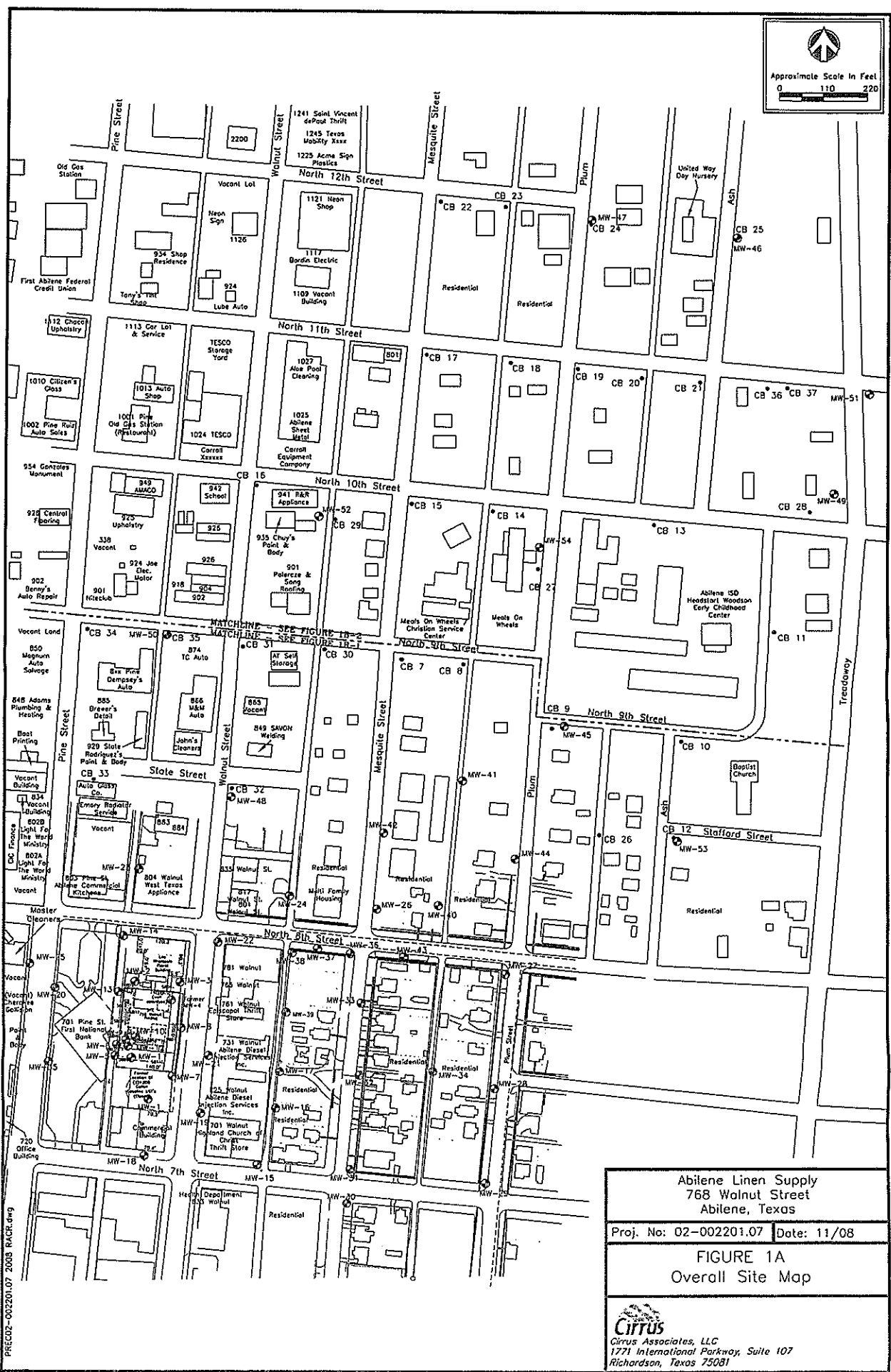
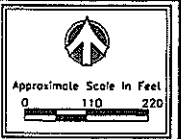
Google

imgsrc/Date: Mar 26, 2010


32°27'41.85" N 99°43'25.12" W elev 1702 ft

EyeBall 3407 ft

4.4 pg.5



PRECED-002201.07 2008 RACR.dwg

Abilene Linen Supply 768 Walnut Street Abilene, Texas	
Proj. No: 02-002201.07	Date: 11/08
FIGURE 1A Overall Site Map	
 Citrus Associates, LLC 1771 International Parkway, Suite 107 Richardson, Texas 75081	

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ACORD™ CERTIFICATE OF LIABILITY INSURANCE

PRODUCER
 McLaughlin Brunson Insurance Agency, LLP
 6600 LBJ Freeway, Suite 220
 Dallas TX 75240
 (214) 503-1212

INSURED
 Cirrus Associates, LLC
 600 South Sherman Street, Suite 102
 Richardson TX 75081

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Indian Harbor Insurance Co.
 INSURER B: Travelers Indemnity Company
 INSURER C: Travelers Lloyds Ins. Co.
 INSURER D: Travelers Ind. Co. of Conn.
 INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
C	GENERAL LIABILITY	PACP 8899L538	3/19/2010	3/19/2011	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 10,000
					PERSONAL & ADV INJURY	\$ 1,000,000
					GENERAL AGGREGATE	\$ 2,000,000
					PRODUCTS - COMP/OP AGG	\$ 2,000,000
					GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS					
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
	<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY: EA ACC AGG	\$
D	EXCESS/UMBRELLA LIABILITY	CUP 8656Y388	3/19/2010	3/19/2011	EACH OCCURRENCE	\$ 5,000,000
	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$ 5,000,000
	<input type="checkbox"/> DEDUCTIBLE					\$
	<input type="checkbox"/> RETENTION \$					\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	UB 5981Y665	5/1/2010	5/1/2011	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	\$ 1,000,000
	If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
					E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
A	OTHER Professional Liab./ Pollution Liability	PEC001614006	3/19/2010	3/19/2011	\$5,000,000 Per Claim / Ann'l Aggregate	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

The claims made professional liability coverage is the total aggregate limit for all claims presented within the policy period and is subject to a deductible. City of Abilene is shown as an additional insured on the general and umbrella liability coverages as required by contract.

CERTIFICATE HOLDER

City of Abilene
 c/o City Secretary
 PO Box 60
 Abilene TX 79604

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE *Jos A. Beyant*

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

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Cirrus Associates, L.L.C.

1771 International Parkway, Suite 107
Richardson, Texas 75081

Phone 972.680.8555

Fax 972.680.9455

November 8, 2010

**Travis McClure
Land Agent
City of Abilene
P.O. Box 60
Abilene, Texas 79604**

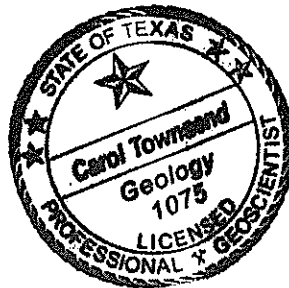
Re: Extended Street Use Agreement Application

Dear Mr. Condry:

Please find attached the revised Street Use Application for the environmental project occurring at and around the Cintas Facility located at 768 Walnut Street. We would like to be included on the agenda for the December 2, 2010, City Council meeting if at all possible. Please feel free to contact me at 972-680-8555.

Sincerely,

Carol Townsend, P.G.
Senior Environmental Geologist



THE STATE OF TEXAS

STREET USE LICENSE AGREEMENT
EXTENDED TERM

COUNTY OF TAYLOR

THIS STREET USE LICENSE AGREEMENT, hereinafter referred to as "License", executed this ____ day of December, A.D., 2010, by and between the CITY OF ABILENE, a municipal corporation situated in Taylor and Jones Counties, Texas, hereinafter referred to as "City", and Cirrus Associates, L.L.C., hereinafter referred to as "Licensee".

WITNESSETH:

That City, pursuant to Chapter 29, "Streets and Sidewalks", Article V, "Street Use License", does hereby grant to Licensee the privilege of using the following described public property, to-wit:

Use of the public right-of-way where necessary for the purpose described below, in the area bounded by/from:

The east side of the right of way of Almond Street, from the north right of way line of East North 10th Street, northward to the south right of way line of East North 13th Street.

for and in consideration of THREE HUNDRED AND NO/100 (\$300.00) DOLLARS, commencing the date of execution unless otherwise specified, and upon the conditions and covenants set forth in this License and in Exhibit A incorporated by reference for all purposes herein.

I. Purpose:

The purpose of this License is to permit Licensee to:

Install additional groundwater monitoring wells: Cirrus Associates, L.L.C. (Cirrus), on the behalf of Dickies Industrial Services is conducting additional site assessment of the groundwater at and around the Cintas facility located at 768 Walnut Street. During the course of the assessment, groundwater samples collected from monitoring wells located on the Dickies property and down gradient of the Dickies property indicate there are constituents of concern present in the groundwater above the Texas Commission on Environmental Quality (TCEQ) Residential Protective Concentration Levels (PCLs). In order to delineate the extent of the release, additional monitoring wells need to be installed at down gradient positions from the Cintas facility.

II. Indemnity:

A. Definitions

For the purpose of this section the following definitions apply:

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

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

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

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

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

injury or damage to any property or right

injury, damage, or death to any person or entity

attorneys fees, witness fees, expert witness fees and expenses, and

all other costs and expenses of litigation

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

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

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

B. Indemnity

The Licensee agrees to indemnify, hold harmless, and defend the City from and against liability for any claims arising out of the Licensee's occupancy or use of the premises described above and/or activities conducted in connection with this License.

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

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects which may now exist or which may hereafter arise on the premises, whether or not caused in whole or in part by improvements constructed by the Licensee. Responsibility for all such defects is expressly assumed by the Licensee.

In the performing or permitting of work consistent with its normal course of duty within the right-of-way, the City shall not be liable for any damages to the Licensee's facilities or equipment or injury to Licensee or any third party, all such claim for damage or injury being expressly assumed by Licensee.

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

BOTH CITY AND LICENSEE EXPRESSLY INTEND THIS LICENSE'S INDEMNITY PROVISION TO REQUIRE LICENSEE TO INDEMNIFY AND

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

III. Insurance

Licensee agrees to secure and maintain the following types and amounts of insurance, for the term of this license:

<u>Type</u>	<u>Amount</u>
Comprehensive General Liability to include (but not limited to) the following:	\$250,000 ----- Per Person \$500,000 ----- Per Occurrence for Bodily Injury, and
a) Premises/Operations Coverage	\$100,000 ----- Per Occurrence for
a) Contractual Liability Coverage	Property Damage

The preceding insurance requirements notwithstanding, the City reserves the right to revise the types and amounts of insurance required by this License prior to the approval of the License or if License is in effect, to be effective thirty (30) days after notice is sent to the address provided herein.

All insurance policies or certificates shall contain the following provisions:

- a. That the City of Abilene, Texas, is named as an additional insured.
- b. That such insurance shall not be cancelled or materially changed without a minimum of thirty (30) day's advance notice in writing to the City.

All insurance policies shall be subject to the examination and approval of the Office of Risk Management, City of Abilene, Texas, for their adequacy as to form and content, form of protection, and insurance company. Licensee shall furnish to City Secretary for her License file certificates or copies of the policies, plainly and clearly evidencing such insurance at the time of application, and thereafter new certificates prior to the expiration date of any prior certificate.

Licensee understands that it is its sole responsibility to provide this necessary information and that failure to timely comply with the requirements of this article shall be a cause for termination of this License.

IV. License Requirements and Restrictions:

1. During the term of this License, Licensee shall maintain the premises licensed herein in a good and safe condition at all times. If the street surface, parkway, or facilities in the parkway, including landscaping, are damaged or disturbed by any activity associated with this License, the Licensee shall at its expense, restore the same to as good a condition as before the activity, to the satisfaction of the Director of Public Works or designee.

2. The construction signing and barricading requirements of the Texas Manual On Uniform Traffic Control Devices shall be met for all work done in the public right-of-way.

3. The Licensee shall be responsible for locating, protecting, and repairing (if damaged) all utilities within the area permitted and shall pay all costs associated with adjustments to utilities including street lights that are necessitated by the permitted use.

4. Permitted facilities shall be installed in accordance with all applicable laws, regulations, and codes.

5. The Licensee shall relocate its facilities at its own expense to accommodate public improvements in the right-of-way.

6. If Street Use License regulations change, the Licensee shall agree to any new requirements or shall remove all constructed facilities from the right-of-way.

7. Upon termination the Licensee shall restore the property at its expense, to a good workmanlike condition and in a manner satisfactory to the Director of Public Works or designee.

8. The City Manager, Police Chief, Fire Chief, or a designee of such officials, shall have the authority to order immediate removal of any objects or materials placed on the premises by Licensee if, in the City's opinion, removal is necessary to protect the health, safety, or welfare of the public. If the Licensee fails to comply with the order, the City shall remove the materials, and the Licensee shall reimburse the City for the cost of compliance. The Licensee may appeal the removal order to the Abilene City Council by filing written notice with the City Secretary within 5 days of the order; provided, however that ANY APPEAL SHALL NOT STAY THE OFFICIAL'S ORDER OR THE REMOVAL PROCEDURE.

V. Termination

1. This License shall automatically terminate ten (10) years from the date of execution.

2. The City shall have the right to cancel this License at any time by giving Licensee thirty (30) days notice of its cancellation. The notice shall be in writing delivered to Licensee by certified mail.

3. In the event Licensee shall permit any City of Abilene, Abilene Independent School District, West Central Texas Municipal Water District, or any other taxes assessed against it to become delinquent, this License shall automatically terminate and become null and void.

4. This License may not be assigned or conveyed; any attempt by Licensee to do either shall automatically terminate the License. In the event Licensee's client (the property owner) should sell the property for which the License has been granted, this License shall automatically terminate.

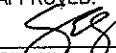
CITY OF ABILENE, TEXAS

Mayor

ATTEST:

City Secretary

APPROVED:



City Attorney

NAME OF LICENSEE:

Cirrus Associates, L.L.C.

By: Carol Townsend, P.G.
Signature

Carol Townsend / Senior Environmental Consultant
Printed Name and Title

Business Address: 600 S. Sherman Street, Suite 102

Richardson, Tx 75080

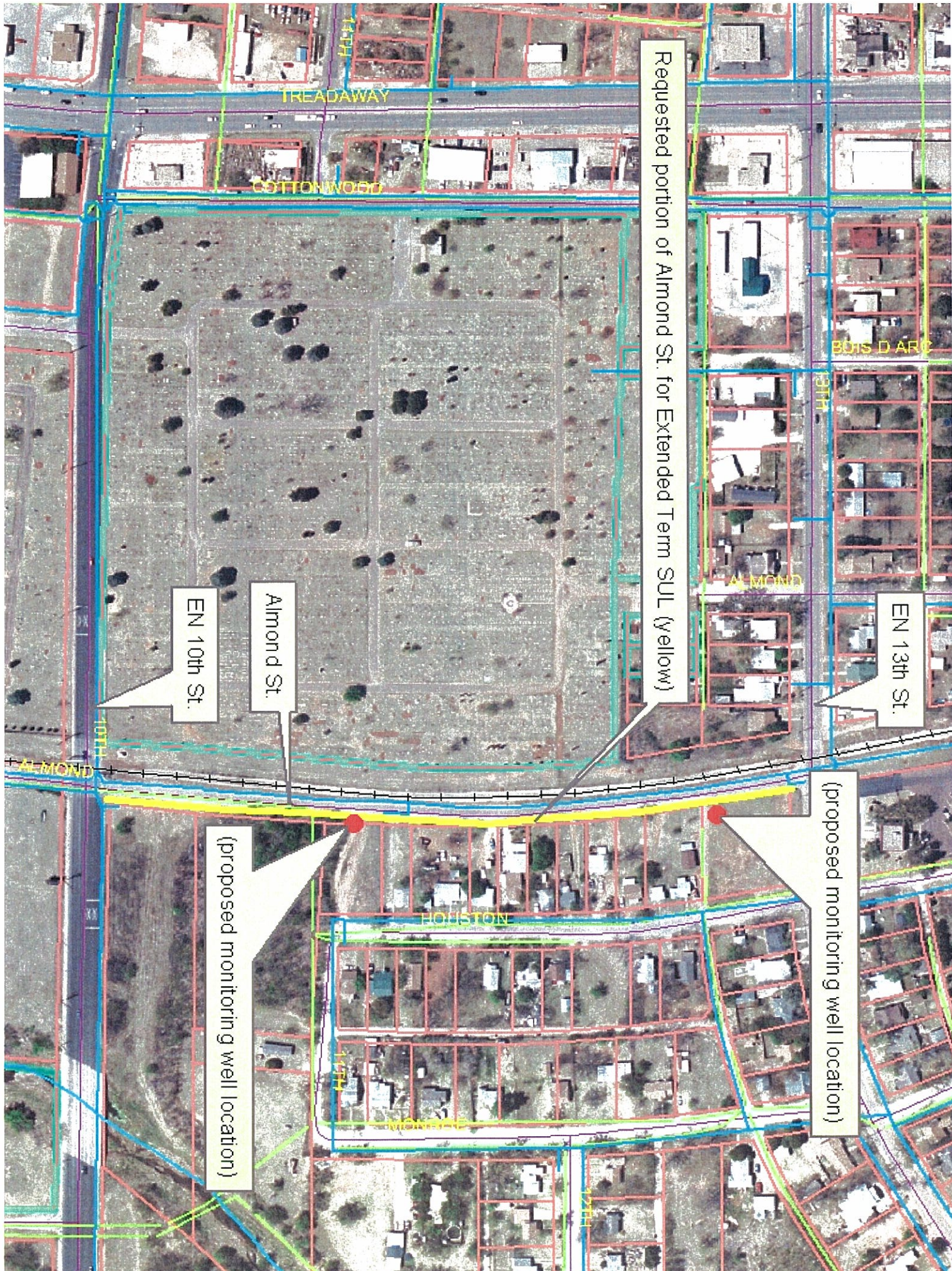


STREET USE LICENSE AGREEMENT
WITH CIRRUS ASSOCIATES, L.L.C.

CONDITIONS AND COVENANTS

The Street Use License Agreement is subject to the following conditions and covenants:

1. If the work will result in blocking traffic lanes, the Licensee shall submit a traffic control plan to the Traffic Engineer for approval before beginning the work.
2. Licensee shall contact Inspection Services (676-6311) prior to commencing any work in the right-of-way.
3. The Licensee shall contact the Traffic Signal Shop (676-6066) for location of traffic signal facilities before beginning excavation in the right-of-way.
4. The Licensee shall contact the Solid Waste Division (676-6053) to schedule work in alleys (if any) so that the work will not interfere with refuse collection activities.
5. The Licensee shall barricade any excavation in the right-of-way to prevent pedestrian and/or vehicular access while excavation is unattended. Barricades shall be lighted at night.
6. All facilities installed by the Licensee in the pavement area of street, alley or City owned property shall be flush with the pavement surface and capable of supporting all traffic loadings legally permitted on public streets.
7. Licensee has sole responsibility for ensuring that all wells are secured at all times from unauthorized access.
8. Licensee shall provide to the City upon request a detailed list of all borings and monitoring wells by location, type, date of installation and status.
9. The Licensee shall provide the City upon request copies of all test results and environmental reports from the monitoring wells installed under this license.



Requested portion of Almond St. for Extended Term SUL (yellow)

EN 10th St.

Almond St.

EN 13th St.

(proposed monitoring well location)

(proposed monitoring well location)

City Council
Agenda Memo



City Council
Meeting Date: 12/16/2010

TO: Larry D. Gilley, City Manager

FROM: Jon James, AICP
Director of Planning and Development Services

SUBJECT: Appealed Item: First reading on an Ordinance for Case No. Z-2010-18, a request from Oren S. McGrew to rezone property from AO (Agricultural Open Space) to RR-1 (Rural Residential) zoning, located at 1602 and 1618 Hillview Rd.; and setting a public hearing for January 13, 2011.

GENERAL INFORMATION

Currently the properties are zoned AO and are developed with a residential dwelling unit. The properties to the north, south, east, and west are developed with residential dwelling units on large lots.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The applicant is requesting the zone change in order to replat the properties into different size lots to accommodate an accessory structure that was built over a lot line and to build another residential unit at 1602 Hillview. The current lot size does not meet the minimum lot standard for AO zoning, therefore they could not be replatted to accommodate the applicants future plans for their property. The requested zoning would be compatible with the surrounding residential uses as well as the Comprehensive Plan.

STAFF RECOMMENDATION

Staff recommends approval as requested.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commissions motion to approve failed by a vote of three (3) in favor (Bixby, Glenn, and Campos) none (0) opposed and two (2) abstentions (McClarty and Todd). The lack of four favorable votes effectively denied the request since two of the Commissioners had to abstain from the voting. The overall feeling and discussion of the board however was favorable to the request.

ATTACHMENTS

Ordinance
Staff Report with Maps
Public Comment Received

Prepared by:

Name: Matt Jones

Title: Planner II

December 7, 2010

Item No. 4.5

Disposition by City Council

- Approved Ord/Res# _____
 Denied
 Other

City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART B, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

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

PART 1: That Chapter 23, Subpart E, known as the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

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

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

PASSED ON FIRST READING this 16th day of December A.D. 2011.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of November, 2010, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 13th day of January, 2011 to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 13th day of January, A.D. 2011.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:


CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

Rezone property from AO (Agricultural Open Space) to RR-1 (Rural Residential) zoning.

Legal Description:

HILLVIEW ADDN, BLOCK 5, LOT ALL
HILLVIEW ADDN, BLOCK 4, LOT ALL

Location:

1602 and 1618 Hillview Rd.

-END-

ZONING CASE Z-2010-18

STAFF REPORT



APPLICANT INFORMATION:

Oren S. McGrew

HEARING DATES:

Planning & Zoning Commission: December 6, 2010
City Council 1st Reading: December 16, 2010
City Council 2nd Reading: January 13, 2011

LOCATION:

1618 and 1602 Hillview Rd.

REQUESTED ACTION:

Rezone property from AO to RR-1.

SITE CHARACTERISTICS:

The subject parcels total approximately 4 acres and are currently zoned AO (Agricultural Open Space). The parcels have been developed with a residential dwelling unit. The adjacent properties have AO zoning to the north, south east, and west, and RS-12 (Single Family Residential) zoning to the south as well.

ZONING HISTORY:

The area was annexed in 1980 and was zoned to AO when it was annexed.

ANALYSIS:

- Current Planning Analysis

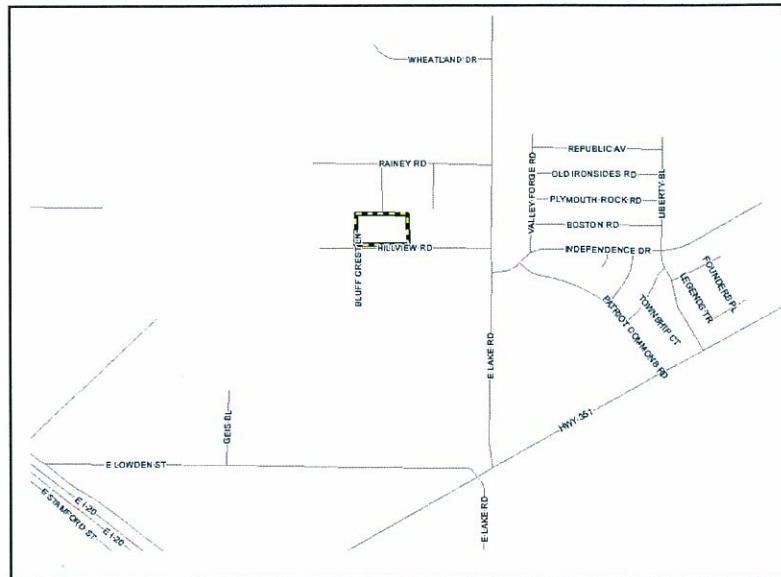
Currently the properties are zoned AO and are developed with a residential dwelling unit. The properties to the north, south, east, and west are developed with residential dwelling units on large lots.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The applicant is requesting the zone change in order to replat the properties into different size lots to accommodate an accessory structure that was built over a lot line and to build another residential unit at 1602 Hillview. The current lot size does not meet the minimum lot standard for AO zoning, therefore they could not be replatted to accommodate the applicants future plans for their property. The requested zoning would be compatible with the surrounding residential uses as well as the Comprehensive Plan.

PLANNING STAFF RECOMMENDATION:

Staff recommends approval as requested.



PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commissions motion to approve failed by a vote of three (3) in favor (Bixby, Glenn, and Campos) none (0) opposed and two (2) abstentions (McClarty and Todd). The lack of four favorable votes effectively denied the request since two of the Commissioners had to abstain from the voting. The overall feeling and discussion of the board however was favorable to the request.

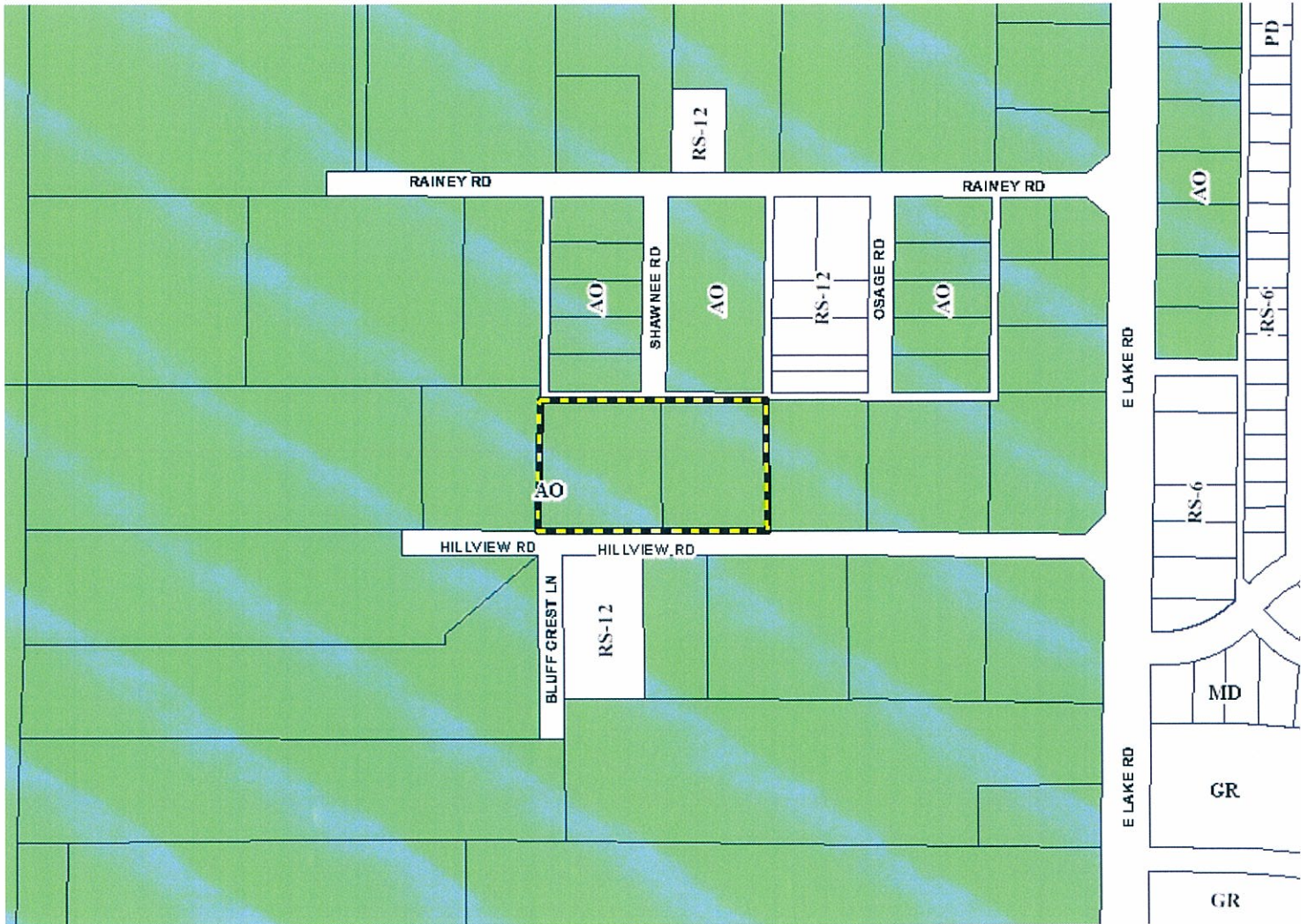
NOTIFICATION:

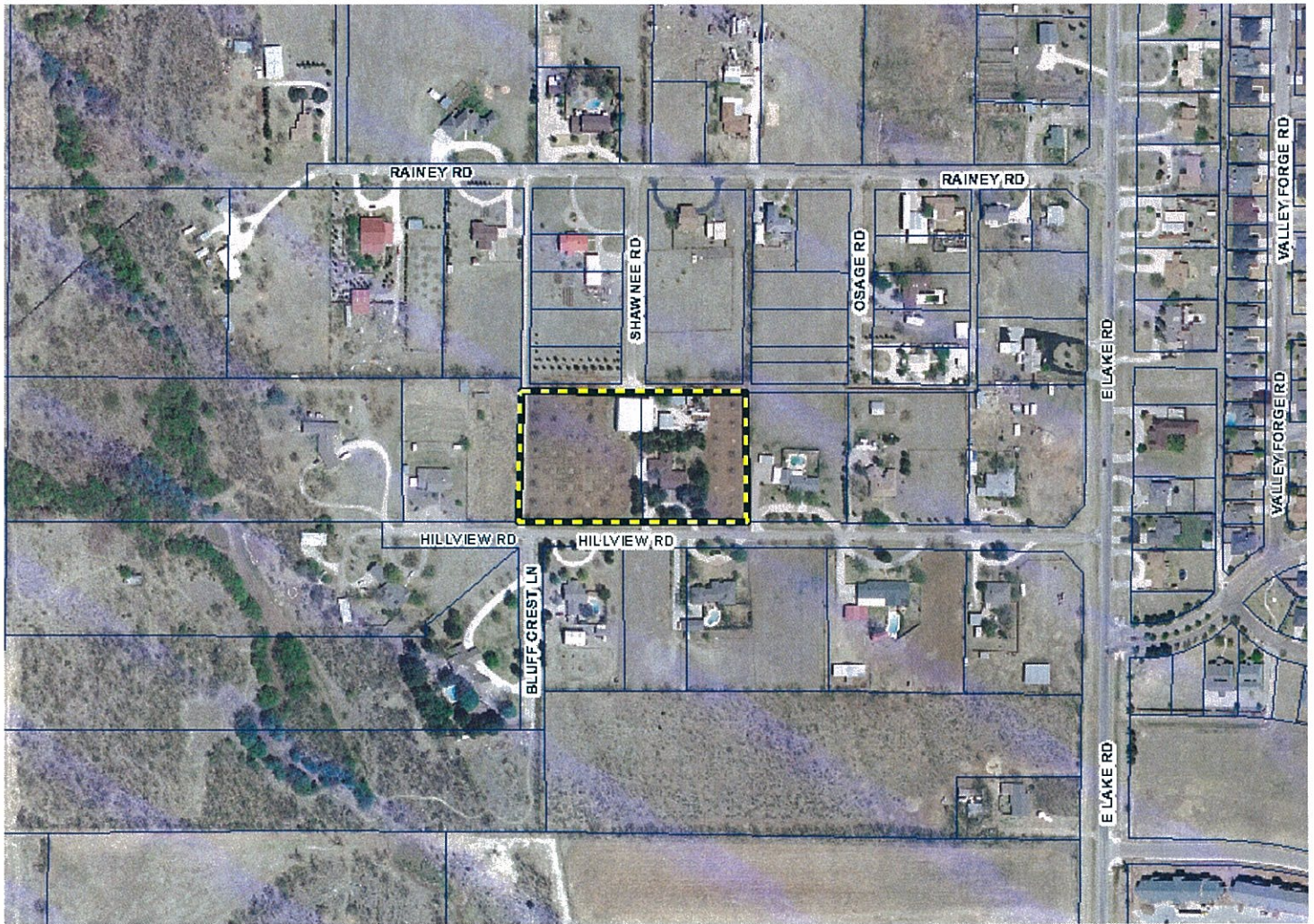
Property owners within a 200-foot radius were notified of the request.

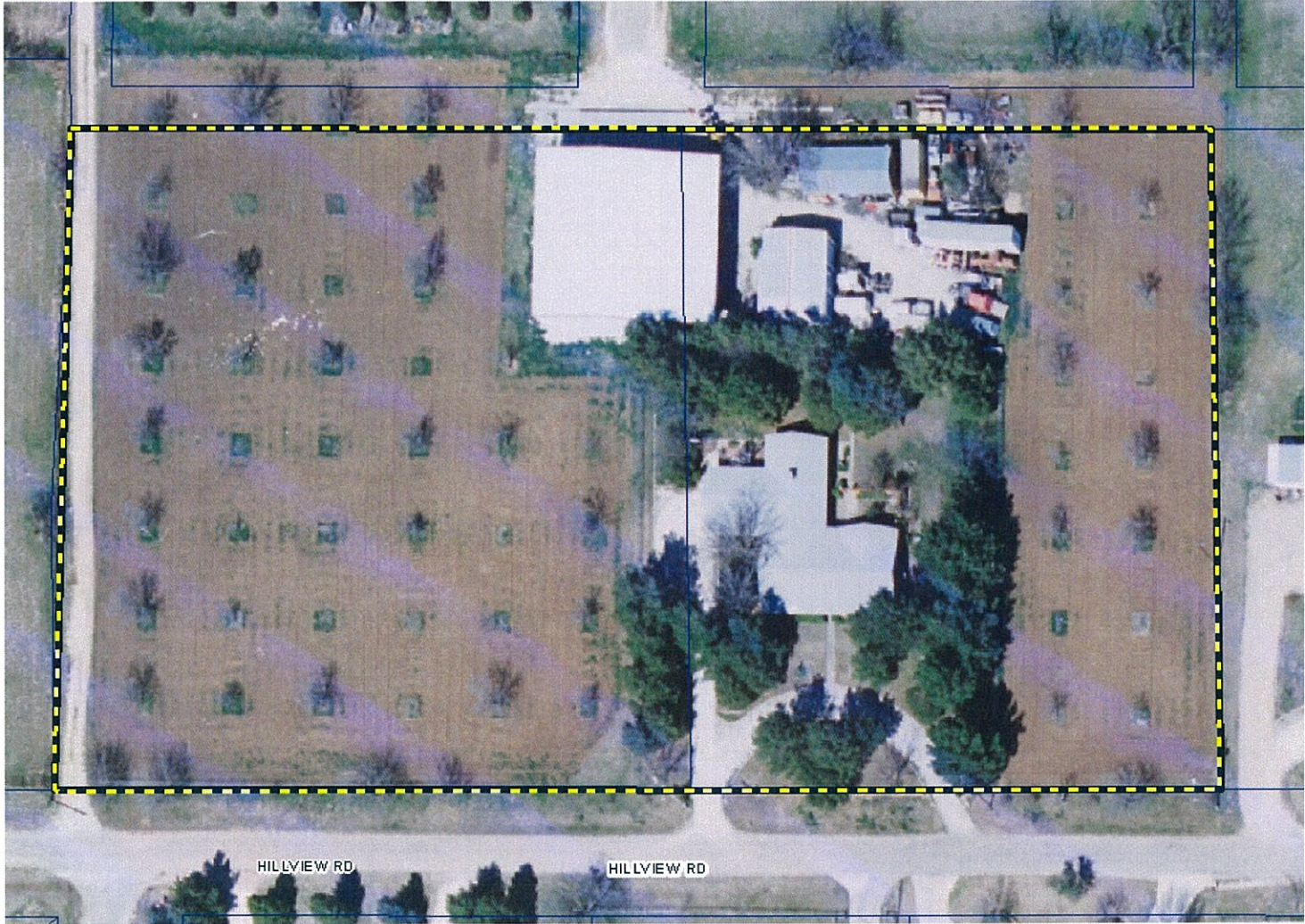
OWNER	ADDRESS	RESPONSE
MARTIN HENRY L & KATHY R	1617 HILLVIEW RD	
HARTLINE MELVIN RAY	1518 HILLVIEW RD	
LALONE JAMES D & JANET L	1649 RAINEY RD	
SPRY ALAN W & SHERYL SUE		
COOKE JAMES C & CYNTHIA	1601 HILLVIEW RD	
MARTIN HENRY L & KATHY R	1633 HILLVIEW RD	
MC CLEN JOHN R & SUSAN J		
BLACKBURN CURTIS DALE &	1700 HILLVIEW RD	In Favor
MC GREW OREN S	1618 HILLVIEW RD	
STOKES REBECCA		
MC CLEN JOHN R & SUSAN J		
EDWARDS JARRELL &	1533 RAINEY RD	
ODEN RAYMOND C & LINDA R	1541 RAINEY RD	In Favor
DDFE INC	1501 HILLVIEW RD	
SPRY ALAN W & SHERYL SUE		
SPRY ALAN W & SHERYL SUE		
MC CLEN JOHN R & SUSAN J		
ALLEN CHARLES D & KAREN C	1701 HILLVIEW RD	
HALBERT DAVID STAFFORD	3000 BLUFF CREST LN	
MC GREW OREN S	1602 HILLVIEW RD	

2 in Favor- **Y**
0 Opposed- **N**









City Council
Agenda Memo



City Council
Meeting Date: 12/16/2010

TO: Larry D. Gilley, City Manager

FROM: Jon James, AICP
Director of Planning and Development Services

SUBJECT: First reading on an Ordinance for Case No. Z-2010-19, a request from Marlen Martinez and the City of Abilene to rezone property from GC (General Commercial) to RS-6 (Single Family Residential) zoning, located at 609 and 607 Portland Ave.; and setting a public hearing for January 13, 2011.

GENERAL INFORMATION

The original request was for 617 Portland, in reviewing the area City Staff initiated the request for 609 Portland to be rezoned as well. Currently the properties are zoned GC and have been developed with residential dwelling units. The properties to the north and west are developed with residential dwelling units. The properties to the south and east have been developed as commercial uses.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The requested zoning would be compatible with the surrounding residential uses as well as the Comprehensive Plan. The existing units are non conforming uses in GC zoning and this request would make the units conforming, so if they were ever destroyed or demolished in order to rebuild, they could be rebuilt as residential units.

STAFF RECOMMENDATION

Staff recommends approval as requested.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommended approval by a vote of five (5) in favor (Bixby, Glenn, Campos, Todd, and McClarty) to none (0) opposed.

ATTACHMENTS

Ordinance
Staff Report with Maps
Public Comment Received

Prepared by: Name: <u>Matt Jones</u> Title: <u>Planner II</u> December 7, 2010	Item No. <u>6.6</u>	Disposition by City Council <input type="checkbox"/> Approved Ord/Res# _____ <input type="checkbox"/> Denied <input type="checkbox"/> Other _____ City Secretary
---	---------------------	--

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART B, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

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

PART 1: That Chapter 23, Subpart E, known as the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

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

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

PASSED ON FIRST READING this 16th day of December A.D. 2011.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of November, 2010, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 13th day of January, 2011 to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 13th day of January, A.D.2011.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:



CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

Rezone property from GC (General Commercial) to RS-6 (Single Family Residential) zoning.

Legal Description:

PARK HEIGHTS ABL, BLOCK 7, LOT 19
PARK HEIGHTS ABL, BLOCK 7, LOT 18

Location:

609 and 617 Portland Ave.

-END-

ZONING CASE Z-2010-19

STAFF REPORT



APPLICANT INFORMATION:

Marlen Martinez
City of Abilene

HEARING DATES:

Planning & Zoning Commission: December 6, 2010
City Council 1st Reading: December 16, 2010
City Council 2nd Reading: January 13, 2011

LOCATION:

609 and 617 Portland Ave.

REQUESTED ACTION:

Rezone property from GC to RS-6. The original request was for 617 Portland, in reviewing the area City Staff initiated the request for 609 Portland to be rezoned as well.



SITE CHARACTERISTICS:

The subject parcels total approximately 0.32 acres and are currently zoned CG (General Commercial). The parcels have been developed with residential dwelling units. The adjacent properties have RS-6 (Single Family Residential) zoning to the north and west, and GC to the south, east, and west.

ZONING HISTORY:

The area was annexed in 1911 and was zoned to GC sometime after it was annexed.

ANALYSIS:

- Current Planning Analysis
Currently the properties are zoned GC and have been developed with residential dwelling units. The properties to the north and west are developed with residential dwelling units. The properties to the south and east have been developed as commercial uses.
- Comprehensive Planning Analysis
The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The requested zoning would be compatible with the surrounding residential uses as well as the Comprehensive Plan. The existing units are non conforming uses in GC zoning and this request would make the units conforming, so if they were ever destroyed or demolished in order to rebuild, they could be rebuilt as residential units.

PLANNING STAFF RECOMMENDATION:

Staff recommends approval as requested.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval by a vote of five (5) in favor (Bixby, Glenn, Campos, Todd, and McClarty) to none (0) opposed.

NOTIFICATION:

Property owners within a 200-foot radius were notified of the request.

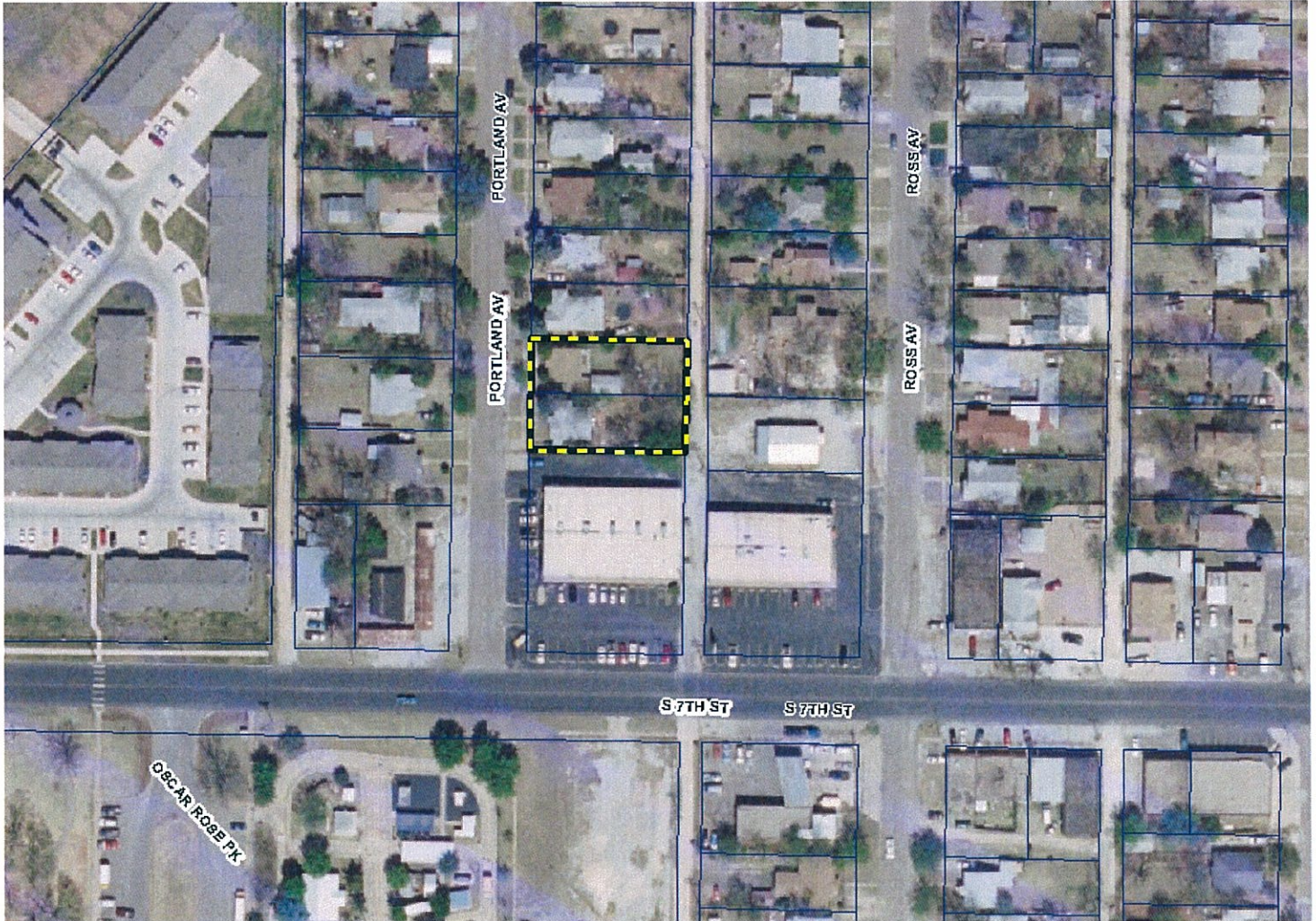
OWNER	ADDRESS	RESPONSE
ROSE PARK SHOPPING CENTER	2526 S 7TH ST	
ROSE PARK SHOPPING CENTER	2502 S 7TH ST	
MORALES CLEMENTE	2602 S 7TH ST	Opposed
PUESCHEL DAX MONROE	517 PORTLAND AV	
MARTINEZ MARLEN	617 PORTLAND AV	
MARTINEZ BIANCA M	602 PORTLAND AV	
STONEHENGE INVESTMENTS LLC	614 PORTLAND AV	
DEGNAN THOMAS E	526 PORTLAND AV	
ALLDREDGE RUBY FAYE	610 PORTLAND AV	
SMITH BILLY RAY	609 PORTLAND AV	In Favor
LOPEZ JUAN CARLOS	526 ROSS AV	
WATTS JANICE L	542 ROSS AV	
VIDRINE KURT R & AMANDA C	602 ROSS AV	
JACQUES EDWARD M & JODI L	2618 S 7TH ST	
FAIRBETTER WILLIAM M	622 PORTLAND AV	In Favor
OWENS CORRIE JEANELL	601 PORTLAND AV	
JONES SCOTT CHRISTOPHER	610 ROSS AV	
RAMIREZ NOEL & MARGIE A	525 PORTLAND AV	
SOLIS ALBERT III & MALINDA	541 PORTLAND AV	
BOYD RUBY	518 ROSS AV	
MARTINEZ BIANCA M	534 PORTLAND AV	
DIAZ HERMILO	533 PORTLAND AV	
WALKER ROBERT W	534 ROSS AV	

2 in Favor- **Y**
 1 Opposed- **N**



6.6 pg. 6







Case # Z-2010-19
Updated: December 7, 2010

Le. legs. 9

City Council
Agenda Memo



City Council
Meeting Date: 12/16/2010

TO: Larry D. Gilley, City Manager

FROM: Jon James, AICP
Director of Planning and Development Services

SUBJECT: First reading on an Ordinance for Case No. Z-2010-20, a request from Joseph Lopez to rezone property from MD (Medium Density Residential) to NO (Neighborhood Retail) zoning, located at 965 EN 10th St.; and setting a public hearing for January 13, 2011.

GENERAL INFORMATION

Currently the property is zoned MD and is developed with a residential dwelling unit. The properties to the west and south are developed with residential dwelling units. The properties to the north and east have been developed as commercial uses. Neighborhood Office seems to be an appropriate zoning for the subject property since the property has frontage along an arterial street and is near the intersection with another arterial street. The zoning request would also create a transitional zoning from the commercial use along N Judge Ely Blvd. to the residential uses to the west along EN 10th St. The required landscaping and buffering will also help to soften the impacts of any development on the surrounding neighborhoods.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The subject property is also along an Enhancement Corridor and part of a Local Community Center as defined by the Comprehensive Plan. The applicant is requesting the zone change to allow for a parking lot for a bank. The requested zoning would be compatible with the surrounding residential uses as well as the Comprehensive Plan.

STAFF RECOMMENDATION

Staff recommends approval as requested.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommended approval by a vote of five (5) in favor (Bixby, Glenn, Campos, Todd, and McClarty) to none (0) opposed.

ATTACHMENTS

Ordinance
Staff Report with Maps
Public Comment Received

Prepared by:

Name: Matt Jones

Title: Planner II

December 7, 2010

Item No. 4.7

Disposition by City Council

- Approved Ord/Res# _____
- Denied _____
- Other _____

City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART B, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

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

PART 1: That Chapter 23, Subpart E, known as the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

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

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

PASSED ON FIRST READING this 16th day of December A.D. 2011.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of November, 2010, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 13th day of January, 2011 to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 13th day of January, A.D. 2011.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:



CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

Rezone property from MD (Medium Density Residential) to NO (Neighborhood Office) zoning.

Legal Description:

RADFORD HILLS SEC 1, BLOCK 1, LOT 23

Location:

965 EN 10th St.

-END-

ZONING CASE Z-2010-20

STAFF REPORT



APPLICANT INFORMATION:

Joseph Lopez

HEARING DATES:

Planning & Zoning Commission: December 6, 2010

City Council 1st Reading: December 16, 2010

City Council 2nd Reading: January 13, 2011

LOCATION:

965 EN 10th Street

REQUESTED ACTION:

Rezone property from MD to NO.



SITE CHARACTERISTICS:

The subject parcel totals approximately 0.20 acres and is currently zoned MD (Medium Density Residential). The parcel has been developed with a residential dwelling unit. The adjacent properties have RS-6 (Single Family Residential) zoning to the south, MD (Medium Density Residential) to the west, GC (General Commercial) to the north across EN 10th St., and GR (General Retail) to the east.

ZONING HISTORY:

The area was annexed in 1957 and was zoned to MD sometime after it was annexed.

ANALYSIS:

- Current Planning Analysis

Currently the property is zoned MD and is developed with a residential dwelling unit. The properties to the west and south are developed with residential dwelling units. The properties to the north and east have been developed as commercial uses.

Neighborhood Office seems to be an appropriate zoning for the subject property since the property has frontage along an arterial street and is near the intersection with another arterial street. The zoning request would also create a transitional zoning from the commercial use along N Judge Ely Blvd. to the residential uses to the west along EN 10th St. The required landscaping and buffering will also help to soften the impacts of any development on the surrounding neighborhoods.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The subject property is also along an Enhancement Corridor and part of a Local Community Center as defined by the Comprehensive Plan. The applicant is requesting the zone change to allow for a parking lot for a bank. The requested zoning would be compatible with the surrounding residential uses as well as the Comprehensive Plan.

PLANNING STAFF RECOMMENDATION:

Staff recommends approval as requested.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval by a vote of five (5) in favor (Bixby, Glenn, Campos, Todd, and McClarty) to none (0) opposed.

NOTIFICATION:

Property owners within a 200-foot radius were notified of the request.

OWNER	ADDRESS	RESPONSE
RINEY LARRY DON & SHERRI ANN	933 HARWELL ST	
PITTMAN DAVID M & AMANDA L	934 RADFORD DR	
RALL MONROE HARLAND &	918 RADFORD DR	In Favor
PATTERSON DEXTER & VICKI	902 RADFORD DR	
MASTERS OPERATING LTD	949 AVENUE F	
CLAY KEITH A	933 EN 10TH ST	
NICHOLSON RANDY TR	934 EN 10TH ST	
FIRST NATIONAL BANK	1010 N JUDGE ELY BL	
BUSCH HOWARD JR	917 EN 10TH ST	
FIRST NATIONAL BANK OF BAIRD	966 N JUDGE ELY BL	
HART DWAIN M	941 HARWELL ST	
EARLY JERRY DON	950 N JUDGE ELY BL	
LEE ROBERT E & PAMELA J	950 RADFORD DR	
GALLAWAY B P	949 EN 10TH ST	
SCHULZ IDA JEAN	965 EN 10TH ST	

1 in Favor- **Y**
0 Opposed- **N**







City Council
Agenda Memo



City Council
Meeting Date: 12/16/2010

TO: Larry D. Gilley, City Manager

FROM: Jon James, AICP
Director of Planning and Development Services

SUBJECT: First reading on Ordinance for Case No. TC-2010-03, a request from Pierre E. Connor, Jr. Life Estate, Stephen Lee Connor Remainderman, and Pierre E. Connor, III Remainderman to abandon a 10' alley right of way north of the 1700 Block of San Jacinto Dr. that extends approximately 800' west of Northway Drive.; and setting a public hearing for January 13, 2011.

GENERAL INFORMATION

Improvements to this alley right-of-way have never been completed. The right-of-way (ROW) was dedicated for public use but they have never been used as such. The 10' dedication is only half of the required 20' for a standard alley ROW.

The applicant is requesting that the ROW be abandoned in order to not have to dedicate the additional 10' alley ROW that is needed, as well as to not have to make improvements to the alley ROW. There are no services provided in the alley ROW and there is no reason to believe that the ROW is needed in this location to serve future development. The ROW is not planned to be improved and the request does not have any negative impacts on the surrounding property owners or the circulation of traffic in the area.

PLAT REVIEW COMMITTEE:

Approval of the requested closures with the following condition, the abandonments are not final until a plat is filed showing the deletion of the right-of-way. The plat should be filed within 18 months.

STAFF RECOMMENDATION:

Approval of the requested abandonment, with the conditions suggested by the Plat Review Committee.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommended approval by a vote of five (5) in favor (Bixby, Glenn, Campos, Todd, and McClarty) to none (0) opposed.

ATTACHMENTS

Ordinance
Staff Report with Maps

Prepared by:

Name: Matt Jones

Title: Planner II

December 7, 2010

Item No. 6.8

Disposition by City Council

Approved Ord/Res#

Denied _____

Other

City Secretary

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF A PORTION OF PUBLIC RIGHT OF WAY; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH ABANDONMENT, AND CALLING A PUBLIC HEARING.

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

PART 1: That the following described portion of a Public Right of Way, as described on Exhibit "A," attached hereto and made a part of this ordinance for all purposes, be, and the same is hereby abandoned, vacated and closed insofar as the right, title or easement of the public is concerned, subject to conditions as stated in Exhibit A.

PART 2: That said portion of a Public Right of Way is not needed for public purposes and it is in the public interest of the City of Abilene to abandon said described portion of a Public Right of Way.

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

PASSED ON FIRST READING this 16th day of December A.D. 2010.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 19th day of November 2010, the same being more than twenty-four (24) hours prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on second and final reading.

PASSED ON FINAL READING THIS 13th day of January, A.D. 2011.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:



CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

The City of Abilene hereby abandons the following thoroughfares:

A 10' alley right-of-way north of the 1700 Block of San Jacinto Drive that extends approximately 800' west of Northway Drive.

The alley right-of-way is indicated and shown in the map below:



With the following conditions:

1. All of the adjacent properties be replatted within 18 months.

-END-

THOROUGHFARE CLOSURE CASE TC-2010-03 STAFF REPORT



APPLICANT INFORMATION:

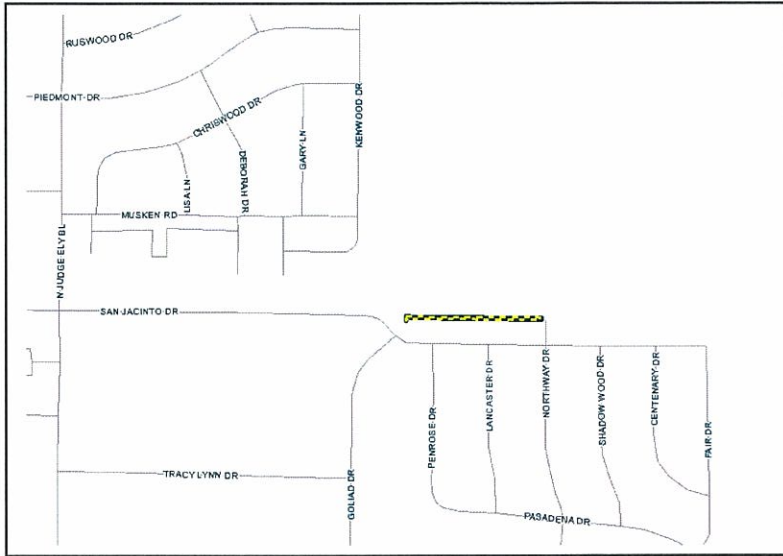
Pierre E. Connor, Jr. Life Estate
Stephen Lee Connor Remainderman
Pierre E. Connor, III Remainderman

HEARING DATES:

Planning & Zoning Commission: December 6, 2010
City Council 1st Reading: December 16, 2010
City Council 2nd Reading: January 13, 2011

REQUESTED ACTION:

Abandon a 10' alley right of way north of the 1700 Block of San Jacinto Dr. that extends approximately 800' west of Northway Drive.



SITE CHARACTERISTICS:

Improvements to this alley right-of-way have never been completed. The right-of-way (ROW) was dedicated for public use but they have never been used as such. The 10' dedication is only half of the required 20' for a standard alley ROW.

REQUEST ANALYSIS:

The applicant is requesting that the ROW be abandoned in order to not have to dedicate the additional 10' alley ROW that is needed, as well as to not have to make improvements to the alley ROW. There are no services provided in the alley ROW and there is no reason to believe that the ROW is needed in this location to serve future development. The ROW is not planned to be improved and the request does not have any negative impacts on the surrounding property owners or the circulation of traffic in the area.

RECOMMENDATIONS:

Plat Review Committee: Approval of the requested closures with the following condition, the abandonments are not final until a plat is filed showing the deletion of the right-of-way. The plat should be filed within 18 months.

Staff Recommendation: Approval of the requested abandonment, with the conditions suggested by the Plat Review Committee.

PLANNING AND ZONING COMMISSION:

The Planning and Zoning Commission recommended approval by a vote of five (5) in favor (Bixby, Glenn, Campos, Todd, and McClarty) to none (0) opposed.

NOTIFICATION:

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

1 in Favor- **Y**
2 Opposed- **N**



OWNER	ADDRESS	RESPONSE
WEST TEXAS UTILITIES CO	1574 SAN JACINTO DR	
CONNER PIERRE E JR		
MC CREARY B C DBA &	450 PENROSE DR	
HAMMOND TODD C	458 LANCASTER DR	In Favor
CROWDER MAXINE WARE	466 NORTHWAY DR	Opposed
GARCIA JUAN C	465 NORTHWAY DR	
MC CREARY B C DBA &	1841 SAN JACINTO DR	
DUNMAN ROSTON I	449 PENROSE DR	
LOPEZ JESSICA	1802 SAN JACINTO DR	
CITY OF ABILENE	1782 SAN JACINTO DR	
WEST TEXAS UTILITIES CO		
TKG SAN JACINTO PL DEV L P		
JENNINGS CAROLYN F ET AL	457 LANCASTER DR	Opposed
MC CREARY B C DBA &	1709 SAN JACINTO DR	
CITY OF ABILENE		







City Council
Agenda Memo

TO: Larry D. Gilley, City Manager **City Council Meeting Date:** 12-16-2010
FROM: Mindy Patterson, Director of Finance *Mindy*
SUBJECT: Award of Bid – Extended Boom Backhoe Loader for Water Utilities, Bid CB-1104

GENERAL INFORMATION

Fleet Management seeks approval to purchase an extended boom backhoe loader to be shared by the Water Distribution and the Sewage Collection divisions of the Water Utilities department. The backhoe is to be utilized in the construction and repair of water lines and leaks. This unit replaces a 1986 backhoe loader and a 1986 trencher, both are worn out and no longer cost effective to maintain.

Advertisements were published on October 3, 2010 and October 10, 2010. Bids were opened on October 19, 2010 at 11:00 A.M. Six (6) bid invitations were requested with five (5) vendors submitting a bid.

SPECIAL CONSIDERATIONS

Abilene New Holland, ASCO and Nueces Power Equipment failed to meet specifications in the following areas: net horsepower, hydraulic system design criteria, and backhoe reach from swing pivot at ground line.

FUNDING/FISCAL IMPACT

Funds for these purchases are to be provided by the Fleet Replacement Fund.

STAFF RECOMMENDATION

It is recommended that Bid CB-1104 be awarded to Warren Cat, in the amount of \$79,544.00.

BID TABULATION

See attached.

Prepared By:
Name Cheri Carter,
Title Fleet Analyst

Item No. 6.9

Disposition by City Council
 Approved **Denied**
 Other **Ord/Res #** _____

City Secretary

City Council
Agenda Memo



City Council
Meeting Date: 12/16/10

TO: Larry D. Gilley, City Manager

FROM: Megan R. Santee, Interim Director of Public Works

A handwritten signature in black ink, appearing to read 'MRS'.

SUBJECT: Award of Bid: CB-1100 CityLink Transfer Lane Rehabilitation Project

GENERAL INFORMATION

The CityLink Transit facility at 1189 S 2nd St was created in 1982 from an automobile dealership facility. The passenger transfer area, located at the southwest corner of S 2nd and Sycamore, consists of a covered area with bus lanes and passenger amenities. The CityLink Transfer Lane Rehabilitation project includes a variety of elements including repair of damaged and deteriorated walkways and curbs; rehabilitation or replacement of facilities, e.g., benches, bike racks, and signage; ADA improvements; painting of the cover; etc. The project will improve the functionality and appearance of the transfer area and create a more pedestrian friendly environment.

FUNDING/FISCAL IMPACT

This project is funded by American Recovery and Reinvestment Act (ARRA) funds. Since ARRA funds are for 100% of the project cost, no local match is required.

STAFF RECOMMENDATION

Staff recommends award of the bid for the CityLink Transfer Lane Rehabilitation Project to Justice Construction for the amount of \$146,400.

ATTACHMENTS

Bid tabulation

<p>Prepared by: Name: <u>James Condry</u> Title: <u>Traffic & Trans Administrator</u></p>	<p>Item No. <u>6.10</u></p>	<p>Disposition by City Council <input type="checkbox"/> Approved Ord/Res# <input type="checkbox"/> Denied _____ <input type="checkbox"/> Other _____ City Secretary</p>
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**CITY OF ABILENE
PURCHASING DIVISION
TABULATION OF BIDS**

DEPARTMENT: CITYLINK BID NO.: CB-1100 TIME OF OPENING: 11:00 A.M. DATE OF OPENING: OCTOBER 21, 2010		JUSTICE CONSTRUCTION ABILENE, TX		DON FAULKNER CONSTRUCTION ABILENE, TX							
ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	CITYLINK TRANSFER LANE REHABILITATION	1	EA		33,200.00		73,800.00				
	ALTERNATE #1				2,525.00		5,000.00				
	ALTERNATE #2				1,690.00		9,900.00				
	ALTERNATE #3				70,040.00		69,500.00				
	ALTERNATE #4				2,300.00		3,000.00				
	ALTERNATE #5				6,320.00		7,900.00				
	ALTERNATE #6				1,725.00		6,700.00				
	ALTERNATE #7				5,700.00		2,000.00				
	ALTERNATE #8				22,900.00		26,000.00				
	BASE BID				146,400.00		203,800.00				
	DISCOUNT										
	TOTAL BID				146,400.00		203,800.00				

*NOTES: INDICATES RECOMMENDED AWARD

6.10pg.2

City Council
Agenda Memo



Meeting Date: 12/16/10

TO: Larry D. Gilley, City Manager
FROM: Megan R. Santee, Interim Director of Public Works *MRS*
SUBJECT: Award of Bid #CB 1103 for Walking Excavator

GENERAL INFORMATION

The purpose of this agenda memo is to purchase a replacement walking excavator for use by the Stormwater Services Division of Public Works. Only one bid was received and opened on October 19, 2010. The bid met specifications on all items except for a proposed alternate for warranty work. Since the City's bidding policies allow the waiver of any and all formalities and technicalities, Stormwater Services Division is agreeable to accepting the bid packet with the alternative warranty information.

FUNDING/FISCAL IMPACT

Funding for the purchase of this item was approved in the FY 2009-2010 budget.

STAFF RECOMMENDATION

The staff recommends that Council award Bid # CB 1103 to GS Equipment Inc., of Tampa, Florida, in the amount of \$346,475.00.

Prepared by:

Name: Brent McClellan

Title: Stormwater Services Administrator

Item No. 6.11

Disposition by City Council

- Approved Ord/Res# _____
- Denied _____
- Other _____

City Secretary

City Council
Agenda Memo



City Council
Meeting Date: December 16, 2010

TO: Larry D. Gilley, City Manager
FROM: Don Green, Director of Aviation
SUBJECT: Oshkosh ARFF Truck Bid Award

GENERAL INFORMATION

Three bids for CB-1101 were received on October 28, 2010 for the purchase of a new Aircraft Rescue and Fire Fighting Truck (ARFF). Oshkosh Corporation had the second lowest base bid at \$562,247, but was the lowest bid with all options exercised; the total Oshkosh award price is \$604,718.55.

This truck replaces a 1990 model ARFF Truck that carries 1,000 gallons of water with a 1,500 gallon truck that meets FAA ARFF requirements. This new truck will give the airport two fully index capable ARFF trucks.

The bid tabulation is attached. This purchase came in below the budgeted amount of \$736,000.

FUNDING/FISCAL IMPACT

This project will be funded 95% by AIP Grant 3-48-0002-39-09 and 5% (\$30,236) by the City.

STAFF RECOMMENDATION

Staff recommends that City Council award Bid No. CB-1101, in the amount not to exceed \$604,718.55, to Oshkosh Corporation.

BOARD OR COMMISSION RECOMMENDATION

The Airport Development Board voted to approve this purchase during its December 8 meeting.

Prepared by:

Name: Don Green

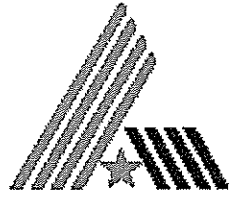
Title: Director of Aviation

Item No. 6.12

Disposition by City Council

- Approved Ord/Res#
- Denied
- Other _____

City Secretary



CITY OF ABILENE

ABILENE REGIONAL AIRPORT

AIRCRAFT RESCUE AND FIRE FIGHTING TRUCK BID CB-1101 TABULATION

	<u>Emergency One</u>	<u>Oshkosh Corp.</u>	<u>Rosenbauer</u>
Base Bid:	\$556,581.00	\$562,247.00	\$568,555.00
Options:	\$ 64,812.58	\$ 42,471.55	\$ 80,250.33
TOTAL:	\$621,393.58	\$604,718.55	\$648,805.33

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