

# CITY COUNCIL

1520 AVENUE K



DATE: 2/9/2015

CALL TO ORDER: 7:00 p.m.

INVOCATION:

PLEDGE OF ALLEGIANCE:

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p>OUR MISSION - THE CITY OF PLANO IS A REGIONAL AND NATIONAL LEADER, PROVIDING OUTSTANDING SERVICES AND FACILITIES THROUGH COOPERATIVE EFFORTS THAT ENGAGE OUR CITIZENS AND THAT CONTRIBUTE TO THE QUALITY OF LIFE IN OUR COMMUNITY.</p> <p><b>The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.</b></p> <p><b><u>PROCLAMATIONS &amp; SPECIAL RECOGNITION</u></b></p> <p>PROCLAMATION: Engineers Week in February recognizes and celebrates engineering achievements.</p> <p><b><u>CERTIFICATES OF APPRECIATION</u></b></p> <p><b><u>Planning and Zoning Commission</u></b></p> <p>Richard Grady</p> <p><b><u>COMMENTS OF PUBLIC INTEREST</u></b></p> <p><b><u>This portion of the meeting is to allow up to five (5) minutes per speaker with thirty (30) total minutes on items of interest or concern and not on items that are on the current agenda. The Council may not discuss these items, but may respond with factual or policy information. The Council may choose to place the item on a future agenda.</u></b></p> <p><b><u>CONSENT AGENDA</u></b></p> <p><b><u>The Consent Agenda will be acted upon in one motion and contains items which are routine and typically noncontroversial. Items may be removed from this agenda for individual discussion by a Council Member, the City Manager or any citizen. Citizens are limited to two (2) items and discussion time of three (3) minutes each.</u></b></p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(a)	<p><b><u>Approval of Minutes</u></b> January 26, 2015</p>	
	<p><b><u>Approval of Expenditures</u></b> <b>Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)</b></p>	
(b)	<p>Bid No. 2015-55-B for the Manhole I/I Barrier Installation, Project No. 6462 for Public Works, to Quality Excavation, LTD in the amount of \$749,920; and authorizing the City Manager to execute all necessary documents.</p>	
(c)	<p>Bid No. 2014-367-C for a one (1) year contract to purchase Tires for Inventory Control &amp; Assets Disposal (ICAD) from American Tire Distributors, A to Z Tire &amp; Battery, Inc., Southern Tire Mart, and Wingfoot Commercial Tire Systems, LLC in the estimated annual amount of \$403,529; and authorizing the City Manager to execute all necessary documents.</p>	
	<p><b>Purchase from an Existing Contract</b></p>	
(d)	<p>To approve the purchase of Brocade network electronics for the Technology Services department in the amount of \$80,753 from Lumenate Technologies, LP, through an existing contract; and authorizing the City Manager to execute all necessary documents. (DIR-TSO-2636)</p>	
(e)	<p>To approve the purchase of Symantec Anti-virus and IT Management Suite Software support in the amount of \$120,988 from Intuitive Technology Group through an existing contract with the State of Texas Department of Information Resources; and authorizing the City Manager to execute all necessary documents. (DIR-SDD-1917)</p>	
	<p><b>Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)</b></p>	
(f)	<p>To approve a Professional Services Agreement by and between the City of Plano and Garver, LLC, in the amount of \$195,587 for the Brennan Drive, Knollwood Drive, Knollwood Court, &amp; Casa Grande Drive Improvements project; and authorizing the City Manager to execute all necessary documents.</p>	
	<p><b>Approval of Expenditure</b></p>	
(g)	<p>To approve an expenditure for installation of a gas main to Oak Point Park and Nature Preserve in the amount of \$119,315 from Atmos Energy and Lowe's Construction LLC; and authorizing the City Manager to execute all necessary documents.</p>	
(h)	<p>To approve the purchase of Smarter Commerce retail point of sale and credit card processing software for Customer and Utility Services in the amount of \$203,897 from Premier Group; and authorizing the City Manager to execute all necessary documents.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><b><u>Adoption of Resolutions</u></b></p> <p>(i) To approve the terms and conditions of a First Modification to the Amended and Restated Economic Development Incentive Agreement by and between the City of Plano, Texas and Denbury Onshore, LLC, a Delaware limited liability company; authorizing its execution by the City Manager; and providing an effective date.</p> <p>(j) To rescind the authorization of the Economic Development Incentive Agreement by and between ZeOmega, Inc., a Delaware corporation, and the City of Plano, Texas, pursuant to Resolution No. 2014-10-1(R); and providing an effective date.</p> <p>(k) To approve the recommendation designating the Repertory Company Theatre be named as the City of Plano's Courtyard Theater Tier 1 Resident Theater Company; authorizing the City Manager to prepare and execute all necessary agreements concerning the Company's use of the Courtyard Theater; and providing an effective date.</p> <p>(l) To appoint William J. Roberts and Scott M. Seidel, licensed attorneys, to serve a two year term as ethics investigators as required by Section 2-104 of the Code of Conduct of the City of Plano; and providing an effective date.</p> <p>(m) To approve the terms and conditions of a Real Estate Contract by and between Schultz Properties, LTD and the City of Plano, Texas for purchase of a 2.628 acre tract of vacant land located at 1106 Avenue K in the City of Plano, Collin County, Texas for future development as a passenger station for the Cotton Belt Rail station; authorizing its execution by the City Manager; and providing an effective date.</p>	
	<p><b><u>Adoption of Ordinances</u></b></p> <p>(n) To abandon all right, title and interest of the City in and to that certain 1.513 Acre Easement and Right-of-Way for Street Purposes known as Texas Drive, recorded in Volume 618, Page 106, of the Deed Records of Collin County, Texas and being situated in the William Beverly Survey, Abstract No. 75, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement and right-of-way to the owner of the property underlying the easement and right-of-way, Rosewood Property Company, to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date.</p> <p><b><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></b></p> <p><b><u>Public Hearing Items: Applicants are limited to fifteen (15) minutes presentation time with a five (5) minute rebuttal, if needed. Remaining speakers are limited to thirty (30) total minutes of testimony time, with three (3) minutes assigned per speaker. The presiding officer may extend these times as deemed necessary.</u></b></p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><b><u>Non-Public Hearing Items: The Presiding Officer may permit limited public comment for items on the agenda not posted for a Public Hearing. The Presiding Officer will establish time limits based upon the number of speaker requests, length of the agenda, and to ensure meeting efficiency, and may include a cumulative time limit. Speakers will be called in the order cards are received until the cumulative time is exhausted.</u></b></p>	
(1)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2014-42 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 6.3± acres of land located on the south side of Plano Parkway, 185± feet west of Preston Road in the City of Plano, Collin County, Texas, from Planned Development-201-Light Commercial with Specific Use Permit #537 for New Car Dealer to Planned Development-494-Light Commercial with Specific Use Permit #537 for New Car Dealer to allow mid-rise residential with modified development standards; directing a change accordingly in the official zoning map of the City; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Winstead, P.C.</p>	
(2)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2014-48 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 6.4± acres of land located on the north side of Park Boulevard, 334± feet east of Los Rios Boulevard in the City of Plano, Collin County, Texas, from Planned Development-13-Retail to Single-Family Residence Attached; directing a change accordingly in the official zoning map of the City; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Lyons Equities, Inc., Trustee Texas Corp.</p>	
(3)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2014-49 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 656 so as to allow the additional use of Single-Family Residence Attached on 6.3± acres of land located on the south side of Park Boulevard, 115± feet west of Molly Lane, in the City of Plano, Collin County, Texas, presently zoned Planned Development-6-Retail; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date. Applicant: Lyons Equities, Inc., Trustee Texas Corp.</p>	
(4)	<p>Public Hearing and consideration of an Appeal of the Planning &amp; Zoning Commission's Denial of Zoning Case 2014-41 - Request to rezone 21.8± acres located at the northwest corner of Independence Parkway and Plano Parkway from Planned Development-373-Retail/General Office to Single-Family Residence Attached. Zoned Planned Development-373-Retail/General Office. Applicant: Plano Parkway Investments LP</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(5)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2014-45 to amend Section 1.600 (Definitions) of Article 1 (General Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, regarding Automobile Repair-Major and Automobile Repair-Minor/Service Station; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano</p>	
(6)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2014-51 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to remove 0.8± acre of the Lexington Park #2 located north of Wolcott Lane and the alley extending to the southwest, from the Haggard Park Heritage Resource District (H-20); thereby retaining only the Planned Development District 179-Downtown Business Government zoning; directing a change accordingly in the official zoning map of the city; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano</p> <p><u>Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal/L Avenue, with specially marked parking spaces nearby. Access and special parking are also available on the north side of the building. The Senator Florence Shapiro Council Chambers is accessible by elevator to the lower level. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.</u></p>	



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/09/2015		
Department:		City Manager's Office		
Department Head		Bruce Glasscock		
Agenda Coordinator (include phone #): <b>Melinda White X7548, Cindy Pierce X5161</b>				
<b>CAPTION</b>				
PROCLAMATION: Engineers Week in February recognizes and celebrates engineering achievements.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
<b>FUND(S):</b>				
<b>COMMENTS:</b>				
<b>SUMMARY OF ITEM</b>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	

**PLANO CITY COUNCIL  
PRELIMINARY OPEN MEETING  
January 26, 2015**

**COUNCIL MEMBERS PRESENT**

Harry LaRosiliere, Mayor  
Lissa Smith, Mayor Pro Tem  
Ben Harris, Deputy Mayor Pro Tem  
Pat Miner  
André Davidson  
Jim Duggan  
Patrick Gallagher  
David Downs

**STAFF PRESENT**

Bruce Glasscock, City Manager  
Frank Turner, Deputy City Manager  
LaShon Ross, Deputy City Manager  
Jim Parrish, Deputy City Manager  
Victoria Huynh, Deputy City Attorney  
Lisa C. Henderson, City Secretary

Mayor LaRosiliere called the meeting to order at 5:00 p.m., Monday, January 26, 2015, in Training Room A of the Municipal Center, 1520 K Avenue. A quorum was present. Mayor LaRosiliere then stated that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated in order to consult with an attorney and receive Legal Advice, Section 551.071; to receive information regarding Economic Development, Section 551.087; and to discuss Real Estate, Section 551.072; for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor LaRosiliere reconvened the meeting back into the Preliminary Open Meeting at 5:55 p.m. in the Senator Florence Shapiro Council Chambers.

**Consideration and action resulting from Executive Session –**

No items were brought forward.

## **Comprehensive Monthly Financial Report**

Director of Finance Tacke advised that the December 2014 report finds General Fund revenues as a percentage of the budget down 1 percent compared to last year while Water and Sewer revenues are up 2.3 percent. She stated that actual General Fund revenues are up \$3.4 million, primarily due to an increase in collection of ad valorem taxes of \$719,000 and sales tax increase of \$1.2 million. She spoke to the improvement in sales tax is due to business to business sales. She advised that General Fund expenditures are up slightly but tracking with last year's expenditures and Water and Sewer expenditures are up slightly. General Fund expenditures are up due to a 3% non-civil and civil service pay increase. She advised that the unemployment rate is at 4.2% and sales tax collections were up \$489,000 for the month. Ms. Tacke spoke to the real estate recap stating properties were on the market an average of 42 days and sold at 99 percent of asking price. Ms. Tacke advised the Water and Sewer revenues and hotel/motel taxes were up for the month.

## **15th Street Portal Project**

Deputy City Manager Turner spoke to the proposed streetscape improvement to the entry into downtown. He stated the 15<sup>th</sup> Street reconstruction project is funded by Tax Increment Financing, Regional Tollway Revenue funds, and County bond funds and the portal project funding is from a \$300,000 TxDOT grant. Mr. Turner introduced David Baldwin of David C. Baldwin, Inc., Landscape Architect to discuss the project. Mr. Baldwin spoke to the scope of the work and provided renderings of the proposed portal project. He stated the project boundary is 15<sup>th</sup> Street from US 75 to the McCall Plaza/DART station area. Mr. Baldwin advised the goal is to create a portal into the downtown area by increasing the median size on 15<sup>th</sup> Street and additional sculptural elements visible from US 75, the underpass and along 15<sup>th</sup> Street toward downtown. Mr. Turner stated the City would be responsible for a portion of the project and future maintenance.

## **Affordable Housing Discussion**

Director of Planning Day spoke to the Low Income Housing Tax Credit (LIHTC) Program, administered by the Texas Department of Housing and Community Affairs, detailing the history, program stability, and the existing affordable rental housing projects in Plano. She stated in the City there are 914 units within five projects dedicated to the elderly and an additional 240 dedicated to general housing in one location. Ms. Day spoke to the City's role in the certification process and the City's current practice of providing resolutions or letters of support.

## **Discussion and direction re: Water Quality Testing**

Director of Public Works Cosgrove spoke to the history of water quality and testing processes. He provided information on the different tests performed, both those required by Texas Commission on Environmental Quality (TCEQ) and supplemental tests to ensure water quality. Mr. Cosgrove discussed water quality indicators, strategies, and goals. He spoke to the cost of testing and that 19,312 tests were performed in 2014, an increase from the 2,764 performed in 2010. Mr.

Cosgrove provided a map designating the areas of testing throughout the city. He requested the Council consider funding the additional staff and operational costs of \$364,515 for water testing required to maintain water quality for all citizens. City Manager Glasscock spoke to the funding coming from the water fund, maintaining the quality of the water, flushing 345 million gallons of water last year, and continued water restrictions. Mr. Cosgrove responded to Deputy Mayor Pro Tem Harris and Council Member Downs in regards to continued testing and binger problems occurring more in the lines. The Council stated concurrence to fund the additional staff and operational costs.

#### **Council items for discussion/action on future agendas**

No items were discussed.

#### **Consent and Regular Agendas**

City Manager Glasscock stated Consent Agenda Item "K" will be pulled from the agenda and postponed to a future meeting and Consent Agenda Item "L" will be pulled for individual consideration.

Nothing further was discussed. Mayor LaRosiliere adjourned the meeting at 6:50 p.m.

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**Harry LaRosiliere, MAYOR**

ATTEST:

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Lisa C. Henderson, City Secretary

**PLANO CITY COUNCIL  
REGULAR SESSION  
January 26, 2015**

**COUNCIL MEMBERS PRESENT**

Harry LaRosiliere, Mayor  
Lissa Smith, Mayor Pro Tem  
Ben Harris, Deputy Mayor Pro Tem  
Pat Miner  
André Davidson  
Patrick Gallagher  
David Downs

**COUNCIL MEMBERS ABSENT**

Jim Duggan

**STAFF PRESENT**

Bruce Glasscock, City Manager  
Frank Turner, Deputy City Manager  
LaShon Ross, Deputy City Manager  
Jim Parrish, Deputy City Manager  
Victoria Huynh, Deputy City Attorney  
Lisa C. Henderson, City Secretary

Mayor LaRosiliere convened the Council into the Regular Session on Monday, January 26, 2015, at 7:00 p.m. in the Senator Florence Shapiro Council Chambers of the Plano Municipal Center, 1520 K Avenue. A quorum was present.

Deacon John O’Leary from Prince of Peace Catholic Community led the invocation and Boy Scout Troop 404 from Prince of Peace Catholic Community led the Pledge of Allegiance and Texas Pledge.

Mayor LaRosiliere presented a proclamation recognizing February as Heart Disease Awareness Month and recognized the Plano Public Library System receiving the Texas Municipal Library Directors Association Achievement of Library Excellence Award.

**Comments of Public Interest**

Drew Karras spoke to the need for additional streets lights due to the recent burglaries.

**CONSENT AGENDA**

Upon a motion made by Council Member Miner and seconded by Mayor Pro Tem Smith, the Council voted 7-0 to approve and adopt all items on the Consent Agenda, with the exception of Consent Agenda Items “K”, to be postponed to a future meeting and Item “L”, to be discussed individually, as recommended and as follows:

### **Approval of Minutes**

January 12, 2015 (Consent Agenda Item “A”)

### **Approval of Expenditures**

#### **Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)**

Bid No. 2015-069-B for BNSF Railroad Right of Way Drainage Improvements – Project No. 6231.1 to 2L Construction, LLC in the amount of \$510,050; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

Bid No. 2015-70-B for the purchase of two (2) blue and one (1) white Chevrolet Tahoe PPV from Caldwell Country Automotive (aka Baby Jack II) in the amount of \$90,375; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “C”)

Bid No. 2015-71-B for the Arterial Pavement Repair Legacy Drive - Independence Parkway to Preston Road, Project No. 6483 for Public Works, to XIT Paving and Construction, Inc. in the amount of \$1,473,177; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “D”)

#### **Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)**

To approve a Landscape Architecture Services Agreement by and between the City of Plano and David McCaskill Design Group in the amount of \$98,360 for design services for Jack Carter Park Renovation and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “E”)

### **Approval of Change Order**

To Gilbert May, Inc. dba Phillips/May Corporation, increasing the contract by \$125,682 for the 15th Street Reconstruction project, Change Order No.1. Original Bid No. 2014-253-B. (Consent Agenda Item “F”)

### **Adoption of Resolutions**

**Resolution No. 2015-1-11(R):** To approve the terms and conditions of an Economic Development Incentive Agreement by and between Ciber, Inc., a Delaware corporation, and the City of Plano, Texas; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “G”)

**Resolution No. 2015-1-12(R):** To approve terms and conditions of a Subdivision Improvement Agreement by and between SWC Tollway & 121, LLC, a Delaware limited liability company, and the City of Plano, Texas for the construction of the realignment of Communications Parkway and Headquarters Drive and the extension of Communications Parkway to the Sam Rayburn Tollway; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “H”)

**Resolution No. 2015-1-13(R):** To approve the terms and conditions of a Communications Facilities License Agreement by and between the City of Plano, Texas, and Clear Wireless, LLC, a Nevada limited liability company, to locate, place, attach, install, and operate, telecommunications ground equipment in certain specific portions of City of Plano public park land, known as the Bluebonnet Trail site; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “I”)

**Resolution No. 2015-1-14(R):** To accept the findings and opinions of the Annual Audit; authorizing the City Manager, or in his absence the Director of Finance, to publish the results thereof; and providing an effective date. (Consent Agenda Item “J”)

## **END OF CONSENT**

**Ordinance No. 2015-1-15:** To amend Article I of Chapter 12, Motor Vehicles and Traffic of the Code of Ordinances of the City of Plano, Texas to add a new Section 12-14 providing that Public Safety Officers be authorized to enforce parking regulations as assigned by the Chief of Police under this chapter; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause, and an effective date. (Consent Agenda Item “L”)

Chief Rushin spoke to the need to use Public Safety Officers to enforce municipal parking ordinances in the downtown area. He stated with the business and residential growth, parking violations have become an issue and the patrol officers do not have the resources to address the issues. City Manager Glasscock stated downtown business owners have requested additional coverage during peak hours, similar to what is available in the Legacy area and that he will be bring a supplemental appropriation back to Council for additional officers at a future meeting.

Upon a motion made by Council Member Davidson and seconded by Council Member Miner, the Council voted 7-0, to amend Article I of Chapter 12, Motor Vehicles and Traffic of the Code of Ordinances of the City of Plano, Texas to add a new Section 12-14 providing that Public Safety Officers be authorized to enforce parking regulations as assigned by the Chief of Police under this chapter; and further to adopt Ordinance No. 2015-1-15.

**Public Hearing and consideration of an Appeal** of the Planning & Zoning Commission's Denial of Zoning Case 2014-32 - Request to rezone 11.5± acres located on the north side of Mapleshade Lane, 1,425± feet west of Coit Road from Corridor Commercial to Planned Development-Corridor Commercial. Zoned Corridor Commercial/190 Tollway/Plano Parkway Overlay District. Applicant: Coit 190 L.P. and Harkins Plano L.P. (Tabled at December 8, 2014 Council meeting.) (Regular Item “1”)

Director of Planning Day stated the Council would need to make a motion to remove the item from the table. Upon a motion made by Council Member Downs and seconded by Council Member Miner, the Council voted 7-0, to remove Zoning Case 2014-32 from the table.

**Public Hearing and consideration of an Appeal (Cont'd.)**

Ms. Day stated the applicant has requested the item be tabled to the February 23, 2015 meeting and the project has been noticed for a public hearing. Mayor LaRosiliere opened the public hearing. No one appeared to speak. Mayor LaRosiliere closed the public hearing.

Upon a motion made by Council Member Davidson and seconded by Mayor Pro Tem Smith, the Council voted 7-0, to table the item to the February 23, 2015 meeting.

Nothing further was discussed. Mayor LaRosiliere adjourned the meeting at 7:24 p.m.

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**Harry LaRosiliere, MAYOR**

ATTEST

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Lisa C. Henderson, City Secretary



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/09/2015		
Department:		Public Works / David Falls		
Department Head		Gerald Cosgrove		
Agenda Coordinator (include phone #): <b>Kim McFarland (972.769.4109)</b>				
<b>CAPTION</b>				
Bid No. 2015-55-B, for the Manhole I/I Barrier Installation Project No. 6462 for Public Works to Quality Excavation, LTD., in the amount of \$749,920 and authorizing the City Manager or his authorized designee to execute all necessary documents.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	<b>2014-15</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
		<b>TOTALS</b>		
Budget		1,442,234	4,457,290	2,300,000
Encumbered/Expended Amount		-1,442,234	-1,357,562	-0
This Item		0	-749,920	0
BALANCE		0	2,349,808	2,300,000
<b>FUND(s):    SEWER CIP &amp; CAPITAL RESERVE FUND</b>				
<p><b>COMMENTS:</b> Funding is available for this item in the Sewer CIP and Capital Reserve Funds. This item, in the amount of \$749,920, will leave a current year balance of \$2,349,808 for further manhole sealing and sidewalk repair projects.</p> <p><b>STRATEGIC PLAN GOAL:</b> Installing new manhole barriers to prevent infiltration and restore structural strength to sanitary sewer infrastructure relates to the City's goals of Financially Strong City with Service Excellence.</p>				
<b>SUMMARY OF ITEM</b>				
<p>Staff recommends the bid for the Manhole I/I Barrier Installation for Public Works to Quality Excavation, LTD., in the amount of \$749,920.00 be accepted as the lowest responsible bid for the project conditioned upon timely execution of all necessary documents.</p> <p>This project involves the installation of 620 manhole barriers to prevent infiltration and restore structural strength in various locations throughout the City of Plano.</p> <p>Engineer's estimate for this project is \$787,000.00.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Bid Recap; Location Map				

# CITY OF PLANO

## BID NO. 2015-55-B Manhole I/I Barrier Installation Project No. 6462 Bid Recap

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**Bid opening Date/Time:** December 9, 2014 @ 2PM

**Number of Vendors Notified:** 2445

**Vendors Submitting "No Bids":** 0

**Bids Evaluated Non-Responsive to Specification:** 0

**Number of Bids Submitted:** 4

<b><u>Vendor Name</u></b>	<b><u>Total Bid</u></b>
Quality Excavation, LTD	\$ 749,920.00
Urban Construction Group	\$1,135,330.00
Jim Bowman Construction Co., L.P.	\$1,264,634.00
Standard Cement Materials	\$2,033,307.00

**Recommended Vendor(s):**

Quality Excavation, LTD \$ 749,920.00

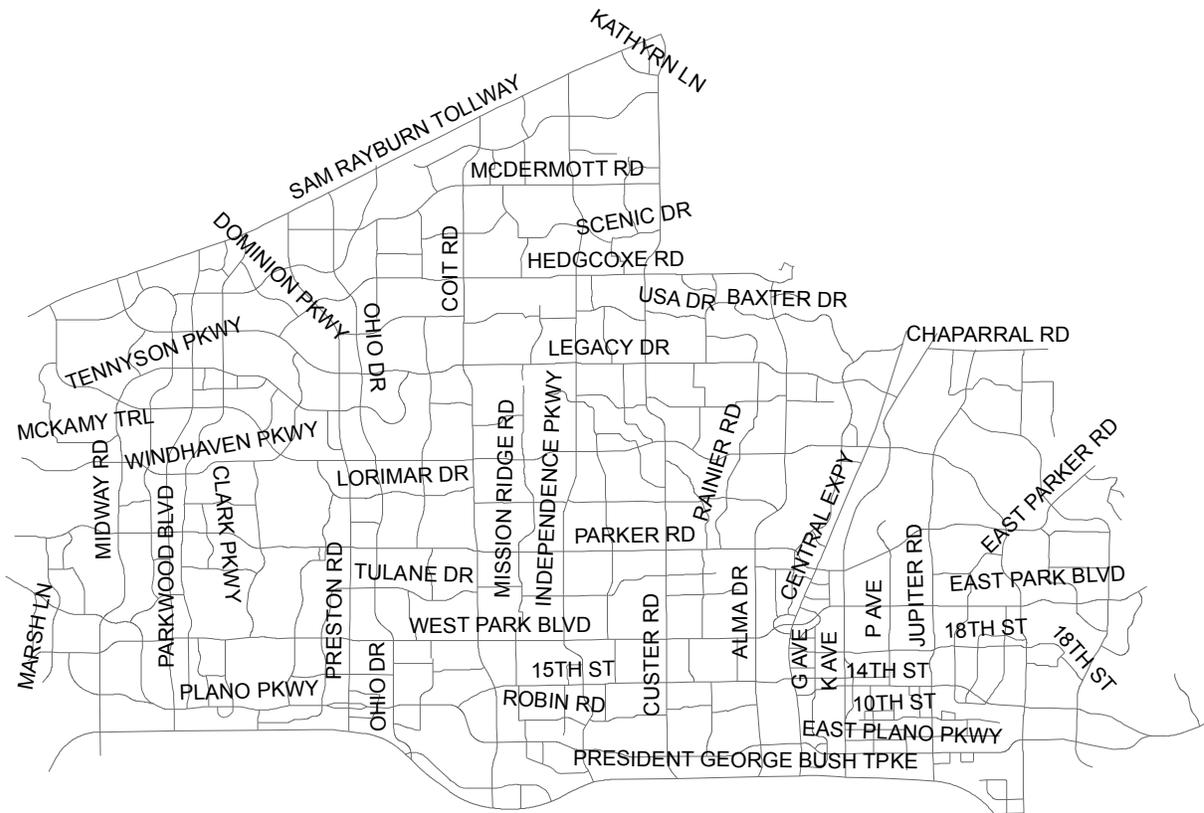
*Nancy Corwin*

\_\_\_\_\_  
Nancy Corwin, Buyer

December 9, 2014

\_\_\_\_\_  
Date

# LOCATION MAP



VARIOUS LOCATIONS  
THROUGHOUT THE CITY OF PLANO



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>		
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory

Council Meeting Date:	February 9, 2015
Department:	Purchasing
Department Head	Diane Palmer-Boeck
Agenda Coordinator (include phone #): <b>Teresa Shelstad Ext: 7539</b>	

**CAPTION**

Bid No. 2014-367-C for a one (1) year contract to purchase Tires for Inventory Control & Assets Disposal (ICAD) from American Tire Distributors, A to Z Tire & Battery, Inc., Southern Tire Mart, and Wingfoot Commercial Tire Systems, LLC in the estimated annual amount of \$403,529, and authorizing the City Manager to execute all necessary documents.

**FINANCIAL SUMMARY**

NOT APPLICABLE    
  OPERATING EXPENSE    
  REVENUE    
  CIP

FISCAL YEAR: <b>2014-15</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	2,161,526	0	<b>2,161,526</b>
Encumbered/Expended Amount	0	-704,529	0	<b>-704,529</b>
This Item	0	-403,529	0	<b>-403,529</b>
BALANCE	0	1,053,468	0	<b>1,053,468</b>

**FUND(S): WAREHOUSE**

**COMMENTS:** Funds are included in the FY 2014-15 Adopted Budget to purchase New Tires for Inventory Control & Assets Disposal (ICAD) stock. Remaining balance will be used for other Inventory purchases.

**STRATEGIC PLAN GOAL:** Providing New Tires for the Warehouse Inventory relates to the City's Goal of a Financially Strong City with Service Excellence.

**SUMMARY OF ITEM**

Staff recommends approval of a one (1) year contract to purchase Tires for Inventory Control & Assets Disposal (ICAD) from American Tire Distributors in the estimated amount of \$246,798 (Line Items: 1,2,3,9,11,14,15,16,20,21,22,23,24,25,26,28,30,33,34,35,36,38,39,40,41,42, and 44), A to Z Tire & Battery, Inc., in the estimated amount of \$58,214 (Line Items: 5,6,7,10,12,17,18,19,27,31,37, and 43), Southern Tire Mart in the estimated amount of \$25,096 (Line Items: 8,13, and 32), and Wingfoot Commercial Tire Systems, LLC in the estimated amount of \$73,421 (Line Items: 4 and 29) in a total estimated annual amount of \$403,529.

List of Supporting Documents: Award Memo Bid Recap	Other Departments, Boards, Commissions or Agencies
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# Memorandum

**Date:** January 26, 2015  
**To:** Teresa Shelstad, Purchasing Buyer  
**From:** Josh Mathewes, Inventory Control/Asset Disposal Supervisor  
**Subject:** Award of Bid #2014-367-C Tires

It is the recommendation from Inventory Control/Asset Disposal (ICAD) based on inventory requirements and Fleet based on specifications to award 2014-367-C by line item as follows versus a total award to one vendor due to the total dollar savings achieved.

A to Z Tire Battery, Inc. provided the lowest bid for line items 1, 4, 8, 9, 11, 14, 20, 22, 23, 25, 26, 28, 30, 32, 34, 35, 38, 39, and 40; however they failed to meet bid specifications. A to Z tire Battery, Inc. did meet specifications and was the lowest bidder on line items 5, 6, 7, 10, 12, 17, 18, 19, 27, 31, 37, and 43.

American Tire Distributors met specifications and provided the lowest bid on lines 2, 3, 15, 16, 21, 24, 42, and 44. Upon tire specification evaluation it was determined that American Tire Distributors also provided the lowest responsive/ responsible bids to meet specifications on line items 1, 9, 11, 14, 20, 22, 23, 25, 26, 28, 30, 33, 34, 35, 36, 38, 39, 40, and 41. American Tire Distributors provided the lowest bid for line items 13 and 37; however they failed to meet specifications. On line item 33 American Tire Distributors provided the lowest bid as an alternate and that tire failed to meet specifications. On line item 34 American Tire Distributors provided an alternate bid and that item also failed to meet specifications. The secondary tires that American Tire Distributors provided bids for, line items 33 and 34 were evaluated and found to meet specifications.

Southern Tire Mart provided the lowest bid that met specifications for line items 8, 13, and 32. A to Z Tire Battery and American Tire Distributors both provided lower bids for those lines; however those bids failed to meet specifications.

Wingfoot Commercial Tire Systems, LLC provided the lowest bid pricing that met specifications for line items 4 and 29. A to Z Tire Battery provided a lower bid for line item 4; however they failed to meet specifications. Wingfoot provided the lowest bid price for line 36; however they failed to meet specifications for that line item.

It is the recommendation of Inventory Control and Asset Disposal to award bid 2014-367-C by line item as follows:

American Tire Distributors:

Line items: 1, 2, 3, 9, 11, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 28, 30, 33, 34, 35, 36, 38, 39, 40, 41, 42, and 44  
Estimated amount: \$246,798

A to Z Tire & Battery, Inc.

Line items: 5, 6, 7, 10, 12, 17, 18, 19, 27, 31, 37, and 43  
Estimated amount: \$58,214

Southern Tire Mart:  
Line items: 8, 13, and 32  
Estimated amount: \$25,096

Wingfoot Commercial Tire Systems, LLC  
Line items: 4 and 29  
Estimated amount: \$73,421

Estimated total overall amount: \$403,529

Failure to award this bid could result in extended lead times, prolonged down time to city Fleet vehicles and equipment, higher procurement costs and the inability to provide inventory in an emergency or maintenance situation.

The specifics of this bid are on file with the Purchasing Division.

Josh Mathewes  
Inventory Control/Asset Disposal  
Supervisor

**CITY OF PLANO**

**BID NO. 2014-367-C  
Tires**

**BID RECAP**

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**Bid opening Date/Time:** October 15, 2014 @ 2:00pm.

**Number of Vendors Notified:** 592

**Vendors Submitting "No Bids":** 0

**Bids Evaluated Non-Responsive to Specifications:** 0

**Number of Bids Submitted Responsive to Bid:** 4

American Tire Distributors	\$432,956 (44/44 items)
A to Z Tire & Battery, Inc.	\$255,029 (43/44 items)
Southern Tire Mart	\$441,124 (44/44 items)
Wingfoot Commercial Tire Systems, LLC	\$564,819 (43/44 items)

**Recommended Vendors:**

<u>American Tire Distributors</u> Line items: 1, 2, 3, 9, 11, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 28, 30, 33, 34, 35, 36, 38, 39, 40, 41, 42, and 44	\$246,798
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<u>A to Z Tire &amp; Battery</u> Line Items: 5, 6, 7, 10, 12, 17, 18, 19, 27, 31, 37, and 43	\$58,214
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<u>Southern Tire Mart</u> Line Items: 8, 13, and 32	\$25,096
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<u>Wingfoot Commercial Tire Systems, LLC</u> Line Item: 4 and 29	\$73,421
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*Teresa Shelstad*

*January 22, 2015*

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Teresa Shelstad  
Buyer I

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Date



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/9/2015		
Department:		Technology Services		
Department Head		David Stephens		
Agenda Coordinator (include phone #): <b>Dianna Wike x7549</b>				
<b>CAPTION</b>				
To approve the purchase of Brocade network electronics for the Technology Services department in the amount of \$80,753 from Lumenate Technologies, LP, through an existing contract and authorizing the City Manager to execute all necessary documents. (DIR-TSO-2636)				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: <b>2014-15</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	1,739,500	0	<b>1,739,500</b>
Encumbered/Expended Amount	0	-33,145	0	<b>-33,145</b>
This Item	0	-80,753	0	<b>-80,753</b>
BALANCE	0	1,625,602	0	<b>1,625,602</b>
<b>FUND(s):     TECHNOLOGY SERVICES REPLACEMENT FUND</b>				
<p><b>COMMENTS:</b> Funding is available in the 2014-15 Technology Services Replacement Fund budget for this item. This item, in the amount of \$80,753, will leave a current year balance of \$1,625,602 available for further replacements of existing servers, switches, routers and storage disk space.</p> <p><b>STRATEGIC PLAN GOAL:</b> Replacing existing network hardware to expand Plano's storage area network relates to the City's goal of Financially Strong City with Service Excellence.</p>				
<b>SUMMARY OF ITEM</b>				
Technology Services staff recommends approval of the purchase of Brocade network electronics utilizing the State of Texas Department of Information Resources Department (DIR) contract in the amount of \$80,753. The City is authorized to purchase from the State Contract list pursuant to Chapter 271 Subchapter D of the Local Government Code and by doing so satisfies any State Law requiring local governments to seek competitive bids for items.				
List of Supporting Documents: Memorandum			Other Departments, Boards, Commissions or Agencies	



# Memorandum

**Date:** January 26, 2015  
**To:** Diane Palmer-Boeck, Purchasing Manager  
**From:** David Stephens, Chief Information Officer  
**Subject:** Purchase of Brocade Network Electronics

Technology Services proposes purchasing Brocade network electronics from Lumenate Technologies, LP to expand the storage area network that is used by Technology Services to provide data storage capabilities to City of Plano departments. This expansion would provide the capability to increase the number of servers that could access the shared storage that is housed at Technology Services. The Brocade equipment would be installed in an existing fibre channel chassis and allow for increased connections to the shared storage.

The selected vendor for the Brocade products is Lumenate and they are authorized to resell this equipment through the Department of Information Resources with the State of Texas. The DIR contract number is DIR-TSO-2636. Lumenate provided the most cost effective solution from three DIR authorized resellers.

This purchase would be for hardware and one year of support in the amount of \$80,752.66.

If these network electronics were not available, Technology Services might not be able to provide data services to City departments in a timely manner. This could have a negative impact on the operations of numerous City departments.



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/9/2015		
Department:		Technology Services		
Department Head		David Stephens		
Agenda Coordinator (include phone #): <b>Dianna Wike x7549</b>				
<b>CAPTION</b>				
To approve the purchase of Symantec Anti-virus and IT Management Suite Software support in the amount of \$120,988 from Intuitive Technology Group through an existing contract with the State of Texas Department of Information Resources and authorizing the City Manager to execute all necessary documents. (DIR-SDD-1917)				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2014-15	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
		<b>TOTALS</b>		
Budget		0	3,304,208	0
Encumbered/Expended Amount		0	-1,963,660	0
This Item		0	-120,988	0
BALANCE		0	1,219,560	0
<b>FUND(s):    TECHNOLOGY SERVICES FUND</b>				
<p><b>COMMENTS:</b> Funding for this item is available in the 2014-15 budget for the Technology Services Fund. This item, in the amount of \$120,988, will leave a current year balance of \$1,219,560 available for other maintenance agreements to support technology and applications used by the City of Plano.</p> <p><b>STRATEGIC PLAN GOAL:</b> Obtaining anti-virus and IT management suite software support relates to the City's goals of Financially Strong City with Service Excellence and Safe Large City.</p>				
<b>SUMMARY OF ITEM</b>				
Technology Services staff recommends approval of the purchase of Symantec Anti-virus and IT Management Suite Software support from Intuitive Technology Group, utilizing their DIR (State of Texas Department of Information Resources) contract in the amount of \$120,988. The City is authorized to purchase from the State Contract list pursuant to Section 271 Subchapter D of the Local Government Code and by doing so satisfies any State Law requiring local governments to seek competitive bids for items. (DIR-SDD-1917)				
List of Supporting Documents: Memorandum			Other Departments, Boards, Commissions or Agencies	



# Memorandum

**Date:** January 21, 2015  
**To:** Diane Palmer-Boeck, Purchasing Manager  
**From:** David Stephens, Chief Information Officer  
**Subject:** Purchase of Symantec Anti-virus and IT Management Suite Software support

Technology Services proposes purchasing software support and maintenance for the Symantec Endpoint Protection Suite and the Symantec IT Management Suite. Intuitive Technology Group is authorized to resell these support and maintenance services through the Department of Information Resources with the State of Texas. The DIR contract number is DIR-SDD-1917. Intuitive Technology Group provided the most cost effective solution from three DIR authorized resellers.

This software support and maintenance provides the City with critical anti-virus updates and access to support for the Symantec IT Management Suite. The anti-virus application is an integral part of our security approach to keeping our data secure at the device level. The IT Management Suite allows the Technology Services Service Desk to provide support to all City staff for their computer issues. This suite allows for local and remote installation of software, remote access to staff PC's to resolve service issues, and overall asset management of all IT related hardware.

The software support is for the period of March 26, 2015 to March 25, 2016 for \$120,987.58

If this support were not available, Technology Services might not be able to resolve device related issues in a timely manner. This could have a negative impact on the operations of numerous City departments.



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/09/2015		
Department:		Engineering		
Department Head:		Jack Carr, P.E.		
Agenda Coordinator (include phone #): <b>Kathleen Schonke (7198)</b>				<b>Project No. 6522</b>
<b>CAPTION</b>				
To approve a Professional Services Agreement by and between the City of Plano and Garver, LLC, in the amount of \$195,587, for the Brennan Drive, Knollwood Drive, Knollwood Court, & Casa Grande Drive Improvements project; and authorizing the City Manager to execute all necessary documents.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: <b>2014-15</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	216,000	1,200,000	<b>1,416,000</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	-195,587	0	<b>-195,587</b>
<b>BALANCE</b>	<b>0</b>	<b>20,413</b>	<b>1,200,000</b>	<b>1,220,413</b>
<b>FUND(S): STREET IMPROVEMENTS CIP</b>				
<p><b>COMMENTS:</b> Funding is available for this item in the 2014-15 Street Improvements CIP. This item, in the amount of \$195,587, will leave a current year balance of \$20,413 available for further improvements on the Brennan Drive, Knollwood Drive, Knollwood Court &amp; Casa Grande Drive Improvements project.</p> <p><b>STRATEGIC PLAN GOAL:</b> Obtaining professional engineering services for street improvement projects relates to the City's goal of Financially Strong City with Service Excellence.</p>				
<b>SUMMARY OF ITEM</b>				
This project includes professional engineering services necessary for the design and construction of improvements on the following streets as indicated:				
<ol style="list-style-type: none"> <li>1. Brennan Drive – Greenway Drive west to alley (730 foot length) – Replace the existing 8-inch water line and street reconstruction.</li> <li>2. Knollwood Drive – Prairie Creek Drive west to cul-de-sac (850 foot length) – Street reconstruction.</li> <li>3. Knollwood Court – Dorchester Drive east to cul-de-sac (510 foot length) – Street reconstruction.</li> <li>4. Casa Grande Drive – Blue Mesa Drive to Isle Royale Drive (457 foot length) – Street reconstruction.</li> </ol>				
The engineering firm, Garver, LLC, was deemed most qualified based upon their SF330 submission and presentation.				



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

The contract fee is for \$195,587.00 and is detailed as follows:

**Basic Services**

1.	Research and Data Collection	\$	6,820.00
2.	Design Survey	\$	39,565.00
3.	Preliminary Design	\$	77,268.00
4.	Final Design	\$	41,390.00
5.	Bid Phase	\$	6,084.00
6.	Construction Administration	\$	10,840.00
7.	Construction Control Survey (included in Design Survey)	\$	0.00
<b>Total Basic Fee</b>			<b>\$ 181,967.00</b>

**Special Services**

8.	Survey – ROW for corner clip (8 ROW parcels with pins @ \$1,320 each; easements w/o pins are \$968 each)	\$	10,560.00
9.	Direct Non-Labor Expenses (Includes document printing/reproduction/assembly; postage/freight/courier or travel costs)	\$	3,060.00
<b>Total Special Services</b>			<b>\$ 13,620.00</b>

**TOTAL FEE    \$    195,587.00**

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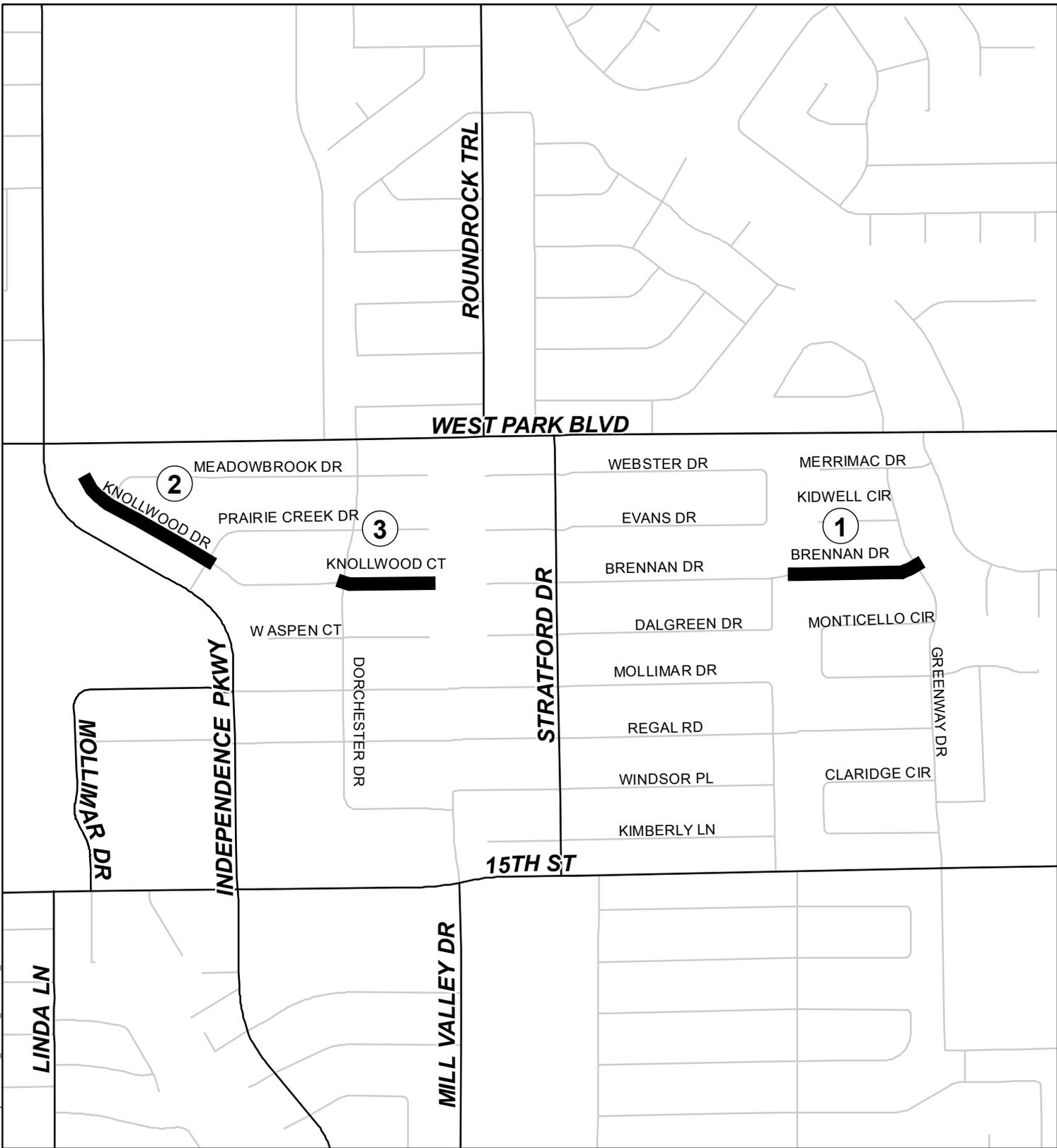
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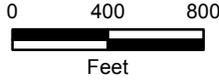
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List of Supporting Documents:  
Location Maps, Agreement

Other Departments, Boards, Commissions or Agencies  
N/A

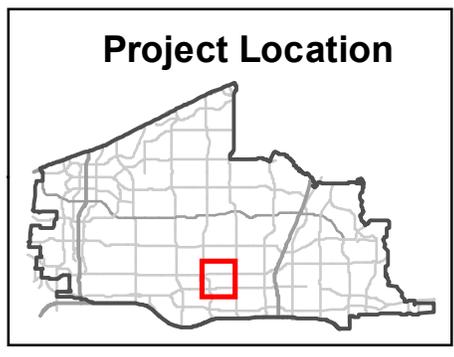


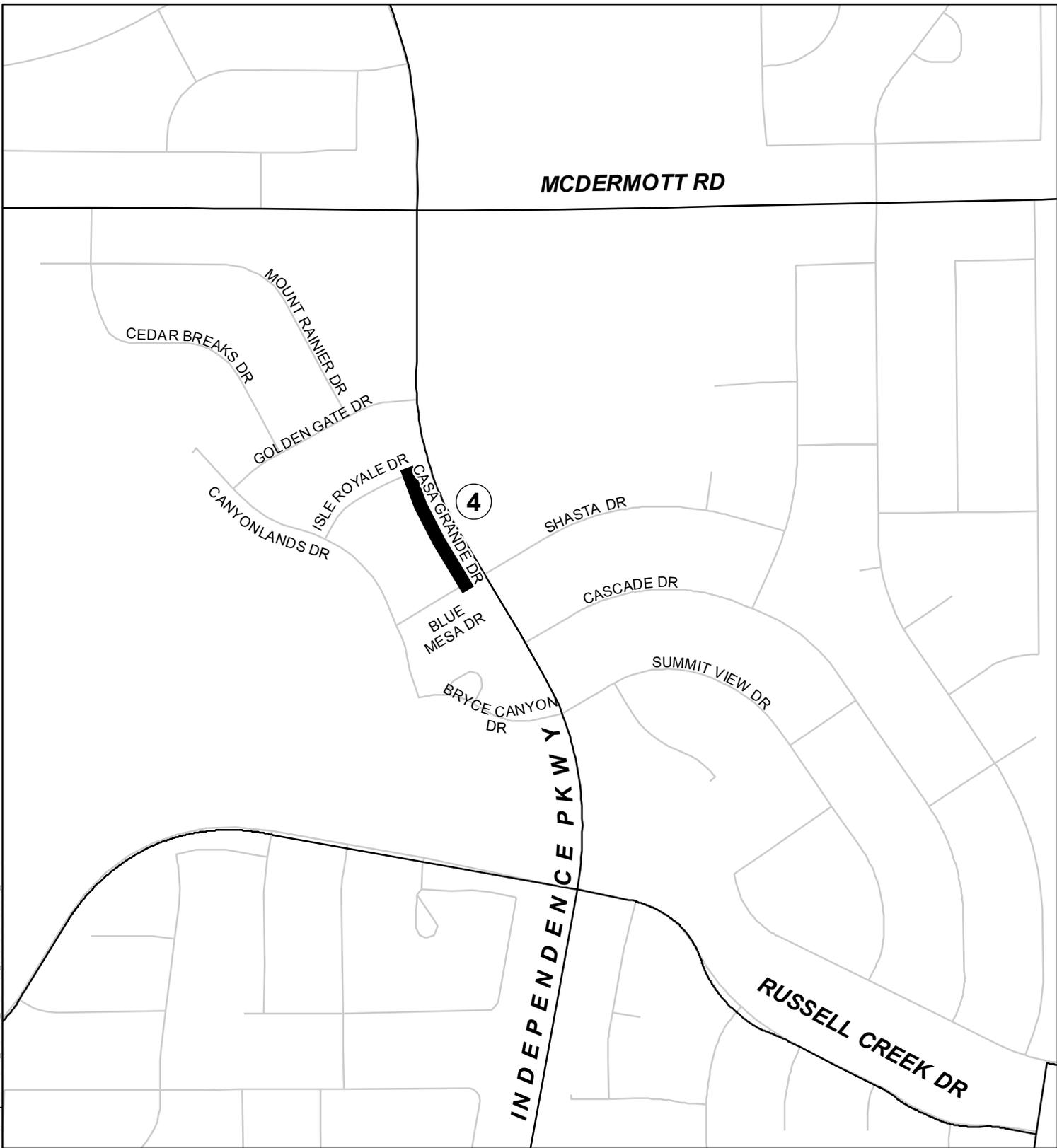
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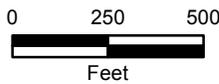
**Brennan Drive, Knollwood Drive,  
Knollwood Court, & Casa Grande  
Drive Improvements  
Project No. 6522**

1/14/2015  
City of Plano GIS Division





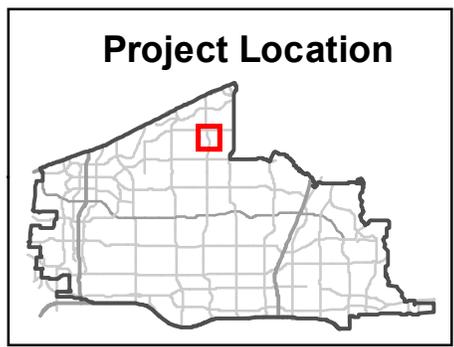
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**Brennan Drive, Knollwood Drive,  
Knollwood Court, & Casa Grande  
Drive Improvements  
Project No. 6522**

**2 of 2**

1/14/2015  
City of Plano GIS Division



**BRENNAN DRIVE, KNOLLWOOD DRIVE, KNOLLWOOD COURT,  
& CASA GRANDE DRIVE IMPROVEMENTS**

**PROJECT NO. 6522**

**ENGINEERING SERVICES AGREEMENT**

**THIS AGREEMENT** is made and entered by and between the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, hereinafter referred to as "City", and **GARVER, LLC**, an **ARKANSAS** Limited Liability Company, Licensed to do Business in the State of Texas, hereinafter referred to as "Engineer", to be effective from and after the date as provided herein.

**WITNESSETH:**

**WHEREAS**, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **BRENNAN DRIVE, KNOLLWOOD DRIVE, KNOLLWOOD COURT, & CASA GRANDE DRIVE IMPROVEMENTS** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

**WHEREAS**, the Engineer desires to render such engineering services for the City upon the terms and conditions provided herein.

**NOW, THEREFORE**, for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

**I. Employment of the Engineer**

The City hereby agrees to retain the Engineer to perform professional engineering services in connection with the Project. Engineer agrees to perform such services in accordance with the terms and conditions of this Agreement.

**II. Scope of Services**

The parties agree that Engineer shall perform such services as are set forth and described in Exhibit "A", which is attached hereto and thereby made a part of this Agreement. The parties understand and agree that deviations or modifications in the form of written contract modifications may be authorized from time to time by the City.

### **III. Schedule of Work**

The Engineer agrees to commence work immediately upon execution of this Agreement, and to proceed diligently with said work, except for delays beyond the reasonable control of Engineer, to completion as described in the Completion Schedule, attached hereto as Exhibit "B" and thereby made a part of this Agreement.

### **IV. Compensation and Method of Payment**

The parties agree that Engineer shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto and incorporated herein as Exhibit "C". The contract amount specified in Exhibit "C" shall not be exceeded without the written permission of the City.

### **V. Information to be Provided by the City**

The City agrees to furnish, prior to commencement of work, all that information requested by Engineer and available in City's files.

### **VI. Insurance**

Engineer agrees to meet all insurance requirements, and to require all consultants who perform work for Engineer to meet all insurance requirements, as set forth on Exhibit "D", which is attached hereto and thereby made a part of this Agreement.

Engineer agrees to notify the City of any changes in insurance policy coverage, including but not limited to changes in limits and cancellation. The Engineer shall notify the City in writing of any changes within forty-eight (48) hours of the change. The Engineer's notice shall include a description of the changes and how those changes vary from the insurance requirements of the contract/agreement.

### **VII. INDEMNITY**

**THE ENGINEER AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY THE ENGINEER'S, OR ITS OFFICER'S, AGENT'S, EMPLOYEE'S, CONSULTANT'S, REPRESENTATIVE'S OR ANY OTHER ENTITY OVER WHICH THE ENGINEER EXERCISES CONTROL'S, NEGLIGENCE, INTENTIONALLY TORTIOUS**

CONDUCT, INFRINGEMENT UPON INTELLECTUAL PROPERTY RIGHTS, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF THE CITY AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE ENGINEERS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

ENGINEER AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF ENGINEER'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ENGINEER'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ENGINEER SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF ENGINEER FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND ENGINEER SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

#### **VIII. Independent Contractor**

Engineer covenants and agrees that Engineer is an independent contractor and not an officer, agent, servant or employee of City; that Engineer shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between City and Engineer, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Engineer.

### **IX. Assignment and Subletting**

The Engineer agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City. The Engineer further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Engineer from its full obligations to the City as provided by this Agreement.

### **X. Audits and Records/Prohibited Interest**

The Engineer agrees that at any time during normal business hours and as often as City may deem necessary, Engineer shall make available to representatives of the City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of one (1) year from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Engineer agrees that it is aware of the prohibited interest requirements of the City Charter and Code of Conduct and will abide by the same. Further, a lawful representative of Engineer shall execute the affidavit shown in Exhibit "E". Engineer understands and agrees that the existence of a prohibited interest during the term of this contract will render the contract voidable.

### **XI. Contract Termination**

The parties agree that City shall have the right to terminate this Agreement with or without cause upon thirty (30) days written notice to Engineer. In the event of such termination, Engineer shall deliver to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Engineer in connection with this Agreement. Engineer shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination.

### **XII. Engineer's Opinion of Probable Construction Costs**

The parties recognize and agree that any and all opinions of probable construction costs prepared by Engineer in connection with the Project represent the best judgment of Engineer as a design professional familiar with the construction industry, but that the Engineer does not guarantee that any bids solicited or received in connection with the Project will not vary from opinions prepared by Engineer.

### **XIII. Ownership of Documents**

Original drawings and specifications are the property of the Engineer; however, the Project is the property of the City and Engineer may not use the drawings and specifications therefor for any purpose not relating to the Project without City's consent. City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article XI, Engineer will revise drawings to reflect changes made during construction and he will promptly furnish the City with one (1) complete set of reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by City. All such reproductions shall be the property of the City who may use them without Engineer's permission for any proper purpose including, but not limited to, additions to or completion of the Project. However, use of the documents for other than their intended purpose shall be at the sole risk of the City.

### **XIV. Complete Contract**

This Agreement, including the Exhibits lettered "A" through "E", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

### **XV. Mailing of Notices**

Unless instructed otherwise in writing, Engineer agrees that all notices or communications to City permitted or required under this Agreement shall be addressed to City at the following address:

City of Plano  
Engineering Department, Suite 250  
Attn: James Caswell, P.E.  
P.O. Box 860358  
Plano, TX 75086-0358

City agrees that all notices or communications to Engineer permitted or required under this Agreement shall be addressed to Engineer at the following address:

Garver, LLC  
Attn: Quinn G. Spann  
3010 Gaylord Parkway, Suite 190  
Frisco, Texas 75034

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

## **XVI. Miscellaneous**

### **A. Paragraph Headings:**

The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

### **B. Contract Interpretation:**

Although this Agreement is drafted by the City, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

### **C. Venue/Governing Law:**

The parties agree that the laws of the State of Texas shall govern this Agreement, and that it is performable in Collin County, Texas. Exclusive venue shall lie in Collin County, Texas.

### **D. Successors and Assigns:**

City and Engineer, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

### **E. Severability:**

In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect.

### **F. Effective Date:**

This Agreement shall be effective from and after execution by both parties hereto.

G. Authority to Sign:

The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

**SIGNED** on the date indicated below.

DATE: January 14, 2015

**GARVER, LLC**  
An Arkansas Limited Liability Company  
LICENSED TO DO BUSINESS IN THE STATE OF TEXAS  
BY:   
Frank McIlwain, P.E.  
VICE PRESIDENT

**CITY OF PLANO, TEXAS**

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Bruce D. Glasscock  
CITY MANAGER

**APPROVED AS TO FORM:**

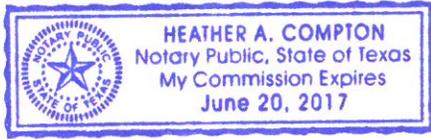
\_\_\_\_\_  
Paige Mims  
CITY ATTORNEY

**ACKNOWLEDGMENTS**

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN   §

This instrument was acknowledged before me on the 14<sup>th</sup> day of January, 2015, by **FRANK MCILLWAIN, P.E., Vice President of Garver, LLC**, an **Arkansas** Limited Liability Company, on behalf of said Limited Liability Company.

Licensed to do Business in the State of Texas,



Heather Compton  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN   §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by **BRUCE D. GLASSCOCK, City Manager**, of the **City of Plano, Texas**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

## EXHIBIT A

### SCOPE OF SERVICES

**Brennan Drive, Knollwood Drive, Knollwood Court, & Casa Grande Drive Improvements  
PROJECT NUMBER 6522  
CIP NUMBER 31466**

#### **PROJECT DESCRIPTION:**

Reconstruction of existing street, sidewalks and drive approaches for Brennan Drive - Greenway Drive west to alley (approximately 730 linear feet) including replacing an 8-inch water line; Knollwood Drive – Prairie Creek Drive west to cul-de-sac (approximately 850 linear feet); Knollwood Court – Dorchester east to cul-de-sac (approximately 510 feet) and Casa Grande – Blue Mesa to Isle Royale – (approximately 457 linear feet). Drainage will evaluate current storm drain system for potential upsizing only within the limits of the street design replacement.

#### **BASIC SERVICES:**

##### **A. Design Standards**

1. This project shall be designed in accordance with the following:

##### **City of Plano:**

- Geodetic Monumentation Manual
- Manual for Right-of-Way Management
- Storm Drainage Design Manual
- Stream Bank Stabilization Manual
- Erosion & Sediment Control Manual
- Thoroughfare Standards Rules & Regulations
- Manual for the Design of Water & Sanitary Sewer Lines
- Standard Construction Details
- Special Provisions to Standard Specifications for Public Works Construction, 1997
- Sample Plan Set
- Parks Department Standard Details for Landscaping & Irrigation

##### **NCTCOG:**

- Standard Specifications for Public Works Construction, 1998 Amendment

##### **ASCE:**

- Publication CI/ASCE 38-02 (Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data)

2. All plans submitted to the City shall be signed and sealed in accordance with state law.

**B. Research and Data Collection –**

1. Meet with City of Plano engineering staff and obtain design criteria, pertinent utility plans, street plans, plats and right-of-way maps, existing easement information, and other information available for the project area.
2. Meet with the City of Plano project manager to conduct an on-site review and walk through.

**C. Design Survey –**

1. Establish a horizontal and vertical control network and project control baseline for the project areas. The network and baseline are to be tied into the existing City of Plano control network.
2. Establish horizontal and vertical project control monumentation.
3. Tie right-of-way lines and corners, property lines and corners, buildings, fence lines, trees 4-inches in diameter and larger, edges of pavements and all other visible surface features to the project control baseline. Existing utility structures shall be located and referenced by utility name (i.e. OnCor Elec., Verizon Telephone, Atmos Gas, Etc.).
4. Vertical topographic information tying pavement, drives, walls, manholes (top and inverts), storm drain inlets (top and inverts), and other improvements as needed within the project areas for the design, 20' beyond the apparent right-of-way.
5. Provide roadway cross sections at a fifty-foot (50') interval relative to the project baseline. Cross sections are for project design review and quantity takeoffs and will be a part of the preliminary and final construction plan set.
6. When underground utilities are exposed, tie to project control baseline.
7. Identify the street address of all adjacent properties to the proposed construction and show on drawings.

**D. Right-of-way and Easement Requirements – (Assumes only 8 corner clips)**

1. Prepare a preliminary list of right-of-way parcels and easements necessary to construct the project (if any). Submit to the City of Plano as soon as possible and prior to the preliminary plan submittal.
2. Meet with the City of Plano Staff to determine easement and right-of-way requirements for preparation of field notes and exhibits.

**E. Preliminary Design –**

1. Prepare preliminary construction plans. Prepare the following sheets at the engineering scale indicated:
  - Cover sheet.
  - Project layout control sheet(s). Scale 1"= 100'.
  - Quantity sheet.
  - Typical sections and detail sheets.
  - Construction phasing and temporary traffic control sheets. Scale 1"= 20' (Scale may be reduced with approval).

- Paving plan & profile sheets for street improvements. Scale 1"= 20' H; 1"=5' V.
- Drainage area map for street improvements. Scale 1"= 100'.
- Storm drain improvement plan & profile sheets. Scale 1"= 20'.
- Construction erosion control plan sheet(s). Scale 1"= 40'.
- SWPPP Narrative sheet meeting TCEQ and City of Plano requirements.
- Replace the existing 8" water line, services, and appurtenances in Brennan Drive only.
- Paving cross sections at 50' intervals. Scale 1"= 20' H; 1"=2' V.

Information required can be combined on sheets if the information can be clearly shown and is approved by the City of Plano project manager.

3. On rehabilitation projects, verify that the existing streetlights meet our coverage requirements.
4. Coordinate with affected utilities such as water, gas, telephone, cable TV and electric to obtain accurate information for the location of their facilities.
5. Prepare an estimate of construction quantities and develop the preliminary statement of probable construction cost.
6. Submit 5 sets of half size (11" x 17" sheets) preliminary plans and preliminary statement of probable construction cost to the City for review.
  - Engineering
  - Public Works
  - Inspectors
  - Transportation
  - File Set
7. Provide an electronic PDF format half size set of preliminary utility coordination drawings (11" x 17" sheets to scale) to the City for distribution to the franchise utility companies affected by the construction. Utility coordination drawings shall include the cover sheet, typical sections, paving sheets, cross sections.
8. Meet with City of Plano staff to discuss City comments on preliminary plans, specifications and cost estimates.

**F. Final Design –**

1. Revise preliminary plans incorporating comments from the City of Plano.
2. Incorporate comments from the utility companies.
3. Show location of street lights on paving plans. Residential street lights and direct bury by Oncor.
4. Finalize construction plans for proposed improvements.
5. Incorporate standard details into the construction plans and prepare additional details as required.
6. Take off final construction quantities and prepare pre-final construction cost estimates.

7. Submit 5 full size (22" x 34") sets of pre-final plans, draft bid schedule, special specifications, and final statement of probable construction cost to the City for review.
8. Provide an electronic PDF format half size set of pre-final utility coordination drawings (11" x 17" sheets to scale) to the City for distribution to the franchise utility companies affected by the construction. Utility coordination drawings shall include the cover sheet, typical sections, and paving sheets.
9. Incorporate City final comments into the plans and bid documents.
10. Prepare the final contract documents, bid schedule, special specifications and technical specifications. The City will provide the front end documents.
11. Attend a utility coordination meeting to start relocation process with affected franchise utilities. Distribute copy of half size (11" x 17") final plans and proposed schedule for bid letting and construction to all affected franchise utilities.

**G. Bid Phase Services –**

1. Assist the City staff in advertising for bids.
2. Submit 2 full size (22" x 34") sets of final blue line prints, two bound copies of the bid documents and one unbound original bid document set to the City of Plano.
3. Assist City staff in conducting a pre-bid conference, if required.
4. Prepare and distribute addenda to bid documents as necessary.
5. Assist City staff as required in bid opening.
6. Submit a CD-ROM disk of the bid set plans in a PDF format.
7. Provide bid tabulation to the City of Plano within four working days of the bid letting.
8. Evaluate the low and second low bidders. Prepare letter of recommendation to the City of Plano for awarding a contract to the lowest responsible bidder within four working days of the bid letting.
9. Assist City staff in a pre-construction conference.
10. Furnish 11 full size (22" x 34") and 4 half size (11" x 17") sets of final construction plans and 5 sets of the contract documents manual to the City for construction.

**H. Construction Administration –**

1. Provide up to 1 site visit per month (Max 3 months) per site by the design engineer, if requested by the City, with a written inspection report submitted to the City for each visit.
2. Provide written responses to requests for information or clarifications.
3. Assist the City staff in conducting the final inspection.
4. Recommend final acceptance of work when acceptable.
5. Prepare construction "Record Drawings" based upon mark-ups and information provided by the construction contractor(s). Submit one blackline set to the City and a CD-ROM disk containing scanned images of the 22" x 34" final "as constructed" blackline drawings (with "record drawing stamps" bearing the date). The drawings shall be scanned 1 to 1 as Group 4 TIF (Group 4 FAX) files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to

enhance image quality (e.g., de-speckling, de-shading, de-skewing, etc.). Each file shall be named in numeric order.

**I. Construction Control Survey –**

1. Set vertical and horizontal control stakes for construction at 500' intervals, or a minimum of one at each end of the project.

**SPECIAL SERVICES:**

**A. Right-of-Way and Easement Surveying –**

1. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for 8 ROW Corner clips on a per parcel basis. Deliver three (3) reviewed and approved originals to the City. Fee shall be based upon 8 corner clips.
2. Set new iron pins at all new ROW corner clips.

## EXHIBIT "B"

### SCHEDULE OF WORK

Brennan Drive, Knollwood Drive, Knollwood Court, & Casa Grande Drive  
Improvements

PROJECT NUMBER 6522

Activity	Duration (working days)
Notice to Proceed	0
Preliminary Design	120
City First Review	15-20
Final Design & Preparation of Special Conditions and Technical Specifications	35
City Second Review	15-20
Revise Final Plans & Specifications	15
City Final Review	5
Assemble Bid Documents	5
Advertise for Bids	12
Receive Bids	0
Research Bidder(s) and Prepare Recommendation	4
Prepare City Council Agenda	20
Council Award	0
Prepare & Execute Contract	30
Schedule Preconstruction Meeting	7
Notice to Proceed	10
Construction	240

A working day is defined as Monday through Friday, excluding City of Plano Holidays.

**EXHIBIT C  
PAYMENT SCHEDULE**

Brennan Drive, Knollwood Drive, Knollwood Court, & Casa Grande Drive Improvements

**PROJECT NUMBER 6522**

<b>WORK STAGE SUBMITTAL OR COMPLETION</b>	<b>TOTAL</b>
<b>BASIC SERVICES</b>	
1. Research and Data Collection	\$ 6,820.00
2. Design Survey	\$ 39,565.00
3. Preliminary Design	\$ 77,268.00
4. Final Design	\$ 41,390.00
5. Bid Phase	\$ 6,084.00
6. Construction Administration	\$ 10,840.00
7. Construction Control Survey (Included in Design Survey)	\$ 0.00
<b><u>Total Basic Fee</u></b>	<b><u>\$181,967.00</u></b>
<b>SPECIAL SERVICES</b>	
8. Survey- ROW for corner clip	\$ 10,560.00
• 8 ROW parcels with pins @ \$1,320 each (Easements w/o pins are \$968 each)	
9. Direct Non-Labor Expenses	\$ 3,060.00
• Includes document printing/reproduction/assembly; postage/freight/courier or travel costs.	
<b><u>Total Special Services</u></b>	<b><u>\$ 13,620.00</u></b>
<b><u>Total Fee</u></b>	<b><u>\$195,587.00</u></b>

**EXHIBIT "D"**  
**ENGINEERING**

**INSURANCE**

**INSURANCE:** (Review this section carefully with your insurance agent prior to bid or proposal submission. See "Insurance Checklist" on the last page or specific coverages applicable to this contract).

**1. General Insurance Requirements:**

- 1.1 The Engineer (hereinafter called "Engineer") shall not start work under this contract until the Engineer has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City. Approval of insurance required of the Engineer will be granted only after submission to the Purchasing Agent of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.
- 1.2 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, without first providing the Risk Manager, City of Plano, at least ten (10) days prior written notice."
- 1.3 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Engineer from any liability or obligation imposed upon the provisions of the Contract.
- 1.4 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under Engineer's General Liability Policy, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.
  - 1.4.1 The following definition of the term "City" applies to all policies issued under the contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Commission Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board Commission, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.
- 1.5 The Engineer shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the Checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.

- 1.6 Engineer agrees to defend and indemnify the City of Plano, its officers, agents and employees as provided in Paragraph VII. of this contract.
- 1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Engineer fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Engineer, and the Engineer shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.
- 1.8 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.
- 1.9 All required insurance coverages must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception.
- 1.10 Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Engineer. Engineer may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

**2. Engineer's Insurance - "Occurrence" Basis:**

- 2.1 The Engineer shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.
  - 2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:
    - i. General aggregate limit is to apply per project;
    - ii. Premises/Operations;
    - iii. Actions of Independent Contractors;
    - iv. Contractual Liability including protection for the Engineer from claims arising out of liability assumed under this contract;
    - v. Personal Injury Liability including coverage for offenses related to employment;
    - vi. Explosion, Collapse, or Underground (XCU) hazards; if applicable. This coverage required for any and all work involving drilling, excavation, etc.
  - 2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.

- 2.1.3 Workers' Compensation - statutory benefits as required by the State of Texas, or other laws as required by labor union agreements, including Employers' Liability coverage.

### **3.0 Engineer's Insurance – Claims Made**

#### Professional Errors and Omissions

The Engineer shall carry Professional Liability insurance which will pay for injuries arising out of negligent errors or omissions in the rendering, or failure to render professional services under the contract, for the term of the Contract and up to three years after the contract is completed in the amount shown in the Checklist.

Professional Errors and Omissions, Limit \$1,000,000  
per claim and aggregate of \$2,000,000

# ENGINEERING

## City of Plano - Insurance Checklist

("X" means the coverage is required.)

<u>Coverages Required</u>	<u>Limits (Figures Denote Minimums)</u>
<input checked="" type="checkbox"/> 1. Workers' Compensation & Employers' Liability	Statutory limits of State of Texas \$100,000 accident \$100,000 disease \$500,000 policy limit disease
<input type="checkbox"/> 2. For Future Use	
<input type="checkbox"/> 3. City Approved Alternative Workers' Comp. Program	\$150,000 medical, safety program
<input checked="" type="checkbox"/> 4. General Liability	Complete entry No. 26 Minimum \$500,000 each occurrence \$1,000,000 general aggregate
<input checked="" type="checkbox"/> 5. General aggregate applies per project (CGL)	
<input checked="" type="checkbox"/> 6. Premises/Operations	(Items No. 3-10 & 12 require)
<input checked="" type="checkbox"/> 7. Independent Contractors	<u>\$500,000</u> combined single limit for bodily injury and property damage
<input type="checkbox"/> 8. Products	damage each occurrence with
<input type="checkbox"/> 9. Completed Operations	\$1,000,000 general aggregate that applies to project under contract
<input checked="" type="checkbox"/> 10. Contractual Liability	
<input checked="" type="checkbox"/> 11. Personal Injury Liability	\$500,000 each offense & aggregate
<input type="checkbox"/> 12. XCU Coverages	
<input checked="" type="checkbox"/> 13. Automobile Liability	\$500,000 Bodily Injury & Property
<input checked="" type="checkbox"/> 14. Owned, Hired & Non-owned	Damage each accident
<input type="checkbox"/> 15. Motor Carrier Act Endorsement	
<input checked="" type="checkbox"/> 16. Professional Liability	\$1,000,000 each claim \$2,000,000 aggregate
<input type="checkbox"/> 17. Garage Liability	\$_____ BI & PD each occurrence





## EXHIBIT "E"

### AFFIDAVIT OF NO PROHIBITED INTEREST AND COMPLIANCE WITH CITY OF PLANO'S EQUAL RIGHTS ORDINANCE

#### **A. No Prohibited Interest**

I, the undersigned, declare that I am authorized to make this statement on behalf of **Garver, LLC**, a Limited Liability Company organized under the laws of the State of Arkansas, and I have made a reasonable inquiry and, to the best of my knowledge, no person or officer of **Garver, LLC**, is employed by the City of Plano or is an elected or appointed official of the City of Plano within the restrictions of the Plano City Charter.

I am aware that Section 11.02 of the City Charter states:

"No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) per cent of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the persons or corporation contracting with the city shall render the contract voidable by the city manager or the city council."

#### **B. Equal Rights Compliance**

1. Section 2-11(F) of the City Code of Ordinances reads as follows:

"It shall be unlawful for an employer to discriminate against any person on the basis of race, color, sex, religion, age, national origin, genetic information, sexual orientation, gender identity, disability status or United States military/veteran status by the following actions or inactions:

- (a) for an employer to fail or refuse to hire, or to discharge, any person;
- (b) for an employer to discriminate against any person with respect to compensation, terms, conditions or privileges, of employment;
- (c) for an employer to limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee;
- (d) for an employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (e) for an employment agency to classify or refer for employment any person, on the basis of a protected employment characteristic;
- (f) for a labor organization to exclude or expel from its membership, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (g) for a labor organization to fail or refuse to refer for employment any person because of a protected employment characteristic;
- (h) for a labor organization to limit, segregate or classify its members or applicants for membership, in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment; or
- (i) for a labor organization to cause or attempt to cause an employer to discriminate against a person in violation of this subsection;

- (j) for an employer, a labor organization or a joint labor-management committee, to discriminate against any person because of a protected employment characteristic in the admission to, or employment in, any program established to provide apprenticeship or other training;
- (k) for an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic;
- (l) for an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic; or
- (m) for a joint labor-management committee to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic."

2. I am aware that my company, its directors, officers and employees must comply with Section 2-11(F) of the City Code of Ordinances unless an exclusion applies, as indicated below. Further, I understand that if Section 2-11(F) applies, I am entitled to apply to the City Manager for a waiver from signing this section of the affidavit based on a conflict with state or federal law. The contract will not be executed prior to the waiver issue being resolved.

Having made reasonable inquiry, I affirm that my company, its directors, officers and employees agree to comply with Section 2-11(F); or my company is excluded from this Ordinance based on the following: **[PLEASE CHECK BELOW, IF APPLICABLE]**

A religious organization.

A political organization.

An educational institution.

A branch or division of the United States government or any of its departments or agencies.

A branch or division of the State of Texas or any of its departments, agencies or political subdivisions.

A private club that is restricted to members of the club and guests and not open to the general public.

Is not an "employer" under Section 2-11(F) because it has not had 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

[THIS SPACE INTENTIONALLY LEFT BLANK]

I also understand and acknowledge that a violation of Section 11.02 of the City Charter or Section 2-11(F) of the City Code of Ordinances, if applicable, at any time during the term of this contract may render the contract voidable by the City.

By: Garver, LLC  
*[Signature]*  
Signature

Frank McIlwain, P.E.  
Print Name

Vice President  
Title

January 14, 2015  
Date

STATE OF TEXAS  
COUNTY OF COLLIN

§  
§  
§



SUBSCRIBED AND SWORN TO before me this 14<sup>TH</sup> day of January, 2015.

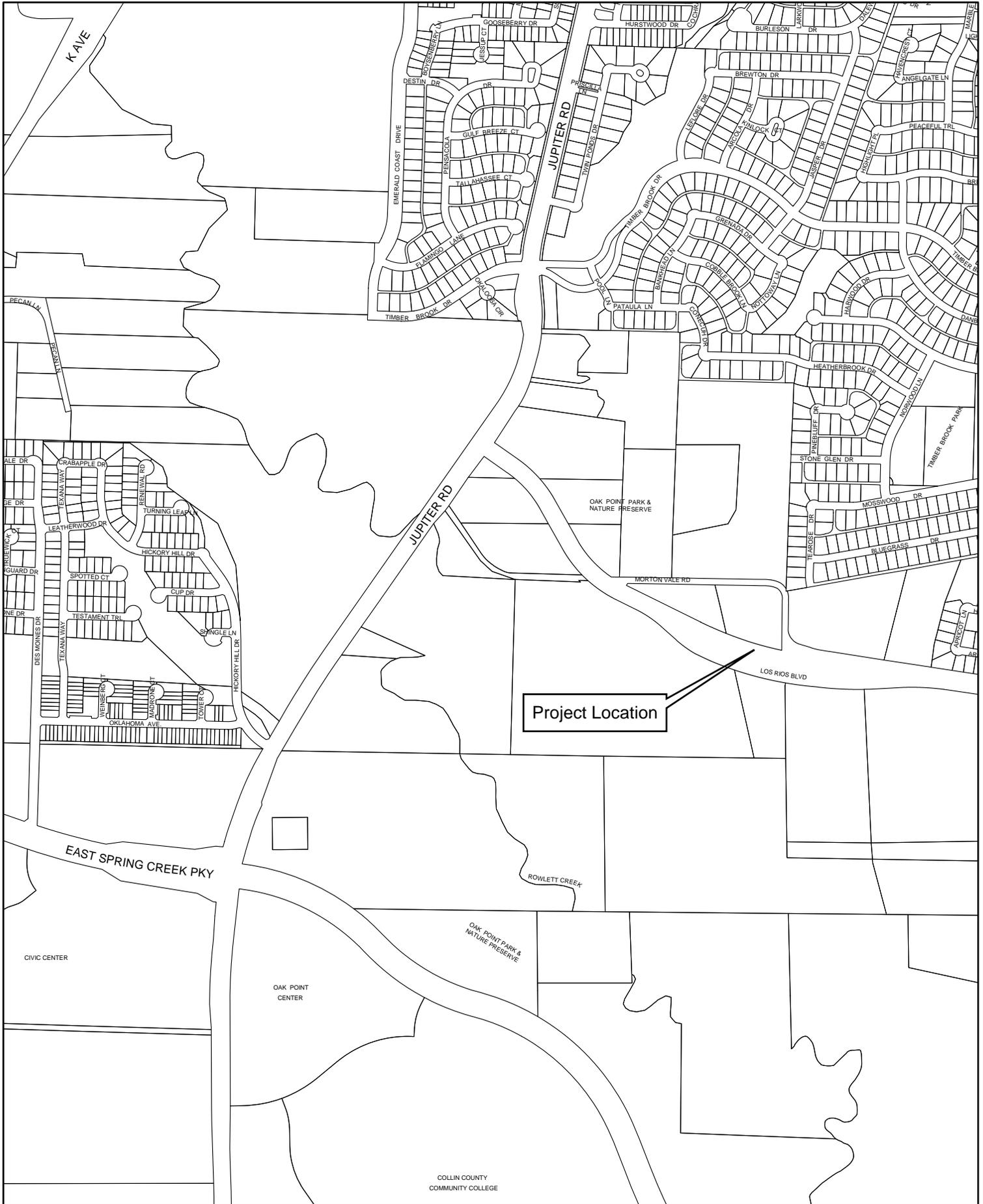
*[Signature]*  
Notary Public, State of Texas



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/9/15		
Department:		Engineering		
Department Head:		Jack Carr		
Agenda Coordinator (include phone #):			<b>Kathleen Schonne (7198)</b>	
			<b>Project No. 5971.1</b>	
<b>CAPTION</b>				
<p>To approve an expenditure for installation of a gas main to Oak Point Park and Nature Preserve in the amount of \$119,315 from Atmos Energy and Lowe's Construction LLC and authorizing the City Manager to execute all necessary documents.</p>				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: <b>2014-15</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	1,057,296	3,156,704	0	<b>4,214,000</b>
Encumbered/Expended Amount	-1,057,296	-1,161,349	0	<b>-2,218,645</b>
This Item	0	-119,315	0	<b>-119,315</b>
BALANCE	<b>0</b>	<b>1,876,040</b>	<b>0</b>	<b>1,876,040</b>
<b>FUND(S):    PARK IMPROVEMENTS CIP</b>				
<p><b>COMMENTS:</b> Funding is available in the 2014-15 Park Improvement CIP for this item. Installation of a gas main, in the amount of \$119,315, will leave a current year balance of \$1,876,040 available for further expenditures at the Oak Point Park and Nature Preserve.</p> <p><b>STRATEGIC PLAN GOAL:</b> Installing utility infrastructure at Plano parks relates to the City's goals of Great Neighborhoods – 1<sup>st</sup> Choice to Live and Financially Strong City with Service Excellence.</p>				
<b>SUMMARY OF ITEM</b>				
<p>The Engineering Department recommends the purchase of a gas main installation to Oak Point Park and Nature Preserve from Atmos Energy and Lowe's Construction LLC in the amount of \$119,315. The sole source utility is Atmos Energy and the authorized contractor for this utility is Lowe's Construction. This gas main is necessary to complete improvements to the Oak Point Park and Nature Preserve. The City is exempt from the competitive bid process for this purchase as allowed by Local Government Code Chapter 252 Subchapter B Section 252.022(a)(7)(C).</p> <p><a href="https://www.google.com/maps/@33.0596279,-96.6707175,17z">https://www.google.com/maps/@33.0596279,-96.6707175,17z</a></p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Location Map, Construction Proposal			N/A	

# Oak Point Park - Los Rios Blvd Gas Main



Project Location



Lowes Construction LLC  
 2501 N. Highway 175  
 Seagoville, TX 75159

# Quote

Date	Quote #
11/14/2014	823

Name / Address
Almos Energy- P Newsome Presley Newsome- 4586 P.O. Box 650205 Dallas, Texas 75265

Rep	Project

Description	Qty	Total
Oak Point- Plano Install 1940' of 6" poly and 1090' of 2" poly IP gas main. Price includes labor and materials. Contract Price	1	119,315.00
<b>Total</b>		<b>\$119,315.00</b>

Thank you for your business.



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		2/9/2015			
Department:		Technology Services			
Department Head		David Stephens			
Agenda Coordinator (include phone #): <b>Dianna Wike x7549</b>					
<b>CAPTION</b>					
To approve the purchase of Smarter Commerce retail point of sale and credit card processing software for Customer and Utility Services in the amount of \$203,897 from Premier Group and authorizing the City Manager to execute all necessary documents.					
<b>FINANCIAL SUMMARY</b>					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	<b>2014-15, 2015-16, 2016-17, 2017-18, 2018-19</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget		395,072	604,928	65,252	<b>1,065,252</b>
Encumbered/Expended Amount		-395,072	-386,662	0	<b>-781,734</b>
This Item		0	-138,645	-65,252	<b>-203,897</b>
BALANCE		0	79,621	0	<b>79,621</b>
<b>FUND(S):    TECHNOLOGY FUND, TECHNOLOGY SERVICES FUND</b>					
<b>COMMENTS:</b> Funding for this item is available in the 2014-15 Technology Fund Budget, and the extended maintenance costs will be covered in future year Technology Services Fund budgets. This item, in the estimated total amount of \$203,897, will leave a current year budget for the Public Sector Software Upgrade project of \$79,621. Future year expenditures will occur with council approved appropriations.					
<b>STRATEGIC PLAN GOAL:</b> Obtaining credit card processing software, implementation, training and support relates to the Council's goal of Financially Strong City with Service Excellence.					
<b>SUMMARY OF ITEM</b>					
The Technology Services Department recommends the purchase of Smarter Commerce retail point of sale and credit card processing software from the sole source provider Premier Group to be integrated with the JD Edwards EnterpriseOne. This will establish an annual contract with a first year amount of \$138,645 for software, implementation, training and maintenance. The annual maintenance costs for an additional 4 year period is in the estimated amount of \$65,252. The City is exempt from the competitive bid process for this purchase as allowed by Local Government Code Chapter 252 Subchapter B Section 252.022(a)(7)(A).					
List of Supporting Documents: Memorandum			Other Departments, Boards, Commissions or Agencies		



# Memorandum

**Date:** January 22, 2015  
**To:** Diane Palmer-Boeck, Purchasing Manager  
**From:** Josh Littrell, Technology Services  
**Subject:** Recommendation of Purchase from Premier Group for Smarter Commerce

Technology Services is recommending that the City purchase Smarter Commerce, retail point of sale (POS) and credit card processing software from Premier Group for Oracle JD Edwards EnterpriseOne. Premier Group is the sole source provider of POS, Collections and Credit Card Processing capabilities for JD Edwards. This will provide a tightly integrated extension of our Financial Enterprise Resource Planning (ERP) and will be used with Utiligy 360, our Utility Billing and Customer Information System (CIS) system.

Utiligy 360 and Smarter Commerce are the replacements for the Utility Billing piece within the legacy Sungard software that are currently being replaced. This consolidation of the billing system into the financial ERP system eliminates the integration between the two systems and will move the largest billing system in with our financial system.

The purchase is in the amount of \$138,645 for FY14-15 which breaks out to \$59,160 for Software and Licensing, \$65,750 for Implementation and Training and \$13,735 for annual Maintenance and Payflow Services. The annual maintenance costs are estimated at \$65,252 for an additional 4 year period with maintenance being 22% of the software costs and not to increase more than the US Consumer Price Index or 7%. Premier Group is a sole source supplier of software maintenance for this suite of applications.

CC: Dianna Wike, Purchasing



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		02/09/2015			
Department:		Economic Development			
Department Head		Sally Bane			
Agenda Coordinator (include phone #): <b>Toshia Kimball x7479</b>					
<b>CAPTION</b>					
A Resolution of the City of Plano, Texas, approving the terms and conditions of a First Modification to the Amended and Restated Economic Development Incentive Agreement by and between the City of Plano, Texas and Denbury Onshore, LLC, a Delaware limited liability company; authorizing its execution by the City Manager or his designee; and providing an effective date.					
<b>FINANCIAL SUMMARY</b>					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	<b>2011-2012 through 2024- 2025</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0
<b>FUND(S):     N/A</b>					
<b>COMMENTS:</b> This item has no fiscal impact. Strategic Plan Goal: Providing economic development incentives relates to the City's goal of Strong Local Economy.					
<b>SUMMARY OF ITEM</b>					
A request from Denbury Onshore, LLC, a Delaware limited liability company, to modify the Amended and Restated Economic Development Incentive Agreement dated September 19, 2012. <a href="http://goo.gl/maps/qxKks">http://goo.gl/maps/qxKks</a>					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Resolution First Modification to the Amended and Restated Economic Development Incentive Agreement					

**A Resolution of the City of Plano, Texas, approving the terms and conditions of a First Modification to the Amended and Restated Economic Development Incentive Agreement by and between the City of Plano, Texas and Denbury Onshore, LLC, a Delaware limited liability company; authorizing its execution by the City Manager or his designee; and providing an effective date.**

**WHEREAS**, the City Council has been presented a proposed First Modification to the Amended and Restated Economic Development Incentive Agreement by and between the City of Plano, Texas (“City”) and Denbury Onshore, LLC, a Delaware limited liability company (“Company”), a substantial copy of which is attached hereto as Exhibit “A” and incorporated herein by reference (hereinafter called “First Modification”); and

**WHEREAS**, City and Company entered into the Amended and Restated Economic Development Incentive Agreement on September 19, 2012 (hereinafter "Agreement") to reflect incentives for the additional expansion of Company’s office space and workforce; and

**WHEREAS**, City and Company desire to modify said Agreement by changing the deadline for securing additional Job Equivalents from April 30, 2015 to April 30, 2018 to accommodate the recent market conditions in the oil industry; and

**WHEREAS**, upon full review and consideration of the First Modification, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or his designee shall be authorized to execute it on behalf of the City of Plano.

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

**Section I.** The terms and conditions of the First Modification, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens are hereby in all things approved.

**Section II.** The City Manager or his designee is hereby authorized to execute the First Modification and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the First Modification.

**Section III.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 9th day of February, 2015.

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Harry LaRosiliere, MAYOR

ATTEST:

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Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

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Paige Mims, CITY ATTORNEY

**THE STATE OF TEXAS** § **First Modification to the Amended**  
§ **and Restated Economic Development**  
§ **Incentive Agreement by and between**  
§ **City of Plano, Texas and Denbury**  
**COUNTY OF COLLIN** § **Onshore, LLC**

This First Modification to the Amended and Restated Economic Development Incentive Agreement (hereinafter "First Modification") is made and entered into by and between the **City of Plano, Texas**, a home-rule municipal corporation (hereinafter "City"), and **Denbury Onshore, LLC**, a Delaware limited liability company (hereinafter "Company"), acting by and through their respective authorized officers and representatives.

**WITNESSETH:**

**WHEREAS**, City and Company entered into the Amended and Restated Economic Development Incentive Agreement on September 19, 2012 (hereinafter "Agreement") to reflect incentives for the additional expansion of Company's office space and workforce; and

**WHEREAS**, City and Company desire to modify said Agreement by changing the deadline for securing additional Job Equivalents from April 30, 2015 to April 30, 2018 to accommodate the recent market conditions in the oil industry; and

**NOW THEREFORE**, the Agreement is incorporated herein as if written word for word. Except as provided below, all other terms and conditions of the Agreement shall remain unchanged and shall remain in full force and effect. In the event of any conflict or inconsistency between the provisions set forth in this First Modification and the Agreement, priority of interpretation shall be in the following order: First Modification, Agreement.

**IN CONSIDERATION** of the foregoing, and for other good and valuable consideration, the parties agree as follows:

**I.**

Beginning on the effective date of this First Modification and continuing through the remaining term of the Agreement, Article III, Section 3.01, Paragraph (f) of the Agreement is amended to read in its entirety as follows:

"(f) Company may create an additional minimum of 150 and up to an additional 200 Job Equivalents above the Baseline Job Equivalents at the property for a total minimum of 750 and up to 800 Job Equivalents at the Property on or before April 30, 2018; and"

## II.

Beginning on the effective date of this First Modification and continuing through the remaining term of the Agreement, Article IV, Section 4.02, Paragraph (b) of the Agreement is amended to read in its entirety as follows:

"(b) By April 30, 2018, the Company shall transfer or create at least an additional 150 Job Equivalents in addition to the Baseline Job Equivalents to the Real Property for a total minimum of 750 Job Equivalents to be eligible to receive an additional grant payment of One Hundred Eighty-Seven Thousand, Five Hundred Dollars (\$187,500). The payment will not be pro-rated. If the Company exceeds the minimum number of Job Equivalents by April 30, 2018, it will be paid One Thousand, Two Hundred Fifty Dollars (\$1,250) for each additional Job Equivalent up to a maximum number of 200 additional Job Equivalents in addition to the Baseline Job Equivalents for a total additional maximum of 800 Job Equivalents and a maximum additional grant payment of Two Hundred Fifty Thousand Dollars (\$250,000). The total amount of all grants paid pursuant to the Agreement shall not exceed Eight Hundred Thirty-Seven Thousand, Five Hundred Dollars (\$837,500) including all prior amounts paid to Company by the City. Job Equivalents added subsequent to April 30, 2018 shall not be compensated. **Company must submit the Certification form attached hereto as Exhibit "A" certifying compliance with the obligations set forth in Article III (b) and (f) not later than August 1, 2018. A failure to provide this form by that date is an event of default and, if not cured, results in an immediate and complete forfeiture of the grant in this Section 4.02(b).**

City will make the payment within thirty (30) days of receipt of the Exhibit "A" certification unless the City reasonably objects to the certification but in no event shall the payment be made before April 30, 2018."

## III.

Beginning on the effective date of this First Modification and continuing through the remaining term of the Agreement, Article VIII, Section 8.04 of the Agreement is amended to read in its entirety as follows:

"8.04 **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth

below (or such other address as such party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered.

If intended for the City:  
City of Plano, Texas  
Attention: Mr. Bruce D. Glasscock  
City Manager  
1520 Avenue K  
P.O. Box 860358  
Plano, TX 75086-0358

With a copy to:  
City of Plano, Texas  
Attention: Ms. Paige Mims  
City Attorney  
1520 Avenue K  
P.O. Box 860358  
Plano, TX 75086-0358

If intended for the Company:  
Denbury Onshore, LLC  
Attention: Mr. Phil Rykhoek  
President and Chief Executive Officer  
5320 Legacy Drive  
Plano, TX 75024

With a copy to:  
Denbury Onshore, LLC  
Attention: Legal Department  
5320 Legacy Drive  
Plano, TX 75024

Denbury Onshore, LLC  
Attention: Mr. Tony Burgess  
Tax Department  
5320 Legacy Drive  
Plano, TX 75024"

#### **IV.**

Beginning on the effective date of this First Modification and continuing through the remaining term of the Agreement, Exhibit "A" is hereby replaced with the attached Exhibit "A".

This First Modification shall be effective upon the last date on which all parties have executed this First Modification.

ATTEST:

CITY OF PLANO, TEXAS, a home-rule  
municipal corporation

\_\_\_\_\_  
Lisa C. Henderson, CITY SECRETARY

\_\_\_\_\_  
Bruce D. Glasscock, CITY MANAGER

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Paige Mims, CITY ATTORNEY

ATTEST:

DENBURY ONSHORE, LLC, a Delaware  
limited liability company

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT "A"**

**CERTIFICATE OF COMPLIANCE FOR GRANT PAYMENT**

**Please check one of the following before signing and returning the certification:**

\_\_\_\_\_ a. I hereby certify that Denbury Onshore, LLC has created \_\_\_\_\_ Job Equivalents at the property by April 30, 2018 in addition to the Baseline Job Equivalents at the Property and is in compliance with each applicable term as set forth in Article III of the Amended and Restated Economic Development Agreement and is entitled to receive payment under the terms of the Agreement. The total number of Job Equivalents at the Property as of April 30, 2018 was \_\_\_\_\_. I further certify that Job Equivalents at the Property have not fallen below the number of Job Equivalents for which Denbury Onshore, LLC has received a grant payment for more than one hundred eighty (180) consecutive days during the term of the Agreement. Denbury Onshore, LLC is entitled to an additional grant payment pursuant to Section 4.02 of the Agreement.

\_\_\_\_\_ b. I hereby certify that Denbury Onshore, LLC has not created at least 150 additional Job Equivalents above the Baseline Equivalents at the Property by April 30, 2018 and is not entitled to an additional grant payment.

ATTEST:

DENBURY ONSHORE, LLC, a Delaware limited liability company

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Date

NOTE:

**This Certificate of Compliance is due by August 1, 2018 and should be mailed to:**

City of Plano  
Finance Department  
P.O. Box 860358  
Plano, Texas 75086-0358



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		02/09/15			
Department:		Economic Development			
Department Head		Sally Bane			
Agenda Coordinator (include phone #): <b>Toshia Kimball X7479</b>					
<b>CAPTION</b>					
A Resolution of the City of Plano, Texas, rescinding the authorization of the Economic Development Incentive Agreement by and between ZeOmega, Inc., a Delaware corporation, and the City of Plano, Texas, pursuant to Resolution No. 2014-10-1(R); and providing an effective date.					
<b>FINANCIAL SUMMARY</b>					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	<b>2014-2015 through 2021- 2022</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget		0	35,930,922	0	<b>35,930,922</b>
Encumbered/Expended Amount		0	-4,791,250	-16,979,000	<b>-21,770,250</b>
This Item		0	82,550	0	<b>82,550</b>
<b>BALANCE</b>		<b>0</b>	<b>31,222,222</b>	<b>-16,979,000</b>	<b>14,243,222</b>
<b>FUND(S):    ECONOMIC DEVELOPMENT INCENTIVE FUND</b>					
<b>COMMENTS:</b> Strategic Plan Goal: Providing economic development incentives relates to the City's goal of Strong Local Economy.					
<b>SUMMARY OF ITEM</b>					
On October 13, 2014, City Council authorized an Economic Development Incentive Agreement by and between ZeOmega, Inc., a Delaware corporation, and the City of Plano. Subsequent to City Council authorization, ZeOmega, Inc. failed to enter into the Agreement. This item rescinds the authorization of the Economic Development Incentive Agreement authorized by Resolution 2014-10-1(R). <a href="http://goo.gl/XcOepW">http://goo.gl/XcOepW</a>					
List of Supporting Documents: Resolution			Other Departments, Boards, Commissions or Agencies		

**A Resolution of the City of Plano, Texas, rescinding the authorization of the Economic Development Incentive Agreement by and between ZeOmega, Inc., a Delaware corporation, and the City of Plano, Texas, pursuant to Resolution No. 2014-10-1(R); and providing an effective date.**

**WHEREAS**, on October 13, 2014, the City Council approved the authorization of an Economic Development Incentive Agreement by and between ZeOmega, Inc., a Delaware corporation, and the City of Plano ("Agreement"); and

**WHEREAS**, subsequent to City Council authorization of the Agreement, ZeOmega, Inc. has failed to enter into the Agreement; and

**WHEREAS**, the City of Plano wishes to rescind the authorization of the Economic Development Incentive Agreement by and between ZeOmega, Inc. and the City of Plano.

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

**Section I.** The City Council rescinds the authorization of the Economic Development Incentive Agreement authorized by Resolution No. 2014-10-1(R).

**Section II.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 9th day of February, 2015.

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Harry LaRosiliere, MAYOR

ATTEST:

---

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

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Paige Mims, CITY ATTORNEY

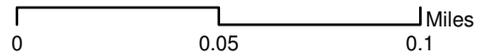
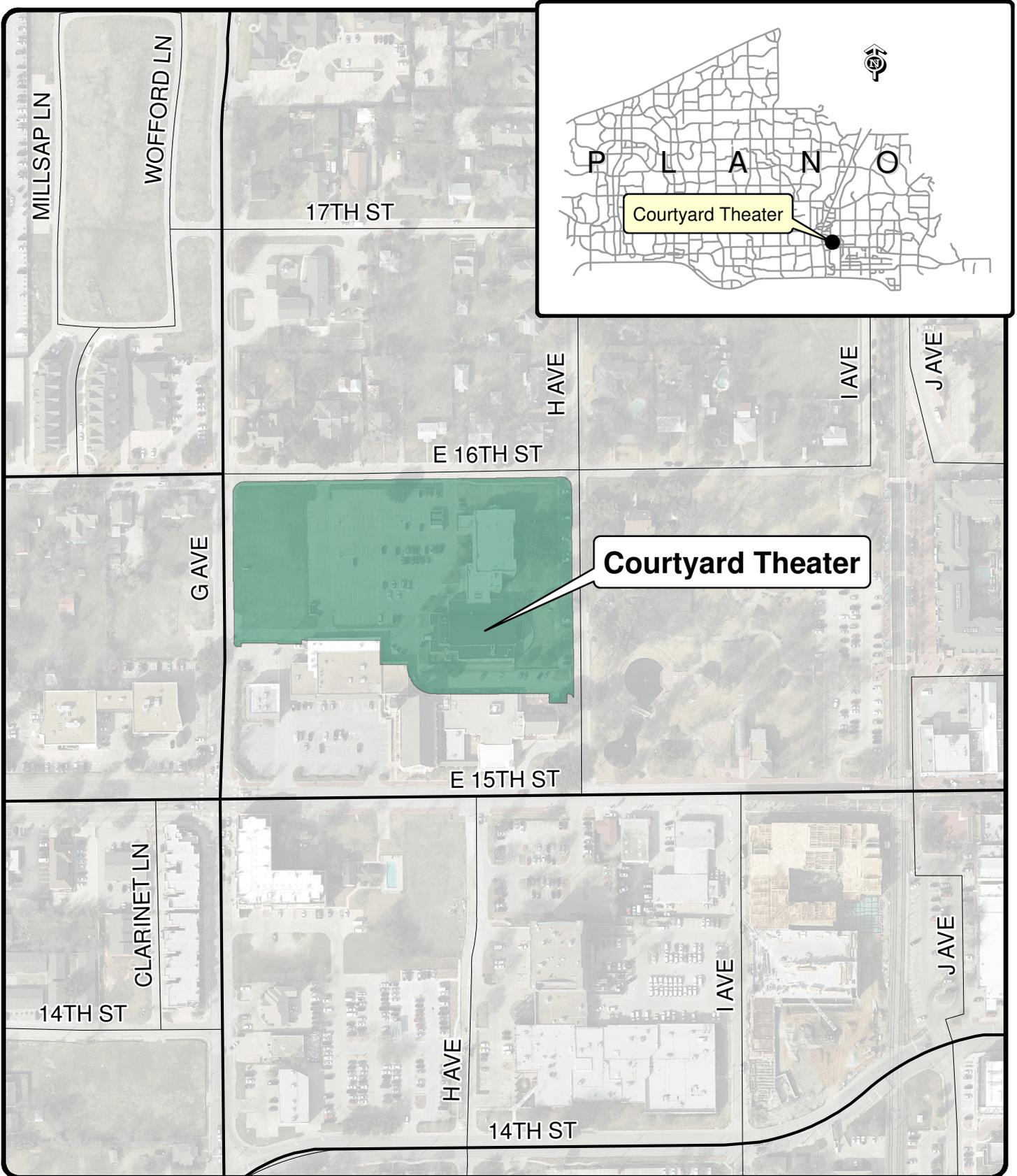


# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/9/15		
Department:		Parks and Recreation		
Department Head		Amy Fortenberry		
Agenda Coordinator (include phone #): <b>Susan Berger (7255)</b>				
<b>CAPTION</b>				
A Resolution of the City of Plano, Texas, approving the recommendation designating the Repertory Company Theatre be named as the City of Plano's Courtyard Theater Tier 1 Resident Theater Company; authorizing the City Manager or his authorized designee to prepare and execute all necessary agreements concerning the Company's use of the Courtyard Theater; and providing an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: <b>2014-15</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	<b>0</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	0	0	<b>0</b>
<b>BALANCE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>FUND(s):     N/A</b>				
<b>COMMENTS:</b> This item has no fiscal impact.				
STRATEGIC PLAN GOAL: Designating a Tier 1 Resident Theater Company relates to the City's goal of a Financially Strong City with Service Excellence.				
<b>SUMMARY OF ITEM</b>				
This item recommends that the City of Plano enter into a negotiated agreement with Repertory Company Theatre (RCT) to become the Courtyard Theater's Tier 1 Resident Theater Company.				
<a href="http://goo.gl/maps/bL9mk">http://goo.gl/maps/bL9mk</a>				
List of Supporting Documents: Location Map Resolution			Other Departments, Boards, Commissions or Agencies	

# Location Map

Courtyard Theater  
1509 H Avenue, Plano, TX 75074



**A Resolution of the City of Plano, Texas, approving the recommendation designating the Repertory Company Theatre be named as the City of Plano's Courtyard Theater Tier 1 Resident Theater Company; authorizing the City Manager or his authorized designee to prepare and execute all necessary agreements concerning the Company's use of the Courtyard Theater; and providing an effective date.**

**WHEREAS**, the City of Plano issued a "Call for Artists," inviting area theater companies to submit proposals to become the Tier 1 Resident Theater Company; and

**WHEREAS**, a selection committee was formed consisting of City of Plano and Plano Independent School District representatives with a thorough review and interview process conducted; the committee has identified the best company to meet the goal of bringing quality contemporary and popular theatrical plays and musicals back to Plano as Repertory Company Theatre.

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

**Section I.** The selection process, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

**Section II.** The City Manager or his authorized designee is hereby authorized to enter into an agreement with Repertory Company Theatre on behalf of the City of Plano.

**Section III.** This Resolution shall become effective from and after its passage.

**DULY PASSED AND APPROVED** this the 9<sup>th</sup> day of February, 2015.

\_\_\_\_\_  
Harry LaRosiliere, MAYOR

ATTEST:

\_\_\_\_\_  
Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Paige Mims, CITY ATTORNEY



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		2/9/15			
Department:		Legal			
Department Head		Paige Mims			
Agenda Coordinator (include phone #): <b>Betsy Allen - 7545</b>					
<b>CAPTION</b>					
A Resolution of the City of Plano, Texas, appointing William J. Roberts and Scott M. Seidel, licensed attorneys, to serve a two year term as ethics investigators as required by Section 2-104 of the Code of Conduct of the City of Plano; and providing an effective date.					
<b>FINANCIAL SUMMARY</b>					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	<b>2014-15 through 2016-17</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0
<b>FUND(S):    N/A</b>					
<b>COMMENTS:</b> This item has no fiscal impact.					
STRATEGIC PLAN GOAL: Appointing Ethics Investigators relates to the City's goal of Financially Strong City with Service Excellence.					
.					
<b>SUMMARY OF ITEM</b>					
This Resolution approves the appointment of William L. Roberts and Scott M. Seidel, licensed attorneys, to serve as ethics investigators as required by the Code of Conduct in the event the Council deems a full investigation is required. Mr. Roberts and Mr. Seidel have been previously appointed and are willing to be reappointed.					
List of Supporting Documents: See attached Resolution			Other Departments, Boards, Commissions or Agencies n/a		

**A Resolution of the City of Plano, Texas, appointing William J. Roberts and Scott M. Seidel, licensed attorneys, to serve a two year term as ethics investigators as required by Section 2-104 of the Code of Conduct of the City of Plano; and providing an effective date.**

**WHEREAS**, pursuant to Sec. 2-104 of the Code of Ordinances, the City Council shall appoint attorneys to serve as ethics investigators as required by the Code of Conduct of the City of Plano; and

**WHEREAS**, William J. Roberts and Scott M. Seidel, licensed attorneys, have agreed to serve as ethics investigators for a two year period from February 9, 2015 to February 8, 2017; and

**WHEREAS**, the Council finds that both Mr. Roberts and Mr. Seidel are qualified to serve as ethics investigators for code of conduct violations.

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

**Section I.** William J. Roberts and Scott M. Seidel are hereby appointed by the City Council to serve as ethics investigators in determining violations of the Code of Conduct of the City of Plano. Their terms are from February 9, 2015 to February 8, 2017.

**Section II.** This Resolution shall become effective immediately after its passage.

**DULY PASSED AND APPROVED** this the 9<sup>th</sup> day of February, 2015.

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Harry LaRosiliere, MAYOR

ATTEST:

---

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

---

Paige Mims, CITY ATTORNEY



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/9/15		
Department:		City Manager		
Department Head		Frank F. Turner		
Agenda Coordinator (include phone #): <b>Monica Martinez - Ext. 7122</b>				
<b>CAPTION</b>				
<p>A Resolution of the City of Plano, Texas, approving the terms and conditions of a Real Estate Contract by and between Schultz Properties, LTD and the City of Plano, Texas for purchase of a 2.628 acre tract of vacant land located at 1106 Avenue K in the City of Plano, Collin County, Texas for future development as a passenger station for the Cotton Belt Rail station; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	<b>2014-2015</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
		0	57,363,295	0
		0	-21,864,545	0
		0	-916,000	0
		0	34,582,750	0
<b>BALANCE</b>				<b>34,582,750</b>
<b>FUND(S):    CAPITAL RESERVE</b>				
<p><b>COMMENTS:</b> Funding for this item is available in the Capital Reserve CIP. Purchase of the property will leave a current year balance of \$34,582,750 available for other Capital Reserve Fund projects. A reimbursement equal to the purchase price is expected from the North Central Texas Council of Governments (NCTCOG) at a future date.</p> <p><b>STRATEGIC PLAN GOAL:</b> Purchasing land for a future Cotton Belt Rail passenger station relates to the City's Goals of Financially Strong City with Service Excellence and Partnering for Community Benefit.</p>				
<b>SUMMARY OF ITEM</b>				
<p>Resolution Approving Real Estate Contract Related to 2.628 Acre Tract located at 1106 Avenue K for future development as a Cotton Belt Rail passenger station.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Resolution; Exhibit "A"; Real Estate Contract				

**A Resolution of the City of Plano, Texas, approving the terms and conditions of a Real Estate Contract by and between Schultz Properties, LTD and the City of Plano, Texas for purchase of a 2.628 acre tract of vacant land located at 1106 Avenue K in the City of Plano, Collin County, Texas for future development as a passenger station for the Cotton Belt Rail station; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.**

**WHEREAS**, City desires to purchase from Schultz Properties, LTD a 2.628 acre tract of vacant land in fee simple located at 1106 Avenue K in the City of Plano, Collin County, Texas ("Property") for development as a passenger station for the Cotton Belt Rail station; and

**WHEREAS**, the City Council has been presented a proposed Real Estate Contract by and between Schultz Properties, LTD and the City of Plano, Texas to provide for the terms and conditions for the sale and purchase of the Property, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Contract"); and

**WHEREAS**, upon full review and consideration of the Contract, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or his authorized designee shall be authorized to execute it on behalf of the City of Plano.

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

**Section I.** The terms and conditions of the Contract, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

**Section II.** The City Manager or his authorized designee is hereby authorized to execute the Contract and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Contract.

**Section III.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 9<sup>th</sup> day of February, 2015.

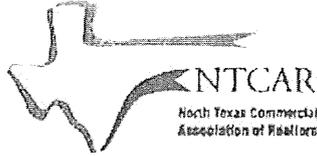
\_\_\_\_\_  
Harry LaRosiliere, MAYOR

ATTEST:

\_\_\_\_\_  
Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Paige Mims, CITY ATTORNEY



**NORTH TEXAS COMMERCIAL ASSOCIATION OF REALTORS®  
COMMERCIAL CONTRACT OF SALE**

*[Check all boxes applicable to this Contract - Boxes not checked do not apply to this Contract]*

In consideration of the agreements contained in this Commercial Contract of Sale (the "Contract"), Seller shall sell and convey to Purchaser, and Purchaser shall buy and pay for, the Property (defined below) pursuant to the provisions, and subject to the conditions, of this Contract.

**1. PARTIES.** The parties to this Contract are:

**Seller:** SCHULTZ PROPERTIES, LTD.  
Address: 9241 LBJ Freeway, Suite 100, Dallas, TX 75243  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

**Purchaser:** CITY OF PLANO AND/OR ASSIGNS  
Address: 1520 Avenue K, Plano, TX 75074  
Phone: 972-941-7000 Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

**2. PROPERTY.** The address of the Property is:  
1106 Avenue K

\_\_\_\_\_ Plano Texas 75074  
The Property is located in Collin County, Texas, the land portion of which is further described as:  
2.628+/- acres of land located immediately north of the "Y" convergence of Avenue K and Municipal Drive

or as described in Exhibit "A", LEGAL DESCRIPTION and/or shown on Exhibit "B", SITE PLAN. The Property includes, all and singular, all improvements and fixtures situated thereon, and all rights and appurtenances pertaining thereto, including any right, title and interest of Seller in and to adjacent streets, alleys, or rights-of-way (such land, improvements, fixtures, rights and appurtenances being collectively herein referred to as the "Property").

SELLER'S INITIALS   *CS*  

PURCHASER'S INITIALS   *CS*

AA  
12-16-14  
\$916,000 @  
~~\$925,000~~ @  
@

3. PURCHASE PRICE.

A. Amount and Payable. The purchase price for the Property is ~~\$925,000.00~~ <sup>\$965,000.00</sup> (the "Purchase Price"), payable at the Closing as follows (with the Earnest Money to be applied to the Purchase Price) *(Check only one)*:

- (1) All in cash (meaning Good Funds, as defined in Section 4E below). If this Contract is subject to approval for Purchaser to obtain financing from a third party, then Addendum B-1, THIRD PARTY FINANCING is attached.
- (2) Part in cash (Good Funds), in the following amount or percentage *(Check only one)*:
  - (a) \$ \_\_\_\_\_.
  - (b) \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the Purchase Price.

If only part of the Purchase Price is to be paid in cash, then the balance of the Purchase Price will be paid according to the provisions in Addendum B-2, SELLER FINANCING. If part of the Purchase Price is to be paid by Purchaser assuming an existing promissory note secured by the Property, or taking the Property subject to an existing promissory note secured by the Property, then Addendum B-3, EXISTING LOAN, is attached.

B. Adjustment. The Purchase Price will be adjusted up or down based upon the land area of the Property as determined by the Survey. The land area will be multiplied by the following amount per acre or square foot, as applicable, and the product will become the Purchase Price at the Closing *(Check only one)*:  \$ \_\_\_\_\_ per acre; or  \$ \_\_\_\_\_ per square foot. The land area for purposes of determining the Purchase Price will be the gross land area of the Property unless this box  is checked, in which case the land area for purposes of determining the Purchase Price will be the Net Land Area [as defined in Section 3A (Survey)] of the Property. Notwithstanding the foregoing, the Purchase Price will not be reduced under this Section 3B to less than \$ \_\_\_\_\_.

4. EARNEST MONEY AND TITLE COMPANY ESCROW.

A. Title Company. The Title Company to serve as escrow agent for this Contract is (the "Title Company"): Republic Title of Texas, Inc. (Ms. Anne Gross)

B. Effective Date. The "Effective Date" is the date the Title Company acknowledges receipt of this fully executed Contract as indicated by the signature block for the Title Company.

C. Earnest Money. Within <sup>seven (7) ~~two (2)~~</sup> Business Days after the Effective Date, Purchaser shall deliver an earnest money deposit in the amount of \$25,000.00 (the "Earnest Money") payable to the Title Company, in its capacity as escrow agent, to be held in escrow pursuant to the terms of this Contract. Seller's acceptance of this Contract is expressly conditioned upon Purchaser's timely deposit of the Earnest Money with the Title Company. If Purchaser fails to timely deposit the Earnest Money with the Title Company, then Seller may, at Seller's option, terminate this Contract by delivering a written termination notice to Purchaser at any time until Purchaser deposits the Earnest Money with the Title Company.

The Title Company shall deposit the Earnest Money in one or more fully insured accounts in one or more federally insured banking or savings institutions. Purchaser hereby instructs the Title

SELLER'S INITIALS AT PURCHASER'S INITIALS [Signature]

Company to promptly deposit the check upon receipt (which instruction may not be retracted without Seller's written consent). After receipt of necessary tax forms from Purchaser, the Title Company will deposit the Earnest Money in an interest bearing account unless this box  is checked, in which case the Title Company will not be required to deposit the Earnest Money in an interest bearing account. Any interest earned on the Earnest Money will become a part of the Earnest Money. At the Closing, the Earnest Money will be applied to the Purchase Price or, at Purchaser's option, will be returned to Purchaser upon full payment of the Purchase Price.

**D. Independent Consideration.** Notwithstanding anything in this Contract to the contrary, a portion of the Earnest Money in the amount of \$100.00 will be non-refundable and will be distributed to Seller upon any termination of this Contract as independent consideration for Seller's performance under this Contract. If this Contract is properly terminated by Purchaser pursuant to a right of termination granted to Purchaser by any provision of this Contract, the Earnest Money will be promptly returned to Purchaser. Any provision of this Contract that states that the Earnest Money is to be returned to Purchaser means that the Earnest Money, less the non-refundable portion, is to be returned to Purchaser.

**E. Escrow.** The Earnest Money is deposited with the Title Company with the understanding that the Title Company is not: (1) responsible for the performance or non-performance of any party to this Contract; or (2) liable for interest on the funds except to the extent interest has been earned after the funds have been deposited in an interest bearing account.

**F. Definition of Good Funds.** "Good Funds" means currently available funds, in United States dollars, paid in the form of a certified check, cashier's check, official bank check or wire transfer acceptable to the Title Company, such that the payment may not be stopped by the paying party. Any reference in this Contract to "cash" means Good Funds.

## 5. SURVEY AND TITLE.

**A. Survey.** Within twenty (20) days after the Effective Date *[Check only one]:*

- Seller shall deliver to Purchaser a new survey (the "Survey") of the Property prepared at Seller's expense.
- Seller shall deliver to Purchaser a new survey (the "Survey") of the Property prepared at Purchaser's expense.
- Seller shall deliver to Purchaser a new survey (the "Survey") of the Property prepared at Purchaser's expense, and Seller will give a credit to Purchaser against the Purchase Price at the Closing for the cost of the Survey in an amount not to exceed \$ \_\_\_\_\_.
- Seller shall deliver to Purchaser a copy of the most recent existing survey (the "Survey") of the Property in Seller's possession. Seller shall also deliver an Affidavit to the Title Company, in form and substance reasonably satisfactory to the Title Company, stating that none of the improvements on the Property and other matters shown by the existing Survey have changed since the existing Survey was prepared. If Purchaser, Purchaser's lender or the Title Company requires a new survey for any reason, then Purchaser shall pay for the cost of the new Survey, and *[check only one]:*  Seller will not be required to pay for any portion of the cost of the new Survey; or  Seller will give a credit to Purchaser against the Purchase Price at the Closing for the cost of the new Survey in an amount not to exceed \$ \_\_\_\_\_.

SELLER'S INITIALS

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Any new Survey must:

- (1) be prepared by a Registered Professional Land Surveyor;
- (2) be in a form reasonably acceptable to Purchaser and the Title Company;
- (3) set forth a legal description of the Property by metes and bounds or by reference to a platted lot or lots;
- (4) show that the Survey was made on the ground with corners marked with monuments either found or placed;
- (5) show any discrepancies or conflicts in boundaries, and any visible encroachments;
- (6) contain the surveyor's certificate that the Survey is true and correct; and
- (7) show the location and size of all of the following on or immediately adjacent to the Property, if any, if recorded or visible and apparent:
  - (a) buildings,
  - (b) building set back lines (as shown on any recorded plat, but not as may be described in any restrictive covenants or zoning ordinances),
  - (c) streets and roads,
  - (d) 100-year flood plain (approximate location),
  - (e) improvements,
  - (f) encroachments,
  - (g) easements,
  - (h) recording information of recorded easements,
  - (i) pavements,
  - (j) protrusions,
  - (k) fences,
  - (l) rights-of-way, and
  - (m) any markers or other visible evidence of utilities.

Any area of the Property within the 100-year flood plain will be shown on the Survey as the approximate location of the 100-year flood plain as defined by the Federal Emergency Management Agency or other applicable governmental authority. If the area within any 100-year flood plain is to be deducted for the purpose of determining Net Land Area (defined below), then the Survey must show the area of the Property covered by the 100-year flood plain, and that area, as reasonably determined by the surveyor, will be conclusive for purposes of this Contract, even though the surveyor may qualify that determination as approximate.

After the delivery of the Survey, the legal description of the Property set forth in the Survey will be incorporated in this Contract as the legal description of the Property, and will be used in the deed and any other documents requiring a legal description of the Property.

The Survey must show the gross land area of the Property, and if the Purchase Price is based upon the Net Land Area then the Survey must also show the Net Land Area, expressed in both acres and square feet. The term "Net Land Area" means the gross land area of the Property less the area within any of the following (if recorded or visible and apparent, but excluding those within set back areas) [Check all that apply]:

- utility easements;
- drainage easements;
- access easements;
- rights-of-way;
- 100-year flood plain; and
- any encroachments on the Property.

SELLER'S INITIALS



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**B. Title Commitment.** Within twenty (20) days after the Effective Date, Seller shall deliver or cause to be delivered to Purchaser:

- (1) A title commitment (the "Title Commitment") covering the Property binding the Title Company to issue a Texas Owner Policy of Title Insurance (the "Title Policy") on the standard form prescribed by the Texas Department of Insurance at the Closing, in the full amount of the Purchase Price, insuring Purchaser's fee simple title to the Property to be good and indefeasible, subject only to the Permitted Exceptions (defined below); and
- (2) the following (collectively, the "Title Documents"):
  - (a) true and legible copies of all recorded instruments affecting the Property and recited as exceptions in the Title Commitment;
  - (b) a current tax certificate;
  - (c) any written notices required by applicable statutes, including those referenced in Section 17; and
  - (d) if the Property includes any personal property, UCC search reports pertaining to the Seller.

## 6. REVIEW OF SURVEY AND TITLE.

**A. Title Review Period.** Purchaser will have twenty (20) days (the "Title Review Period") after receipt of the last of the Survey, Title Commitment and Title Documents to review them and to deliver a written notice to Seller stating any objections Purchaser may have to them or any item disclosed by them. Purchaser's failure to object within the time provided will be a waiver of the right to object. Any item to which Purchaser does not object will be deemed a "Permitted Exception." The items set forth on Schedule C of the Title Commitment, and any other items the Title Company identifies to be released upon the Closing, will be deemed objections by Purchaser. Zoning ordinances and the lien for current taxes are deemed to be Permitted Exceptions.

**B. Cure Period.** If Purchaser delivers any written objections to Seller within the Title Review Period, then Seller shall make a good faith attempt to cure the objections within ten (10) days (the "Cure Period") after receipt of the objections. However, Seller is not required to incur any cost to do so. If Seller cannot cure the objections within the Cure Period, Seller may deliver a written notice to Purchaser, before expiration of the Cure Period, stating whether Seller is committed to cure the objections at or before the Closing. If Seller does not cure the objections within the Cure Period, or does not timely deliver the notice, or does not commit in the notice to fully cure all of the objections at or before the Closing, then Purchaser may terminate this Contract by delivering a written notice to Seller on or before the earlier to occur of: (1) the date that is seven (7) days after the expiration of the Cure Period; or (2) the scheduled Closing Date.

**C. New Items.** If any new items are disclosed by any updated Survey, updated Title Commitment, or any new Title Documents, that were not disclosed to Purchaser when the Survey, Title Commitment, and Title Documents were first delivered to Purchaser, then Purchaser will have fifteen (15) days to review the new items and to deliver a written notice to Seller stating any objections Purchaser may have to the new items. If Purchaser timely delivers any written objections as to the new items to Seller, then Seller shall make a good faith attempt to cure the objections to the new items within ten (10) days (the "Additional Cure Period") after receipt of the objections as to the new items. However, Seller is not required to incur any cost to do so. If Seller does not cure the objections as to the new items within the Additional Cure Period, or does not deliver a written notice to Purchaser before the expiration of the Additional Cure Period stating whether Seller is committed to cure the objections as to the new items at or before the Closing, then Purchaser may terminate this Contract by delivering a written notice to Seller on or before the earlier to occur of: (1) the date that is seven (7) days after the expiration of the Additional Cure Period; or (2) the scheduled Closing Date.

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written notice to Seller on or before the earlier to occur of: (1) that date that is seven (7) days after the expiration of the Additional Cure Period; or (2) the scheduled Closing Date.

**D. Return of Earnest Money or Waiver.** If Purchaser properly and timely terminates this Contract, the Earnest Money will be returned to Purchaser. If Purchaser does not properly and timely terminate this Contract, then Purchaser will be deemed to have waived any uncured objections and must accept title at the Closing subject to the uncured objections and other Permitted Exceptions. Seller's failure to cure Purchaser's objections under this Section 6 does not constitute a default by Seller.

**7. SELLER'S REPRESENTATIONS.**

**A. Statements.** Seller represents to Purchaser, to the best of Seller's knowledge, as follows:

(1) **Title.** At the Closing, Seller will convey to Purchaser good and indefeasible fee simple title to the Property free and clear of any and all liens, assessments, easements, security interests and other encumbrances except the Permitted Exceptions. Delivery of the Title Policy pursuant to Section 12 (the Closing) will be deemed to satisfy the obligation of Seller as to the sufficiency of title required under this Contract. However, delivery of the Title Policy will not release Seller from the warranties of title set forth in the warranty deed.

(2) **Leases.** There are no parties in possession of any portion of the Property as lessees, tenants at sufferance or trespassers except tenants under written leases delivered to Purchaser pursuant to this Contract.

(3) **Liens and Debts.** There are no mechanic's liens, Uniform Commercial Code liens or unrecorded liens against the Property, and Seller shall not allow any such liens to attach to the Property before the Closing that will not be satisfied out of the Closing proceeds. All obligations of Seller arising from the ownership and operation of the Property and any business operated on the Property, including, but not limited to, taxes, leasing commissions, salaries, contracts, and similar agreements, have been paid or will be paid before the Closing. Except for obligations for which provisions are made in this Contract for prorating at the Closing and any indebtedness taken subject to or assumed, there will be no obligations of Seller with respect to the Property outstanding as of the Closing.

(4) **Litigation.** There is no pending or threatened litigation, condemnation, or assessment affecting the Property. Seller shall promptly advise Purchaser of any litigation, condemnation or assessment affecting the Property that is instituted after the Effective Date.

(5) **Material Defects.** Seller has disclosed to Purchaser any and all known conditions of a material nature with respect to the Property which may affect the health or safety of any occupant of the Property. Except as disclosed in writing by Seller to Purchaser, the Property has no known latent structural defects or construction defects of a material nature, and none of the improvements have been constructed with materials known to be a potential health hazard to occupants of the Property.

(6) **Hazardous Materials.** Except as otherwise disclosed in writing by Seller to Purchaser, the Property (including any improvements) does not contain any Hazardous Materials (defined below) other than lawful quantities properly stored in containers in compliance with applicable laws.

**B. Remedies.** If Purchaser discovers, before the Closing, that any of Seller's representations has been misrepresented in a material respect, Purchaser may notify Seller of the misrepresentation in writing, and Seller shall attempt to correct the misrepresentation. If the misrepresentation is not corrected by Seller before the Closing, Purchaser may: (1) proceed to Closing, without waiving any SELLER'S INITIALS \_\_\_\_\_ PURCHASER'S INITIALS \_\_\_\_\_

claim for misrepresentation; or (2) terminate this Contract by delivering a written termination notice to Seller, in which case the Earnest Money will be returned to Purchaser.

C. **Negative Covenants.** After the Effective Date, Seller shall not, without Purchaser's prior written approval: (1) further encumber the Property or allow an encumbrance upon the title to the Property, or modify the terms of any existing encumbrance, if the encumbrance would still be in effect after Closing; or (2) enter into any lease or contract affecting the Property, if the lease or contract would still be in effect after Closing. However, Seller may enter into a lease or contract with an independent third party, in the ordinary course of business, without Purchaser's consent, if Purchaser will be entitled to terminate the lease or contract after Closing, without incurring any termination charge, by delivering a termination notice thirty (30) days in advance of the termination date. If Seller enters into any lease or contract affecting the Property after the Effective Date, then Seller shall immediately deliver a photocopy of the signed document to Purchaser.

8. **NONCONFORMANCE.** Purchaser has or will independently investigate and verify to Purchaser's satisfaction the extent of any limitations of uses of the Property. Purchaser acknowledges that the current use of the Property or the improvements located on the Property (or both) may not conform to applicable Federal, State or municipal laws, ordinances, codes or regulations. Zoning, permitted uses, height limitations, setback requirements, minimum parking requirements, limitations on coverage of improvements to total area of land, Americans with Disabilities Act requirements, wetlands restrictions and other matters may have a significant economic impact upon the intended use of the Property by Purchaser. However, if Seller is aware of pending zoning changes and/or current nonconformance with any Federal, State or local laws, ordinances, codes or regulations, Seller shall disclose same to Purchaser.

9. **INSPECTION. [Check only one]**

A. **Inspection Desired.** Purchaser desires to inspect the Property and Seller grants to Purchaser the right to inspect the Property as described in Addendum C. INSPECTION.

B. **Inspection Not Necessary.** Purchaser acknowledges that Purchaser has inspected the Property, including all buildings and improvements, and is thoroughly familiar with their condition. Purchaser accepts the Property in its present "AS IS" condition, and any changes caused by normal wear and tear before the Closing, but without waiving Purchaser's rights by virtue of Seller's representations expressed in this Contract.

10. **CASUALTY LOSS AND CONDEMNATION.**

A. **Damage or Destruction.** All risk of loss to the Property will remain upon Seller before the Closing. If the Property is damaged or destroyed by fire or other casualty to a Material Extent (defined below), then Purchaser may terminate this Contract by delivering a written termination notice to Seller within ten (10) days after the date the casualty occurred (and in any event before the Closing), in which case the Earnest Money will be returned to Purchaser. If the Property is damaged by fire or other casualty to less than a Material Extent, the parties shall proceed to the Closing as provided in this Contract. If the transaction is to proceed to the Closing, despite any damage or destruction, there will be no reduction in the Purchase Price and Seller shall either: (1) fully repair the damage before the Closing, at Seller's expense; or (2) give a credit to Purchaser at the Closing for the entire cost of repairing the Property. The term "Material Extent" means damage or destruction where the cost of repair exceeds ten percent (10%) of the Purchase Price. If the repairs cannot be completed before the Closing Date, or the cost of repairing the Property cannot be determined before the Closing Date, then either party may postpone the Closing Date by delivering a written notice to the other party specifying an extended Closing Date that is not more than thirty (30) days after the previously scheduled Closing Date.

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*if applicable*  with the survey exception modified at Seller's expense to read "any shortages in area," or  with the survey exception modified at Purchaser's expense to read "any shortages in area;"

(3) A Bill of Sale conveying the personal property, if any, including, but not limited to, any described on Addendum A, IMPROVED PROPERTY, free and clear of liens, security interests and encumbrances, subject only to the Permitted Exceptions (to the extent applicable);

(4) Possession of the Property, subject to valid existing leases disclosed by Seller to Purchaser and other applicable Permitted Exceptions;

(5) An executed assignment of all leases, if there are any leases affecting the Property;

(6) A current rent roll certified by Seller to be complete and accurate, if there are any leases affecting the Property;

(7) Evidence of Seller's authority and capacity to close this transaction; and

(8) All other documents reasonably required by the Title Company to close this transaction.

**C. Purchaser's Closing Obligations.** At the Closing, Purchaser shall deliver to Seller, at Purchaser's expense:

(1) The cash portion of the Purchase Price (with the Earnest Money being applied to the Purchase Price);

(2) The Note and the Deed of Trust, if Addendum B-2, SELLER FINANCING, is attached;

~~(3) An Assumption Agreement in recordable form agreeing to pay all commissions payable under any lease affecting the Property;~~

(4) Evidence of Purchaser's authority and capacity to close this transaction; and

(5) All other documents reasonably required by the Title Company to close this transaction.

**D. Closing Costs.** Each party shall pay its share of the closing costs which are customarily paid by a seller or purchaser in a transaction of this character in the county where the Property is located, or as otherwise agreed.

**E. Prorations.** Rents, lease commissions, interest on any assumed loan, insurance premiums on any transferred insurance policies, maintenance expenses, operating expenses, standby fees, and ad valorem taxes for the year of the Closing will be prorated at the Closing effective as of the date of the Closing. Seller shall give a credit to Purchaser at the Closing in the aggregate amount of any security deposits deposited by tenants under leases affecting the Property. If the Closing occurs before the tax rate is fixed for the year of the Closing, the apportionment of the taxes will be upon the basis of the tax rate for the preceding year applied to the latest assessed valuation, but any difference between actual and estimated taxes for the year of the Closing actually paid by Purchaser will be adjusted equitably between the parties upon receipt of a written statement of the actual amount of the taxes. This provision will survive the Closing.

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liquidated damages for Purchaser's breach of this Contract, thereby releasing Purchaser from this Contract. If Seller terminates this Contract due to Purchaser's default, then the Earnest Money will be paid to Seller.

The right to receive the Earnest Money will be Seller's sole and exclusive remedy for Purchaser's default ~~unless one of the following remedies is selected, in which case Seller may sue Purchaser:  to enforce specific performance (force Purchaser to purchase the Property pursuant to this Contract); or  for damages. If one or both of the boxes is checked to allow Seller to sue Purchaser to enforce specific performance or for damages, then Seller must elect to either receive the Earnest Money as liquidated damages or pursue one of the other selected remedies at the beginning of any legal action initiated by Seller.~~

#### 14. AGENCY DISCLOSURE.

**A. Agency Relationships.** The term "Brokers" refers to the Principal Broker and the Cooperating Broker, if applicable, as set forth on the signature page. Each Broker has duties only to the party the Broker represents as identified below. If either Broker is acting as an intermediary, then that Broker will have only the duties of an intermediary, and the intermediary disclosure and consent provisions apply as set forth below. *[Each broker check only one]*

(1) The Principal Broker is:  agent for Seller only; or  agent for Purchaser only; or  an intermediary.

(2) The Cooperating Broker is:  agent for Seller only; or  agent for Purchaser only; or  an intermediary.

**B. Other Brokers.** Seller and Purchaser each represent to the other that they have had no dealings with any person, firm, agent or finder in connection with the negotiation of this Contract or the consummation of the purchase and sale contemplated by this Contract, ~~other than the Brokers named in this Contract, and no real estate broker, agent, attorney, person, firm or entity, other than the Brokers, is entitled to any commission or finder's fee in connection with this transaction as the result of any dealings or acts of the representing party. Each party agrees to indemnify, defend, and hold the other party harmless from and against any costs, expenses or liability for any compensation, commission, fee, or charges that may be claimed by any agent, finder or other similar party, other than the Brokers, by reason of any dealings or acts of the indemnifying party.~~

**C. Fee Sharing.** Seller and Purchaser agree that the Brokers may share the Fee (defined below) among themselves, their sales associates, and any other licensed brokers involved in the sale of the Property. The parties authorize the Title Company to pay the Fee directly to the Principal Broker and, if applicable, the Cooperating Broker, in accordance with Section 15 (Professional Service Fee) or any other agreement pertaining to the Fee. Payment of the Fee will not alter the fiduciary relationships between the parties and the Brokers.

**D. Intermediary Relationship.** If either of the Brokers has indicated in Section 14A (Agency Relationships) that the Broker is acting as an intermediary in this transaction, then Purchaser and Seller hereby consent to the intermediary relationship, authorize such Broker or Brokers to act as an intermediary in this transaction, and acknowledge that the source of any expected compensation to the Brokers will be Seller, and the Brokers may also be paid a fee by Purchaser. A broker is required to treat each party honestly and fairly and to comply with the Texas Real Estate License Act. A broker who acts as an intermediary in a transaction:

SELLER'S INITIALS



PURCHASER'S INITIALS



- (1) shall treat all parties honestly;
- (2) may not disclose that the owner will accept a price less than the asking price unless authorized in writing to do so by the owner;
- (3) may not disclose that the buyer will pay a price greater than the price submitted in a written offer unless authorized in writing to do so by the buyer; and
- (4) may not disclose any confidential information or any information that a party specifically instructs the broker in writing not to disclose unless authorized in writing to disclose the information or required to do so by the Texas Real Estate License Act or a court order or if the information materially relates to the condition of the property.

Broker is authorized to appoint, by providing written notice to the parties, one or more licensees associated with Broker to communicate with and carry out instructions of one party, and one or more other licensees associated with Broker to communicate with and carry out instructions of the other party or parties. During negotiations, an appointed licensee may provide opinions and advice to the party to whom the licensee is appointed.

#### 15. PROFESSIONAL SERVICE FEE.

**A. Payment of Fee.** Seller agrees to pay the Brokers a professional service fee (the "Fee") for procuring the Purchaser and for assisting in the negotiation of this Contract as follows: Six (6%) percent of the Purchase Price to be paid in cash at Closing cash at Closing. Split equally between Fairway Group and The Weitzman Group.

The Fee will be earned upon the execution of this Contract and will be paid at the Closing of a sale of the Property by Seller pursuant to this Contract (as may be amended or assigned). The Fee will be paid by Seller to the Brokers in the county in which the Property is located. Seller shall pay any applicable sales taxes on the Fee. The Title Company or other escrow agent is authorized and directed to pay the Fee to the Brokers out of the Closing proceeds. A legal description of the Property, as set forth in this Contract and any Survey delivered pursuant to this Contract, is incorporated by reference in the agreement pertaining to the Fee set forth or referenced in this Section.

~~The Fee is earned notwithstanding: (1) any subsequent termination of this Contract (except a termination by Seller or Purchaser pursuant to a right of termination in this Contract); or (2) any default by Seller. If the Closing does not occur due to Purchaser's default, and Seller does not elect to enforce specific performance, the Fee will not exceed one-half of the Earnest Money. If either party defaults under this Contract, then the Fee will be paid within ten (10) days after the scheduled Closing Date, and the Title Company is authorized to pay the fee out of the Earnest Money or any other escrow deposit made pursuant to this Contract. If Seller defaults, then Seller's obligation to pay the Fee will not be affected if Purchaser chooses the remedy of terminating this Contract, and the amount of the Fee will not be limited to the amount of the Earnest Money or any other escrow deposit made pursuant to this Contract.~~

**B. Consent Required.** Purchaser, Seller and Title Company agree that the Brokers are third party beneficiaries of this Contract with respect to the Fee, and that no change may be made by Purchaser, Seller or Title Company as to the time of payment, amount of payment or the conditions for payment of the Fee without the written consent of the Brokers.

**C. Right to Claim a Lien.** Pursuant to Chapter 62 of the Texas Property Code, the Brokers hereby disclose their right to claim a lien based on the commission agreement set forth in this Section 15 and any other commission agreements referenced in this Contract applicable to the transaction.

SELLER'S INITIALS (S) PURCHASER'S INITIALS (S)

~~contemplated by this Contract. This disclosure is hereby incorporated in any such commission agreements.~~

## 16. MISCELLANEOUS PROVISIONS.

**A. Definition of Hazardous Materials.** "Hazardous Materials" means any pollutants, toxic substances, oils, hazardous wastes, hazardous materials or hazardous substances as defined in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Clean Water Act, as amended, or any other Federal, State or local environmental law, ordinance, rule, or regulation, whether existing as of the Effective Date or subsequently enacted.

**B. Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be deemed delivered on the earlier of: (1) actual receipt, if delivered in person or by courier, with evidence of delivery; (2) receipt of an electronic facsimile ("Fax") transmission with confirmation of delivery to the Fax numbers specified in this Contract, if any; or (3) upon deposit with the United States Postal Service, certified mail, return receipt requested, postage prepaid, and properly addressed to the intended recipient at the address set forth in this Contract. Any party may change its address for notice purposes by delivering written notice of its new address to all other parties in the manner set forth above. Copies of all written notices should also be delivered to the Brokers and to the Title Company, but failure to notify the Brokers or the Title Company will not cause an otherwise properly delivered notice to be ineffective.

**C. Termination.** If this Contract is terminated for any reason, the parties will have no further rights or obligations under this Contract, except that: (1) Purchaser shall pay the costs to repair any damage to the Property caused by Purchaser or Purchaser's agents; (2) Purchaser shall return to Seller any reports or documents delivered to Purchaser by Seller; and (3) each party shall perform any other obligations that, by the explicit provisions of this Contract, expressly survive the termination of this Contract. The obligations of this Section 16C will survive the termination of this Contract. The terms of any mutual termination agreement will supersede and control over the provisions of this Section 16C to the extent of any conflict.

~~**D. Forms.** In case of a dispute as to the form of any document required under this Contract, the most recent form prepared by the State Bar of Texas will be used, modified as necessary to conform to the terms of this Contract.~~

~~**E. Attorneys' Fees.** The prevailing party in any proceeding brought to enforce this Contract, or brought relating to the transaction contemplated by this Contract, will be entitled to recover, from the non-prevailing party, court costs, reasonable attorneys' fees and all other reasonable related expenses.~~

**F. Integration.** This Contract contains the complete agreement between the parties with respect to the Property and cannot be varied except by written agreement. The parties agree that there are no oral agreements, understandings, representations or warranties made by the parties that are not expressly set forth in this Contract. Any prior written agreements, understandings, representations or warranties between the parties will be deemed merged into and superceded by this Contract, unless it is clear from the written document that the intent of the parties is for the previous written agreement, understanding, representation or warranty to survive the execution of this Contract.

**G. Survival.** Any representation or covenant contained in this Contract not otherwise discharged at the Closing will survive the Closing.

**H. Binding Effect.** This Contract will inure to the benefit of, and will be binding upon, the parties to this Contract and their respective heirs, legal representatives, successors and assigns.

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**I. Time for Performance.** Time is of the essence under each provision of this Contract. Strict compliance with the times for performance is required.

**J. Business Day.** If any date of performance under this Contract falls on a Saturday, Sunday or Texas legal holiday, such date of performance will be deferred to the next day that is not a Saturday, Sunday or Texas legal holiday. or federal

**K. Right of Entry.** After reasonable advance notice and during normal business hours, Purchaser, Purchaser's representatives and the Brokers have the right to enter upon the Property before the Closing for purposes of viewing, inspecting and conducting studies of the Property, so long as they do not unreasonably interfere with the use of the Property by Seller or any tenants, or cause damage to the Property.

**L. Governing Law.** This Contract will be construed under and governed by the laws of the State of Texas, and unless otherwise provided in this Contract, all obligations of the parties created under this Contract are to be performed in the county where the Property is located. The venue for any dispute arising pursuant to this Contract shall be Collin County, Texas.

**M. Severability.** If any provision of this Contract is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the invalid, illegal, or unenforceable provision will not affect any other provisions, and this Contract will be construed as if the invalid, illegal, or unenforceable provision is severed and deleted from this Contract.

**N. Broker Disclaimer.** The Brokers will disclose to Purchaser any material factual knowledge the Brokers may possess about the condition of the Property. Purchaser understands that a real estate broker is not an expert in matters of law, tax, financing, surveying, hazardous materials, engineering, construction, safety, zoning, land planning, architecture, or the Americans with Disabilities Act. Purchaser should seek expert assistance on such matters. The Brokers do not investigate a property's compliance with building codes, governmental ordinances, statutes and laws that relate to the use or condition of the Property or its construction, or that relate to its acquisition. Purchaser is not relying upon any representations of the Brokers concerning permitted uses of the Property or with respect to any nonconformance of the Property. If the Brokers provide names of consultants or sources for advice or assistance, the Brokers do not warrant the services of the advisors or their products. The Brokers cannot warrant the suitability of property to be acquired. Purchaser acknowledges that current and future federal, state and local laws and regulations may require any Hazardous Materials to be removed at the expense of those persons who may have had or continue to have any interest in the Property. The expense of such removal may be substantial. Purchaser agrees to look solely to experts and professionals selected or approved by Purchaser to advise Purchaser with respect to the condition of the Property and will not hold the Brokers responsible for any condition relating to the Property. The Brokers do not warrant that Seller will disclose any or all property defects or other matters pertaining to the Property or its condition. Seller and Purchaser agree to hold the Brokers harmless from any damages, claims, costs and expenses including, but not limited to, reasonable attorneys' fees and court costs, resulting from or related to any person furnishing any false, incorrect or inaccurate information with respect to the Property, Seller's concealing any material information with respect to the condition of the Property, or matters that should be analyzed by experts. To the extent permitted by applicable law, the Brokers' liability for errors or omissions, negligence, or otherwise, is limited to the return of the Fee, if any, paid to the responsible Broker pursuant to this Contract. The parties agree that they are not relying upon any oral statements that the Brokers may have made. Purchaser is relying solely upon Purchaser's own investigations and the representations of Seller, if any, and Purchaser acknowledges that the Brokers have not made any warranty or representation with respect to the condition of the Property or otherwise.

**O. Counterparts.** This Contract may be executed in a number of identical counterparts. Each counterpart is deemed an original and all counterparts will, collectively, constitute one agreement.

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**P. Patriot Act Representation.** Seller and Purchaser each represent to the other that: (1) its property interests are not blocked by Executive Order No. 13224, 66 Fed. Reg. 49079; (2) it is not a person listed on the Specially Designated Nationals and Blocked Persons list of the Office of Foreign Assets Control of the United States Department of the Treasury; and (3) it is not acting for or on behalf of any person on that list.

**Q. Exchange.** Seller and Purchaser shall cooperate with each other in connection with any tax deferred exchange that either party may be initiating or completing in connection with Section 1031 of the Internal Revenue Code, so long as neither party will be required to pay any expenses related to the other party's exchange and the Closing is not delayed. Notwithstanding any other provision that may prohibit the assignment of this Contract, either party may assign this Contract to a qualified intermediary or exchange accommodation title holder, if the assignment is required in connection with the exchange. The parties agree to cooperate with each other, and sign any reasonable documentation that may be required, to effectuate any such exchange.

#### 17. STATUTORY NOTICES.

**A. Abstract or Title Policy.** At the time of the execution of this Contract, Purchaser acknowledges that the Brokers have advised and hereby advise Purchaser, by this writing, that Purchaser should have the abstract covering the Property examined by an attorney of Purchaser's own selection or that Purchaser should be furnished with or obtain a policy of title insurance.

**B. Notice Regarding Unimproved Property Located in a Certificated Service Area.** If the Property is unimproved and is located in a certificated service area of a utility service, then Seller shall give to Purchaser a written notice in compliance with §13.257 of the Texas Water Code, and Purchaser agrees to acknowledge receipt of the notice in writing. The notice must set forth the correct name of utility service provider authorized by law to provide water or sewer service to the Property, and must comply with all other applicable requirements of the Texas Water Code.

**C. Special Assessment Districts.** If the Property is situated within a utility district or flood control district subject to the provisions of §49.452 of the Texas Water Code, then Seller shall give to Purchaser the required written notice and Purchaser agrees to acknowledge receipt of the notice in writing. The notice must set forth the current tax rate, the current bonded indebtedness and the authorized indebtedness of the district, and must comply with all other applicable requirements of the Texas Water Code.

**D. Property Owners' Association.** If the Property is subject to mandatory membership in a property owners' association, Seller shall notify Purchaser of the current annual budget of the property owners' association, and the current authorized fees, dues and/or assessments relating to the Property. In addition, Seller shall give to Purchaser the written notice required under §5.012 of the Texas Property Code, if applicable, and Purchaser agrees to acknowledge receipt of the notice in writing. Also, Seller shall give to Purchaser the resale certificate required under Chapter 207 of the Texas Property Code, if applicable, and Purchaser agrees to acknowledge receipt of the resale certificate in writing.

**E. Notice Regarding Possible Annexation.** If the Property that is the subject of this Contract is located outside the limits of a municipality, the Property may now or later be included in the extraterritorial jurisdiction of the municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.

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F. **Notice Regarding Coastal Area Property.** If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, then Seller shall give to Purchaser a written notice regarding coastal area property, in compliance with §33.135 of the Texas Natural Resources Code, and Purchaser agrees to acknowledge receipt of the notice in writing.

G. **Gulf Intracoastal Waterway Notice.** If the Property is located seaward of the Gulf Intracoastal Waterway, then Seller shall give to Purchaser a written notice regarding the seaward location of the Property, in compliance with §61.025 of the Texas Natural Resources Code, and Purchaser agrees to acknowledge receipt of the notice in writing.

H. **Notice for Property Located in an Agricultural Development District.** If the Property is located in an agricultural development district, then in accordance with §60.063 of the Texas Agricultural Code: (1) Seller shall give to Purchaser a written notice that the Property is located in such a district; (2) Purchaser agrees to acknowledge receipt of the notice in writing; and (3) at the Closing, a separate copy of the notice with current information about the district will be executed by Seller and Purchaser and recorded in the deed records of the county in which the Property is located.

I. **Disclosure of Dual Capacity as Broker and Principal. [Complete if applicable].**

\_\_\_\_\_ is a licensed Texas real estate broker and is acting in a dual capacity as broker for the Purchaser and as a principal in this transaction, as he or she may be the Purchaser (or one of the owners of the Purchaser after any assignment of this Contract).

\_\_\_\_\_ is a licensed Texas real estate broker and is acting in a dual capacity as broker for the Seller and as a principal in this transaction, as he or she may be the Seller (or one of the owners of the Seller).

18. **DISPUTE RESOLUTION.**

A. **Mediation.** If any dispute (the "Dispute") arises between any of the parties to this Contract including, but not limited to, payment of the Fee, then any party (including any Broker) may give written notice to the other parties requiring all involved parties to attempt to resolve the Dispute by mediation. Except in those circumstances where a party reasonably believes that an applicable statute of limitations period is about to expire, or a party requires injunctive or equitable relief, the parties are obligated to use this mediation procedure before initiating arbitration or any other action. Within seven (7) days after receipt of the mediation notice, each party must deliver a written designation to all other parties stating the names of one or more individuals with authority to resolve the Dispute on such party's behalf. Within fourteen (14) days after receipt of the mediation notice, the parties shall make a good faith effort to select a qualified mediator to mediate the Dispute. If the parties are unable to timely agree upon a mutually acceptable mediator, any party may request any state or federal judge to appoint a mediator. In consultation with the mediator, the parties shall promptly designate a mutually convenient time and place for the mediation that is no later than thirty (30) days after the date the mediator is selected. In the mediation, each party must be represented by persons with authority and discretion to negotiate a resolution of the Dispute, and may be represented by counsel. The mediation will be governed by applicable provisions of Chapter 154 of the Texas Civil Practice and Remedies Code, and such other rules as the mediator may prescribe. The fees and expenses of the mediator will be shared equally by all parties included in the Dispute. Any mediated resolutions between the parties

B. **Arbitration.** If the parties are unable to resolve any Dispute by mediation, then the parties (including the Brokers) shall submit the Dispute to binding arbitration before a single arbitrator. The Dispute will be decided by arbitration in accordance with the applicable arbitration statute and any rules selected by the arbitrator. After an unsuccessful mediation, any party may initiate the arbitration procedure by delivering a written notice of demand for arbitration to the other parties. Within fourteen (14) days after the receipt of the written notice of demand for arbitration, the parties shall make a good

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PURCHASER'S INITIALS

may be subject to Plano City Council approval to be binding on the Purchaser.

faith effort to select a qualified arbitrator acceptable to all parties. If the parties are unable to agree upon the selection of an arbitrator, then any party may request any state or federal judge to appoint an arbitrator. This agreement to arbitrate will be specifically enforceable under the prevailing arbitration law.

**19. CONSULT AN ATTORNEY.** This Contract is a legally binding agreement. The Brokers cannot give legal advice. The parties to this Contract acknowledge that they have been advised to have this Contract reviewed by legal counsel before signing this Contract.

Purchaser's attorney is: Paige Mims Seller's attorney is: \_\_\_\_\_

**20. EXHIBITS AND ADDENDA.** All Exhibits and Addenda attached to this Contract are incorporated herein by reference and made a part of this Contract for all purposes [check all that apply]:

- |                                     |                         |                                      |
|-------------------------------------|-------------------------|--------------------------------------|
| <input type="checkbox"/>            | Exhibit "A"             | Legal Description                    |
| <input checked="" type="checkbox"/> | Exhibit "B"             | Site Plan                            |
| <input type="checkbox"/>            | Exhibit "C"             |                                      |
| <input type="checkbox"/>            | Addendum A              | Improved Property                    |
| <input type="checkbox"/>            | <del>Addendum B-1</del> | <del>Third Party Financing</del>     |
| <input type="checkbox"/>            | <del>Addendum B-2</del> | <del>Seller Financing</del>          |
| <input type="checkbox"/>            | <del>Addendum B-3</del> | <del>Existing Loan</del>             |
| <input checked="" type="checkbox"/> | Addendum C              | Inspection                           |
| <input type="checkbox"/>            | <del>Addendum D</del>   | <del>Disclosure Notice</del>         |
| <input type="checkbox"/>            | <del>Addendum E</del>   | <del>Lead Based Paint</del>          |
| <input checked="" type="checkbox"/> | Addendum F              | Information About Brokerage Services |
| <input type="checkbox"/>            | Addendum G              | Additional Provisions                |
| <input type="checkbox"/>            | Addendum H              |                                      |

**21. CONTRACT AS OFFER.** The execution of this Contract by the first party to do so constitutes an offer to purchase or sell the Property. If the other party does not accept that offer by signing this Contract and delivering a fully executed copy to the first party within three days after the date this Contract is executed by the first party, then the first party may withdraw that offer by delivering a written notice to the other party at any time before the other party accepts that offer, in which case the Earnest Money, if any, will be returned to Purchaser.

**22. ADDITIONAL PROVISIONS.** [Additional provisions may be set forth below or on any attached Addendum].

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PURCHASER'S INITIALS

*[Handwritten Signature]*

This Contract is executed to be effective as of the date the Title Company acknowledges receipt of this fully executed Contract as indicated by the signature block for the Title Company (the Effective Date).

**SELLER:**

SCHULTE PROPERTIES, LTD.

By: (Signature) *Andrew Schulte*  
Name: Andrew Schulte  
Title: PRESIDENT

By: (Signature) \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

Tax I.D No: \_\_\_\_\_  
Date of Execution: \_\_\_\_\_

**PURCHASER:**

CITY OF PLANO, TEXAS

By: (Signature) *Paige Matus*  
Name: City Manager's Office  
Title: City of Plano  
PO Box 860358

By: (Signature) Plano, Texas 75086-0358  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Tax I.D No: \_\_\_\_\_  
Date of Execution: 12/12/12

**APPROVED AS TO FORM:**

**PRINCIPAL BROKER:**

THE WEITZMAN GROUP

By: (Signature) *Daniel Zoller*  
Name: Daniel Zoller  
Title: \_\_\_\_\_

Address: 3102 Maple Avenue, Suite 350  
Dallas, TX 75201

Telephone: 214-954-0600 Fax: 214-953-0806  
Email: dzoller@weitzmangroup.com  
TREC License No.: \_\_\_\_\_

**COOPERATING BROKER:**

FAIRWAY GROUP, REAL ESTATE

By: (Signature) *Rick Fambro*  
Name: Rick Fambro  
Title: President

Address: 1416 J Avenue  
Plano, TX 75074

Telephone: 972-985-0500 Fax: 972-985-1874  
Email: rfambro@fairwaygrouprealestate.com  
TREC License No.: \_\_\_\_\_

BY: *Paige Matus*  
Paige Matus, City Attorney

SELLER'S INITIALS *AS*

PURCHASER'S INITIALS *PM*

**TITLE COMPANY RECEIPT:** The Title Company acknowledges receipt of this Contract on \_\_\_\_\_ (the **Effective Date**). Upon receipt of the Earnest Money, the Title Company accepts the Earnest Money subject to the terms and conditions set forth in this Contract.

**TITLE COMPANY:**

REPUBLIC TITLE OF TEXAS, INC. \_\_\_\_\_

By (Signature) \_\_\_\_\_

Name: Anne Gross  
Title: Senior Vice President

Address: 2626 Howell Street, 10th Floor  
Dallas, TX 75204

Telephone: 214-855-8820 Fax: 972-516-2501  
Email: agross@republictitle.com

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1106 K Avenue

K Avenue & Municipal Dr. Plano, Texas 75074

# FOR LEASE OR SALE

1106 K Avenue

K Avenue & Municipal Dr.  
Plano, Texas 75074

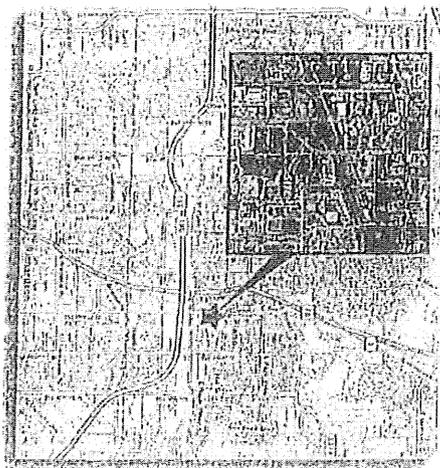
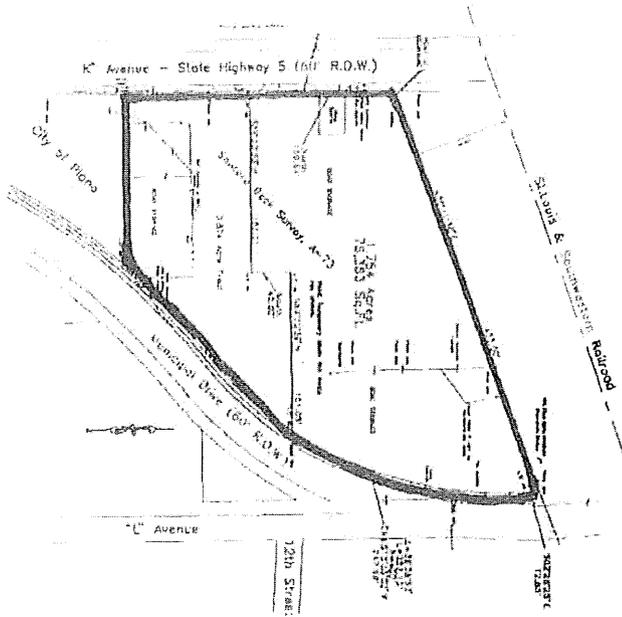
**SPACE AVAILABLE**

Raw land 2.028 Acres  
Ready for development  
Front door to Plano, TX

**TRAFFIC COUNTS**

23,594 vehicles per day (K Ave)

EXHIBIT "B"



2012 Demographics	1st Mile	3rd Mile	5th Mile
Population Estimate	6,311	9,272	3,872
Est. Households	2,246	3,666	9,687
Avg. H/H Income	\$48,278	\$28,280	\$9,348
H. Population Growth: 2012-2017	4%	2%	3.5%

THE WEITZMAN GROUP



THE WEITZMAN GROUP

3102 Maple Avenue, Suite 350, Dallas, Texas 75201 214.954.0200 214.953.0666 fax

DAVID ZOLLER

dzoller@weitzmangroup.com

Handwritten initials and a circled 'a'.

NORTH TEXAS COMMERCIAL ASSOCIATION OF REALTORS®

ADDENDUM C TO COMMERCIAL CONTRACT OF SALE

INSPECTION

Property address or description: 2.628 +/- acres of land located immediately north of the "Y" convergence of Avenue K and Municipal Drive in the City of Plano, Collin County, Texas

1. **Inspection Period.** Purchaser will have a period of 31 days after the Effective Date (the "Inspection Period") to inspect the Property and conduct studies regarding the Property. Purchaser's studies may include, without limitation: (1) permitted use and zoning of the Property; (2) core borings; (3) environmental and architectural tests and investigations; (4) physical inspections of improvements, fixtures, equipment, subsurface soils, structural members, and personal property; and (5) examination of agreements, manuals, plans, specifications and other documents relating to the construction and condition of the Property. Purchaser and Purchaser's agents, employees, consultants and contractors will have the right of reasonable entry onto the Property during normal business hours, and upon reasonable advance notice to Seller and any tenants on the Property, for purposes of inspections, studies, tests and examinations deemed necessary by Purchaser. The inspections, studies, tests and examinations will be at Purchaser's expense and risk. Purchaser shall defend and indemnify Seller against any claims that arise due to any actions by Purchaser or Purchaser's agents, employees, consultants and contractors. Purchaser may also use the Inspection Period to perform feasibility studies, obtain equity funding, seek financing, and satisfy other conditions unrelated to the condition of the Property. To the extent permitted by law,

2. **Reports.**

A. Within \_\_\_\_\_ days after the Effective Date, Seller shall deliver to Purchaser a written "Phase I" report of an environmental assessment of the Property. The report will be prepared, at Seller's expense, by an environmental consultant reasonably acceptable to Purchaser. The environmental assessment must include an investigation into the existence of Hazardous Materials (as defined in Section 16A of this Contract) in, on or around the Property. The environmental assessment must also include a land use history search, engineering inspections, research and studies that may be necessary to discover the existence of Hazardous Materials.

B. Within ten (10) days after the Effective Date, Seller shall deliver to Purchaser copies of all reports in Seller's possession or control of engineering investigations, tests and environmental studies that have been made with respect to the Property within the three year period before the Effective Date.

C. If Purchaser terminates this Contract, Purchaser shall deliver to Seller, at Purchaser's expense and contemporaneously with the termination, copies of all written reports, inspections, plats, drawings and studies that relate to the condition of the Property made by Purchaser's agents, consultants and contractors. This provision will survive the termination of this Contract.

3. **Termination.** If Purchaser determines, in Purchaser's sole discretion, no matter how arbitrary, that Purchaser chooses not to purchase the Property for any reason, then Purchaser may terminate this Contract by delivering a written notice to Seller on or before the last day of the Inspection Period, in which case the Earnest Money will be returned to Purchaser. Purchaser's reason for choosing to terminate this Contract does not need to be related to the condition of the Property, and Purchaser is not required to justify Purchaser's decision to terminate this Contract.

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4. **Acceptance.** If Purchaser does not properly and timely terminate this Contract before the expiration of the Inspection Period (or if Purchaser accepts the Property in writing) then Purchaser will be deemed to have waived all objections to the Property, except for any title objections that may be outstanding pursuant to Section 6 (Review of Survey and Title) of this Contract. In that event, except as may be expressly stated otherwise in this Contract, Purchaser agrees to purchase the Property in its current "AS IS" condition without any further representations of Seller, this Contract will continue in full force and effect, and the parties shall proceed to the Closing. This provision does not, however, limit or invalidate any express representations Seller has made in this Contract.

5. **Reimbursement.** If Seller defaults and Purchaser does not elect to enforce specific performance of this Contract, then Seller shall reimburse Purchaser for Purchaser's actual, out-of-pocket expenses paid by Purchaser to independent third parties in connection with this Contract including, but not limited to, reasonable fees and expenses for engineering assessments, environmental assessments, architectural plans, surveys and legal work (but excluding any indirect, punitive or consequential damages, such as a claim for lost profits) in an amount not to exceed \$ \_\_\_\_\_.

6. **Restoration.** If the transaction described in this Contract does not close through no fault of Seller, and the condition of the Property was altered due to inspections, studies, tests or examinations performed by Purchaser or on Purchaser's behalf, then Purchaser must restore the Property to its original condition at Purchaser's expense.

SELLER'S INITIALS

@

PURCHASER'S INITIALS





1416 J Avenue, Plano, Texas 75074 / Phone 972-985-0500 / Fax 972-985-1674 / Email: fairway\_group@att.net

Texas law requires all real estate licensees to give the following information about brokerage services to prospective sellers, landlords, buyers or tenants.

### INFORMATION ABOUT BROKERAGE SERVICES What to Know Before Working with a Real Estate Broker

Before working with a real estate broker, you should know that the duties of a broker depend on whom the broker represents. If you are a prospective seller or landlord (owner) or a prospective buyer or tenant (buyer), you should know that the broker who lists the property for sale or lease is the owner's agent. A broker who acts as a subagent represents the owner in cooperation with the listing broker. A broker who acts as a buyer's agent represents the buyer. A broker may act as an intermediary between the parties if the parties consent in writing. A broker can assist you in locating a property, preparing a contract or lease, or obtaining financing without representing you. A broker is obligated by law to treat you honestly.

#### If the Broker represents the Owner:

The broker becomes the owner's agent by entering into an agreement with the owner, usually through a written listing agreement, or by agreeing to act as a subagent by accepting an offer of subagency from the listing broker. A subagent may work in a different real estate office. A listing broker or subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first. The buyer should not tell the owner's agent anything the buyer would not want the owner to know because an owner's agent must disclose to the owner any material information known to the agent.

#### If the Broker represents the Buyer:

The broker becomes the buyer's agent by entering into an agreement to represent the buyer, usually through a written buyer representation agreement. A buyer's agent can assist the owner but does not represent the owner and must place the interests of the buyer first. The owner should not tell a buyer's agent anything the owner would not want the buyer to know because a buyer's agent must disclose to the buyer any material information known to the agent.

#### If the Broker acts as an Intermediary:

A broker may act as an intermediary between the parties if the broker complies with The Texas Real Estate License Act. The broker must obtain the written consent of each party to the transaction to act as an intermediary. The written consent must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. The broker is required to treat each party honestly and fairly and to comply with The Texas Real Estate License Act. A broker who acts as an intermediary in a transaction:

(2) may not disclose that the owner will accept a price less than the asking price unless authorized in writing to do so by the owner;

(3) may not disclose that the buyer will pay a price greater than the price submitted in a written offer unless authorized in writing to do so by the buyer; and

(4) may not disclose any confidential information or any information that a party specifically instructs the broker in writing not to disclose unless authorized in writing to disclose the information or required to do so by The Texas Real Estate License Act or a court order or if the information materially relates to the condition of the property.

With the parties consent, a broker acting as an intermediary between the parties may appoint a person who is licensed under The Texas Real Estate License Act and associated with the broker to communicate with and carry out instructions of one party and another person who is licensed under that Act and associated with the broker to communicate with and carry out instructions of the other party.

If you choose to have a broker represent you, you should enter into a written agreement with the broker that clearly establishes the broker's obligations and your obligations. The agreement should state how and by whom the broker will be paid. You have the right to choose the type of representation, if any, you wish to receive. Your payment of a fee to a broker does not necessarily establish that the broker represents you. If you have any questions regarding the duties and responsibilities of the broker, you should resolve those questions before proceeding.

Real Estate Licensee asks that you acknowledge receipt of this information about brokerage services for the licensee's records.

  
Seller, Landlord, Buyer or Tenant

Date: 12/16/14

(1) shall treat all parties honestly;

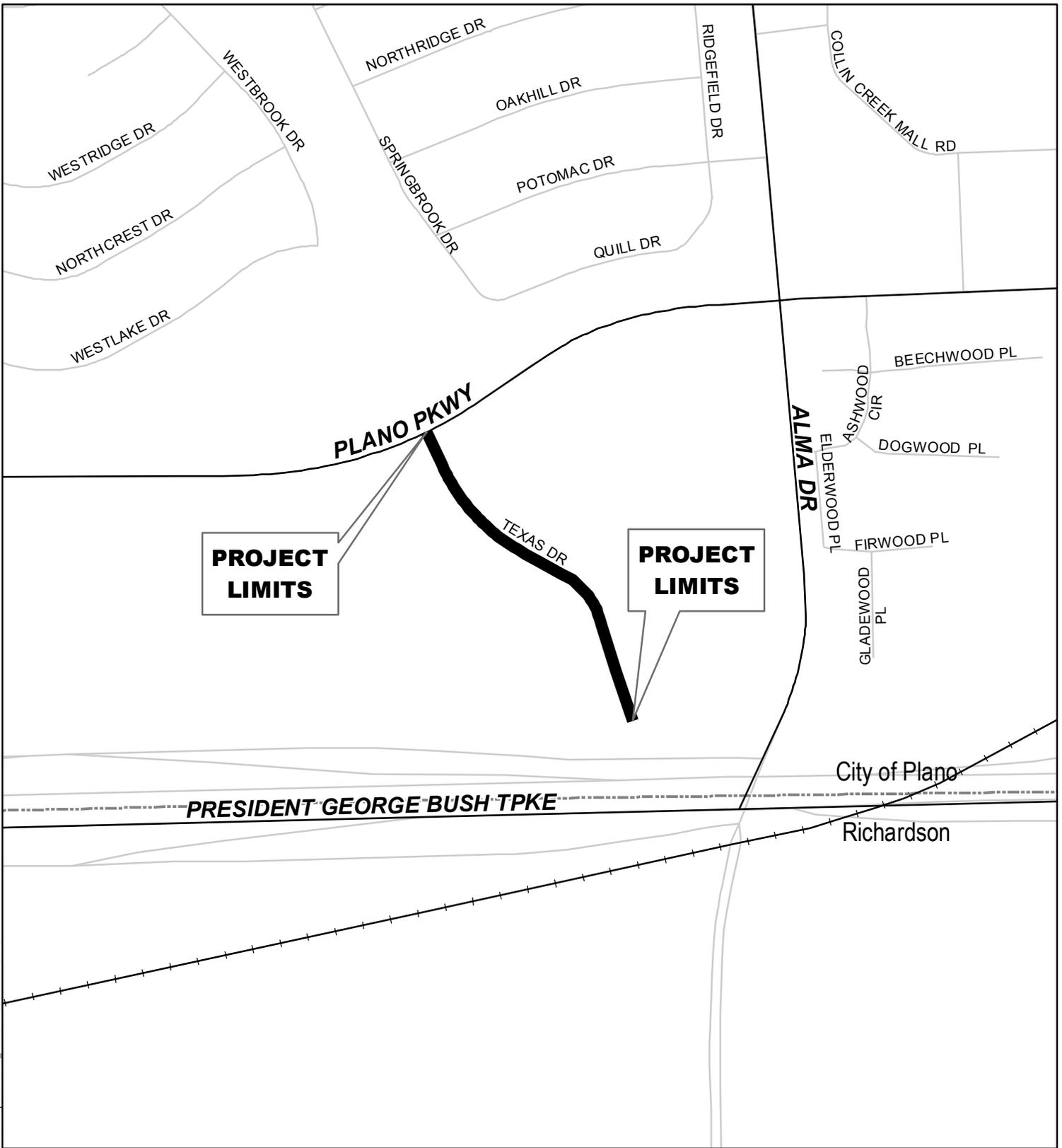
Texas Real Estate Brokers and Salesmen are licensed and regulated by the Texas Real Estate Commission (TREC). If you have a complaint regarding a real estate licensee, you should contact TREC at PO Box 12188, Austin, Texas 78711-2188 or call (512) 993-3600 or [www.trec.texas.gov](http://www.trec.texas.gov)

@

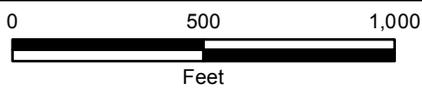


# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:	2/9/15			
Department:	Engineering			
Department Head	Jack Carr			
Project	Plano Heritage 190 – Texas Drive			
Agenda Coordinator (include phone #): <b>Kathleen Schonke X-7198</b>				
<b>CAPTION</b>				
<p>An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City in and to that certain 1.513 Acre Easement and Right-of-Way for Street Purposes known as Texas Drive, recorded in Volume 618, Page 106, of the Deed Records of Collin County, Texas and being situated in the William Beverly Survey, Abstract No. 75, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement and right-of-way to the owner of the property underlying the easement and right-of-way, Rosewood Property Company, to the extent of its interest; authorizing the City Manager or his authorized designee to execute any documents deemed necessary; and providing an effective date.</p>				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: <b>2014-15</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	<b>0</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	0	0	<b>0</b>
BALANCE	0	0	0	<b>0</b>
<b>FUND(s): N/A</b>				
<b>COMMENTS:</b> This item has no financial impact.				
STRATEGIC PLAN GOAL: Abandoning all right, title and interest of the City to this easement and right-of-way relates to the City's Goals of Financially Strong City with Service Excellence and Strong Local Economy.				
<b>SUMMARY OF ITEM</b>				
<p>The abandonment of this Easement and Right-of-Way for Street Purposes will facilitate future development of the adjacent property and rerouting of access to match the appropriate private development. Approval for the abandonment has been received from all the franchised utility companies in the area.</p>				
<a href="https://maps.google.com/maps?q=Texas+Drive,+Plano,+TX&amp;hl=en&amp;ll=33.057306,-96.742172&amp;sspn=0.258109,0.373535&amp;oq=texas+drive,+pl&amp;hnear=Texas+Dr,+Plano,+Texas+75075&amp;t=m&amp;z=17">https://maps.google.com/maps?q=Texas+Drive,+Plano,+TX&amp;hl=en&amp;ll=33.057306,-96.742172&amp;sspn=0.258109,0.373535&amp;oq=texas+drive,+pl&amp;hnear=Texas+Dr,+Plano,+Texas+75075&amp;t=m&amp;z=17</a>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Location Map Ordinance Petition for Abandonment			N/A	

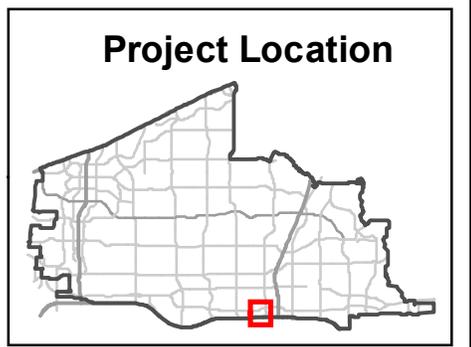


sharif 1/20/2015 C:\Analysis\Projects\Engineering\Council\Agenda\Location\Maps\01-20-15 - Texas Drive\Texas Drive.mxd



## Plano Heritage 190 Texas Drive

1/20/2015  
City of Plano GIS Division



**An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City in and to that certain 1.513 Acre Easement and Right-of-Way for Street Purposes known as Texas Drive, recorded in Volume 618, Page 106, of the Deed Records of Collin County, Texas and being situated in the William Beverly Survey, Abstract No. 75, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement and right-of-way to the owner of the property underlying the easement and right-of-way, Rosewood Property Company, to the extent of its interest; authorizing the City Manager or his authorized designee to execute any documents deemed necessary; and providing an effective date.**

**WHEREAS,** the City Council of the City of Plano has been requested to abandon all right, title and interest of the City in and to that certain 1.513 Acre Easement and Right-of-Way for Street Purposes known as Texas Drive, recorded in Volume 618, Page 106, of the Deed Records of Collin County, Texas (hereinafter called "Easement") being situated in the William Beverly Survey, Abstract No. 75, which is located within the city limits of Plano, Collin County, Texas, and which is more particularly described in Exhibit "A-1" attached hereto and incorporated herein by reference; and

**WHEREAS,** the Property Owner has filed with the City a Petition for Abandonment, a copy of which is attached hereto as Exhibit "B" and made a part hereof by reference; and

**WHEREAS,** the Engineering Department has determined that there will be no detrimental effect on the City if the Easement is abandoned and quitclaimed to the abutting Property Owner; and has advised that the Easement should be abandoned.

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

**Section I.** All the right, title and interest of the City of Plano, Texas, in and to the Easement is hereby abandoned, and all right, title and interest of the City in and to the Easement is hereby quitclaimed to the abutting Property Owner in accordance with its respective interest. A certified copy of this Ordinance may be recorded in the Collin County Land Records to reflect this abandonment and quitclaim. The City Manager or his authorized designee is hereby authorized to execute on behalf of the City of Plano, Texas, any instruments necessary to complete the abandonment and quitclaim of the Easement by the City of Plano.

**Section II.** The abandonment and quitclaim is without prejudice to any and all improvements, facilities, equipment or lines of any public utility, municipal or otherwise, if any, which are presently located within any portion of the Easement. Any such utility shall have the continued right to locate, maintain, repair, reconstruct, preserve or relocate improvements, facilities, equipment or lines in such portion of the Easement.

**Section III.** The City Council hereby finds and determines that the abandonment of the Easement is in the public interest of the City of Plano, Texas, and its citizens, and will inure to the benefit of the public generally.

**Section IV.** This Ordinance shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 9<sup>th</sup> day of February, 2015.

\_\_\_\_\_  
Harry LaRosiliere, MAYOR

ATTEST:

\_\_\_\_\_  
Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Paige Mims, CITY ATTORNEY

## EXHIBIT "B"

### PETITION FOR ABANDONMENT

[For Easement Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting **Texas Drive** (hereinafter called "Easement"), more particularly described by metes and bounds in the field note description attached hereto and incorporated herein as **Exhibit "A-1"** do hereby request that the City of Plano, Texas (called "City") abandon the Easement.

1. The Owners are requesting the abandonment of the Easement for the following reasons:

**For future development of adjacent property and rerouting of access to match the approved PD.**

2. The following public interest will be served as a result of the abandonment:

**New development of property.**

3. Unless the City determines that this abandonment is exempt from payment of fair market value, the Owners agree to pay to the City the fair market value of the Easement as determined by an appraisal obtained by the City (called "Price"). The appraisal shall be conclusive as to the fair market value. The Owners shall reimburse the City for the cost of the appraisal and other costs incident to the abandonment (called "Costs"). The Price and Costs shall be paid to the City prior to the abandonment. Should the Plano City Council decide not to abandon the Easement, the Price shall be returned to the Owners, but the Costs shall be retained by the City. Each Owner's share of the Price and Costs shall be in the same proportion as their abutting ownership as hereinafter defined.
4. ~~If the Owners are providing a replacement easement for the Easement requested to be abandoned herein, Owners will attach a metes and bounds description or plat identifying the replacement easement and attach same to this Petition as Exhibit "B-1".~~ *W/A*
5. The Owners hereby represent and affirm to the City that no other property owner, lessee, tenant or easement or license holder uses the Easement to access or to serve their property.
6. **The Owners further agree to release, defend, indemnify and hold the City, its officers, agents and employees harmless from and against any and all claims, losses, demands, suits, judgments and costs, including reasonable and necessary attorney's fees and expenses, arising out of, related to or resulting from the abandonment of the Easement by City.**

7. The Owners understand and agree that the abandonment is in the sole discretion of the Plano City Council. The Owners also understand and agree that the Easement will be abandoned to them in proportion to their abutting ownership. The abutting ownership will be determined by the number of linear feet of frontage adjacent to the Easement owned by each property owner. Based on the foregoing, the Owners hereby represent and affirm that they have searched the public land records and determined that the abutting ownership is in the following proportions:

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---

8. ~~Owners shall also prepare a map or drawing showing the Easement to be abandoned along with a designation of all abutting property owners. This map or drawing shall be attached hereto and incorporated herein as Exhibit "C-1".~~ N/A
9. ~~Owners shall also prepare a separate field note description for each portion of the Easement to be released to each abutting property owner. This description shall be attached hereto and incorporated herein as Exhibit "D-1".~~ N/A

[Remainder of page blank]

10. The undersigned officers and/or agents of the Owners hereby represent and affirm that they have the necessary authority to execute this Petition for Abandonment on behalf of the Owners.

William H. Flaherty  
Rosewood Property Company  
(RPC Heritage 190, LLC )  
**Typed Name of Owner**

2101 Cedar Springs Road, Suite 1600  
**Address**

Dallas, Texas 75201  
**City, State and Zip**

Dated: 1/8/2015 William H. Flaherty  
**Signature of Owner**

**Contact Person for Property Owners:**

**Name:** Joshua Millsap, P.E.  
**Phone No:** (972) 991-0011

**PLANO PARKWAY**  
 (F.K.A. DALLAS NORTH PARKWAY)  
 A 100 FOOT WIDE EASEMENT  
 VOLUME 612, PAGE 182  
 D.R.C.C.T.

**1513 ACRES**  
 (65,929 SQUARE FEET)  
**TEXAS DRIVE**  
 WILLIAM HERBERT HUNT TRUST ESTATE  
 TO CITY OF PLANO, TEXAS  
 EASEMENT AND RIGHT-OF-WAY  
 FOR STREET PURPOSES  
 (FEE TITLE RESERVED BY GRANTORS)  
 VOLUME 618, PAGE 106  
 D.R.C.C.T.



LOT 2, BLOCK A  
 CENTRAL/190  
 VOLUME H, PAGE 80  
 P.R.C.C.T.

15' CITY OF PLANO  
 PUBLIC UTILITY EASEMENT  
 VOLUME 615, PAGE 109

WILLIAM BEVERLY SURVEY,  
 ABSTRACT NO. 75

LOT 1, BLOCK A  
 CENTRAL/190  
 VOLUME H, PAGE 80  
 P.R.C.C.T.

CALLED 18.1802 AC.  
 "PARCEL 3 OF TRACT 4"  
 ROSEWOOD REAL ESTATE  
 INVESTMENTS, INC.  
 VOLUME 3547, PAGE 411,  
 D.R.C.C.T.

CALLED 13.3478 AC.  
 "PARCEL 2 OF TRACT 4"  
 ROSEWOOD REAL ESTATE  
 INVESTMENTS, INC.  
 VOLUME 3547, PAGE 411,  
 D.R.C.C.T.

**PRESIDENT GEORGE BUSH TOLLWAY**  
**(STATE HIGHWAY 190)**  
 (A VARIABLE WIDTH PUBLIC R.O.W.)

**NOTES:**

THIS SKETCH REFLECTS THE RECORD INFORMATION CITED IN VOLUME 618, PAGE 106 D.R.C.C.T.  
 AND IS NOT AN ACTUAL ON-THE-GROUND SURVEY.

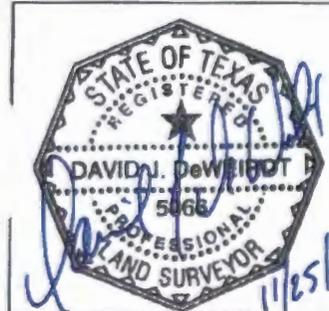
SEE SHEET 2 FOR LINE AND CURVE TABLES

Exhibit "A-1"

**BURY**

5310 Harvest Hill Road, Suite 100  
 Dallas, Texas 75230  
 Tel (972) 991-0011 Fax (972) 991-0278  
 TBPE # F-1048 TBPLS # F-10107502  
 Copyright © 2014

**TEXAS DRIVE**  
**WILLIAM BEVERLY SURVEY**  
**ABSTRACT NO. 75**  
**CITY OF PLANO, COLLIN COUNTY, TEXAS**



DAVID J. De WEIRDT  
 REGISTERED PROFESSIONAL  
 LAND SURVEYOR NO. 5066

DATE: 11-25-14

SCALE: 1" = 200

DRAWN BY: JWH

PROJECT NO: R0112554-30001

SHEET NO 1 OF 2

CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	BEARING
C1	93.03'	600.00'	8°53'00"	92.93'	S28°26'00"E
C2	289.38'	600.00'	27°38'00"	286.58'	S46°41'30"E
C3	196.42'	250.00'	45°01'00"	191.41'	S38°00'00"E
C4	235.71'	300.00'	45°01'00"	229.69'	N38°00'00"W
C5	265.26'	550.00'	27°38'00"	262.70'	N46°41'30"W
C6	85.27'	550.00'	8°53'00"	85.19'	N28°26'00"W
C7	50.01'	1661.50'	1°43'28"	50.01'	S65°08'46"W

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S23°59'30"E	66.11'
L2	S32°52'30"E	84.28'
L3	S60°30'30"E	189.00'
L4	S15°29'30"E	396.40'
L5	N74°30'30"E	50.00'
L6	N15°29'30"W	396.40'
L7	N60°30'30"W	189.00'
L8	N32°52'30"W	84.28'
L9	N23°59'30"W	66.86'

Exhibit "A-1"

**BURY**

5310 Harvest Hill Road, Suite 100  
 Dallas, Texas 75230  
 Tel (972) 991-0011 Fax (972) 991-0278  
 TBPE # F-1048 TBPLS # F-10107502  
 Copyright © 2014

TEXAS DRIVE  
 WILLIAM BEVERLY SURVEY  
 ABSTRACT NO. 75  
 CITY OF PLANO, COLLIN COUNTY, TEXAS

DAVID J. De WEIRD  
 REGISTERED PROFESSIONAL  
 LAND SURVEYOR NO. 5066

**DATE:** January 21, 2015  
**TO:** Honorable Mayor & City Council  
**FROM:** Richard Grady, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of January 20, 2015

**AGENDA ITEM NO. 8A - PUBLIC HEARING  
ZONING CASE 2014-42  
APPLICANT: WINSTEAD, P.C.**

Request to rezone 6.3± acres located on the south side of Plano Parkway, 185± feet west of Preston Road **from** Planned Development-201-Light Commercial with Specific Use Permit #537 for New Car Dealer **to** Planned Development-Light Commercial with Specific Use Permit #537 for New Car Dealer to allow mid-rise residential with modified development standards.

**APPROVED:** 5-2 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 1

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**PETITION(s) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval:

(Proposed additions are indicated by underlined text; deletions are indicated by strikethrough text.)

**Restrictions:**

The permitted uses and standards shall be in accordance with the existing Light Commercial (LC) zoning district unless otherwise specified herein.

Mid-Rise Residential is a permitted use subject to the following standards:

1. Minimum Front Yard Setback: 30 feet
2. Maximum Number of Units: 465

3. Minimum Density: 50 dwelling units per acre
4. Maximum Height: 5 stories, 70 feet
5. Maximum Floor Area Ratio: 2:1
6. Maximum Lot Coverage: None
7. Parking structure facades must be concealed from view from Preston Road and Plano Parkway.
8. Nonresidential uses, including but not limited to leasing offices and resident amenity areas must have a minimum of 40% of the ground floor façade facing Preston Road and Plano Parkway comprised of window area. For purposes of this standard, ground floor is defined as that portion of a building from the street-level finish floor elevation and extending 12.5 feet above the street-level finish floor elevation.
9. Screening: A fence and irrigated living screen is required along the southern property line and must be a minimum of six feet in height at installation. A masonry screening wall is required along the eastern property line adjacent to first floor residential units and must not be less than eight feet in height.

**FOR CITY COUNCIL MEETING OF:** February 9, 2015 (To view the agenda for this meeting, see [www.planotx.gov](http://www.planotx.gov))

#### **PUBLIC HEARING - ORDINANCE**

EM/ks

xc: Car Park, PI TX L.L.C., DRA Advisors LLC  
Tommy Mann and Laura Hoffmann, Winstead PC

<http://goo.gl/maps/yIU9f>

CITY OF PLANO  
PLANNING & ZONING COMMISSION

January 20, 2015

**Agenda Item No. 8A**

**Public Hearing:** Zoning Case 2014-42

**Applicant:** Winstead, P.C.

---

**DESCRIPTION:**

Request to rezone 6.3± acres located on the south side of Plano Parkway, 185± feet west of Preston Road **from** Planned Development-201-Light Commercial with Specific Use Permit #537 for New Car Dealer **to** Planned Development-Light Commercial with Specific Use Permit #537 for New Car Dealer to allow mid-rise residential with modified development standards.

**REMARKS:**

The purpose of this request is to allow mid-rise residential with modified development standards. A planned development district provides the ability to amend use, height, setback, and other development standards at the time of zoning to promote innovative design and better development controls appropriate to both off- and onsite conditions. The Light Commercial (LC) zoning district is intended to provide for a wide array of retail, office, and service uses to meet the needs of local residents and businesses. The subject property is currently developed as a new car dealer but is not being utilized at this time.

Mid-rise residential is defined as, “buildings containing not less than five floors designed for residential occupancy and including accessory uses including but not limited to parking garages, recreational amenities, meeting space, storage, and personal services. A mid-rise residential development may include a mix of residential and nonresidential uses in the same structure.”

A concept plan for Broadstone Park Place, Block A, Lot 1 accompanies this request as Agenda Item 8B.

**Surrounding Land Use and Zoning**

The property to the north, across Plano Parkway, is zoned Planned Development-457-Retail/General Office (PD-457-O-2) and is currently developed with convenience store

with gas pumps, retail, restaurant and office uses. To the east, across Preston Road, the property is zoned PD-350-R/O-2 and is developed with retail, restaurant, hotel and hospital uses. The property to the south is zoned PD-201-LC and is developed as a new car dealer. The property to the west is zoned PD-203-O-2 and is developed as general and medical office.

### **Proposed Planned Development Stipulations**

There are two primary parts to this request: land use and building design standards.

**Land Use** - The applicant is proposing to retain LC as the base zoning district with the additional use of mid-rise residential.

**Design Standards** - The requested design standards are to modify the area, yard and bulk requirements related to mid-rise residential.

Restrictions:

The permitted uses and standards shall be in accordance with the (LC) zoning district unless otherwise specified herein.

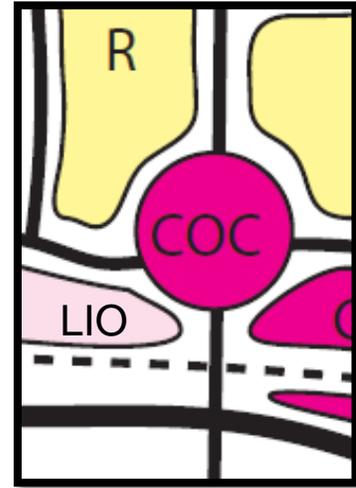
Mid-Rise Residential is a permitted use subject to the following standards:

1. Minimum Front Yard Setback: 30 feet
2. Maximum Number of Units: 465 units
3. Minimum Density: 50 dwelling units per acre
4. Maximum Height: 5 stories, 70 feet
5. Maximum Floor Area Ratio: 2:1
6. Maximum Lot Coverage: None
7. Parking structure facades must be concealed from view from Preston Road and Plano Parkway.
8. Nonresidential uses, including but not limited to leasing offices and resident amenity areas, must have a minimum of 40% of the ground floor facade facing Preston Road and Plano Parkway comprised of window area. For purposes of this standard, ground floor is defined as that portion of a building from the street-level finish floor elevation and extending 12.5 feet above the street-level finish floor elevation.
9. Screening: A fence and irrigated living screen is required along the southern property line and must be a minimum of six feet in height at installation. An eight

foot masonry screening wall is required along the eastern property line adjacent to first floor residential units.

### **Conformance to the Comprehensive Plan**

**Future Land Use Plan:** The Future Land Use Plan designates this property as Community Commercial (COC). Community commercial centers generally serve a neighborhood area of three to five miles, and include department or discount stores, grocery stores, specialty shops, and restaurants along with office uses. This request is not consistent with the future land use plan.



The city's current land use policies recommend that land along expressway corridors be reserved for economic development and employment opportunities. However, mid-rise residential development may be appropriate along expressway corridors in accordance with the interim amendment policy recommendations of the Comprehensive Plan that were adopted in April, 2012. The policies that apply to this request include:

1. Residential should be set back a minimum of 1,200 feet from the centerline of State Highway 121 and the Dallas North Tollway. Factors including topography, creeks, vegetation, and existing development patterns should be considered in applying this standard.

The subject property is approximately 800 feet from the centerline of State Highway 190. Although this property is within the 1,200 foot setback, the highway is depressed in this location, and there is existing development between the property and the highway.

2. Isolated residential development should not be permitted; residential rezoning requests need to establish a complete neighborhood, or expand an existing neighborhood or an urban mixed-use center. Mid-rise multifamily development (five to twelve stories) and special needs housing (i.e. senior housing) could be an exception if the surrounding land uses are compatible.

The request does not expand into any existing residential neighborhoods. Although surrounding uses are not conducive to traditional residential living, mid-rise uses are distinct because they do not necessarily require adjacency to other residential uses and can function as standalone sites. The Planning & Zoning Commission should consider if this is an appropriate location for residential living.

3. New multifamily zoning should require a minimum density of 40 dwelling units per acre on the project site. Phased development should have a minimum average density of 40 dwelling units per acre. However, no phase having less than 40 units per acre may be constructed, unless preceded by or concurrently built with a phase which maintains the minimum 40 dwelling units for the overall project.

Additionally, mid-rise multifamily development a neighborhood mixed-use zoning districts could be exceptions to this minimum density requirement.

The applicant's request includes a requirement for a minimum of 50 dwelling units per acre. The request is in conformance with the city's density policy.

**Rezoning Property to Meet Demand** - The subject property is capable of physically accommodating residential uses, as shown in the companion concept plan. The area may be affected by adverse environmental conditions such as noise, light, fumes, or related nuisances from the adjacent new car dealer to the immediate south and restaurant uses proposed to the immediate east. However, the applicant is including screening in order to mitigate these issues in the form of screening walls and irrigated living screens.

**Housing Element** - The Comprehensive Plan encourages providing a wide variety of housing types to serve a diverse population. The Housing Element supports the location of medium- and high-density housing throughout the community based on access to major thoroughfares and mass transit opportunities. It also seeks to distribute high-density housing on the periphery of a neighborhood so that no more than 500 units are located in any one complex or group of complexes with a recommended minimum 1,500 foot separation between developments. The proposed mid-rise residential request complies with the Housing Element.

**Adequacy of Public Facilities:** Water and sanitary sewer services are available to serve the subject property. However, the applicant will need to verify that the sanitary sewer capacity is sufficient to accommodate the proposed change in use from commercial to residential.

**Traffic Impact Analysis (TIA):** A TIA is not required for this rezoning request.

**School Capacity:** This is provided for informational purposes only. The property is served by the Plano Independent School District (PISD).

Elementary School	Huffman
Middle School	Renner
High School	Shepton
Senior High School	Plano West Senior High

At this time and based upon current boundaries, PISD has determined that there is sufficient capacity at all four schools.

**Public Safety Response Time:** Based upon existing personnel, equipment, and facilities, fire emergency response times will be sufficient to serve the site. Mid-rise residential units in this area will increase EMS and fire calls for service, and may impact future staffing levels and the type of equipment assigned to area fire stations.

**Access to and Availability of Amenities and Services:** The subject property will be served by Old Shepard Park and White Rock Trail Park. Private open spaces interior to the site will also serve the future residents of this development.

The subject property is located within Haggard Library's service area, which is now reaching capacity.

## **ISSUES:**

### **Residential Use**

The subject property is developed as a car dealer, but it is currently vacant. Although the Comprehensive Plan does not support traditional residential uses for the property, mid-rise residential could be appropriate as an alternative neighborhood format. Also, the companion concept plan shows large areas of centralized open space which would serve as amenities for residents. This request is a redevelopment opportunity on a prime vacant and underutilized property. For these reasons, staff believes mid-rise residential is appropriate for the subject property.

### **Area, Yard and Bulk Requirements**

The applicant is requesting design standards in order to accommodate the mid-rise residential development. It is not uncommon for infill residential developments to ask for relief from certain standards. The proposed modifications are intended to utilize developable land area and produce a dense, urban-style building with structured parking. The requested modifications include increasing allowable height, floor area ratio and lot coverage and reducing front yard building setbacks. Additionally, the applicant is proposing stipulations related to screening and site design which are intended to mitigate the view of the parking structure from adjacent rights-of-way and to provide screening from existing and proposed nonresidential uses. Staff believes the requested standards are sufficient for the requested mid-rise residential use.

## **SUMMARY:**

The purpose of this request is to rezone 6.3± acres from PD-201-LC to PD-LC in order to add mid-rise residential as a permitted use with modified development standards. The requested mid-rise residential use is consistent with the Comprehensive Plan policies related to infill development and mid-rise uses. The zoning request is an alternative neighborhood format that would benefit the area through redevelopment of an underutilized, vacant property. For these reasons, staff is in support of the proposed rezoning.

## **RECOMMENDATION:**

Recommended for approval as follows:

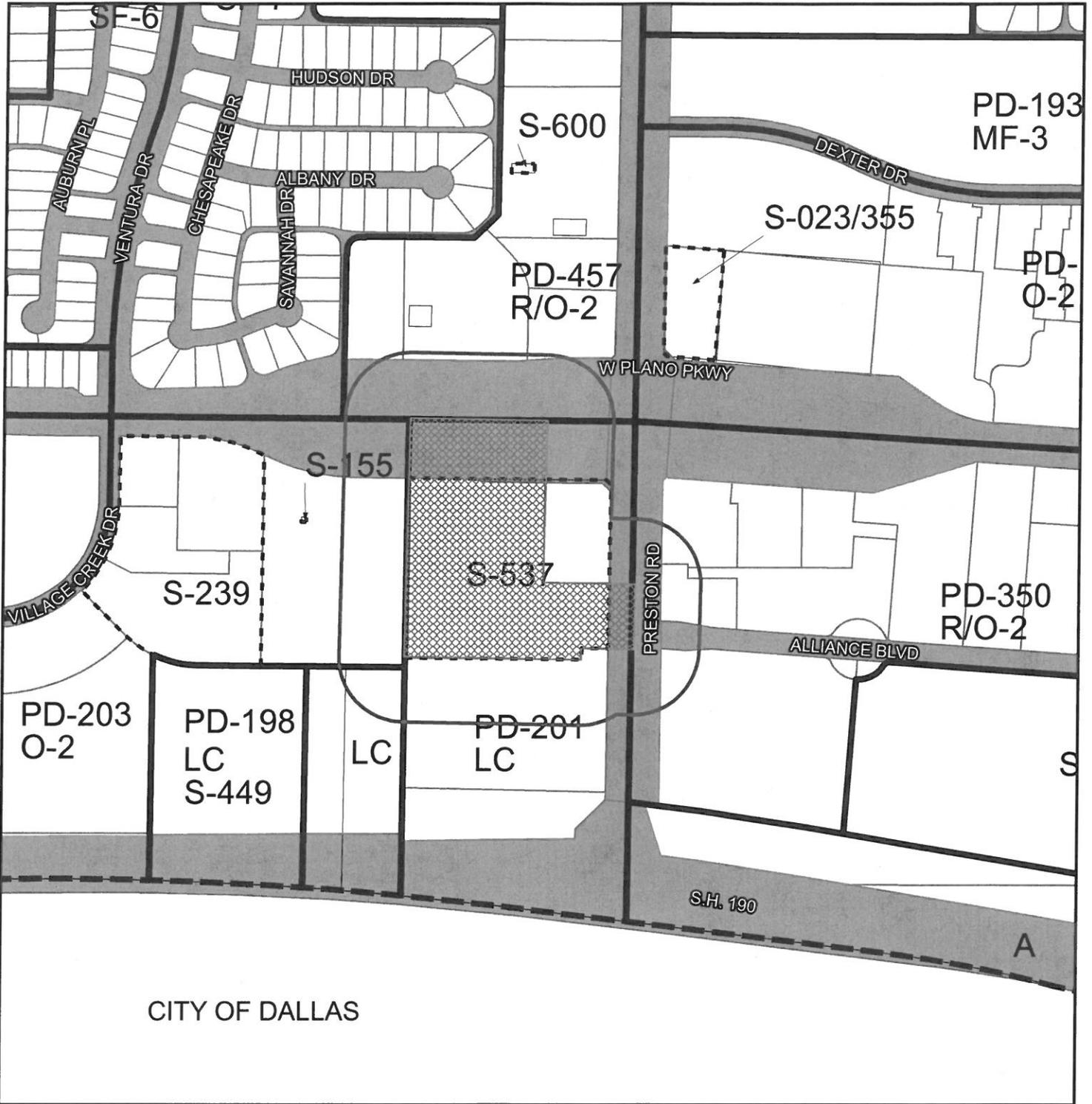
(Proposed additions are indicated by underlined text; deletions are indicated by strikethrough text.)

## **Restrictions:**

The permitted uses and standards shall be in accordance with the existing Light Commercial (LC) zoning district unless otherwise specified herein.

### **Mid-Rise Residential is a permitted use subject to the following standards:**

1. Minimum Front Yard Setback: 30 feet
2. Maximum Number of Units: 465
3. Minimum Density: 50 dwelling units per acre
4. Maximum Height: 5 stories, 70 feet
5. Maximum Floor Area Ratio: 2:1
6. Maximum Lot Coverage: None
  
7. Parking structure facades must be concealed from view from Preston Road and Plano Parkway.
  
8. Nonresidential uses, including but not limited to leasing offices and resident amenity areas must have a minimum of 40% of the ground floor façade facing Preston Road and Plano Parkway comprised of window area. For purposes of this standard, ground floor is defined as that portion of a building from the street-level finish floor elevation and extending 12.5 feet above the street-level finish floor elevation.
  
9. Screening: A fence and irrigated living screen is required along the southern property line and must be a minimum of six feet in height at installation. A masonry screening wall is required along the eastern property line adjacent to first floor residential units and must not be less than eight feet in height.

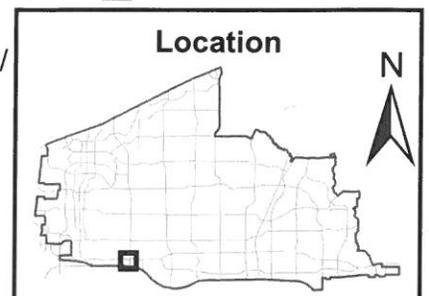


CITY OF DALLAS

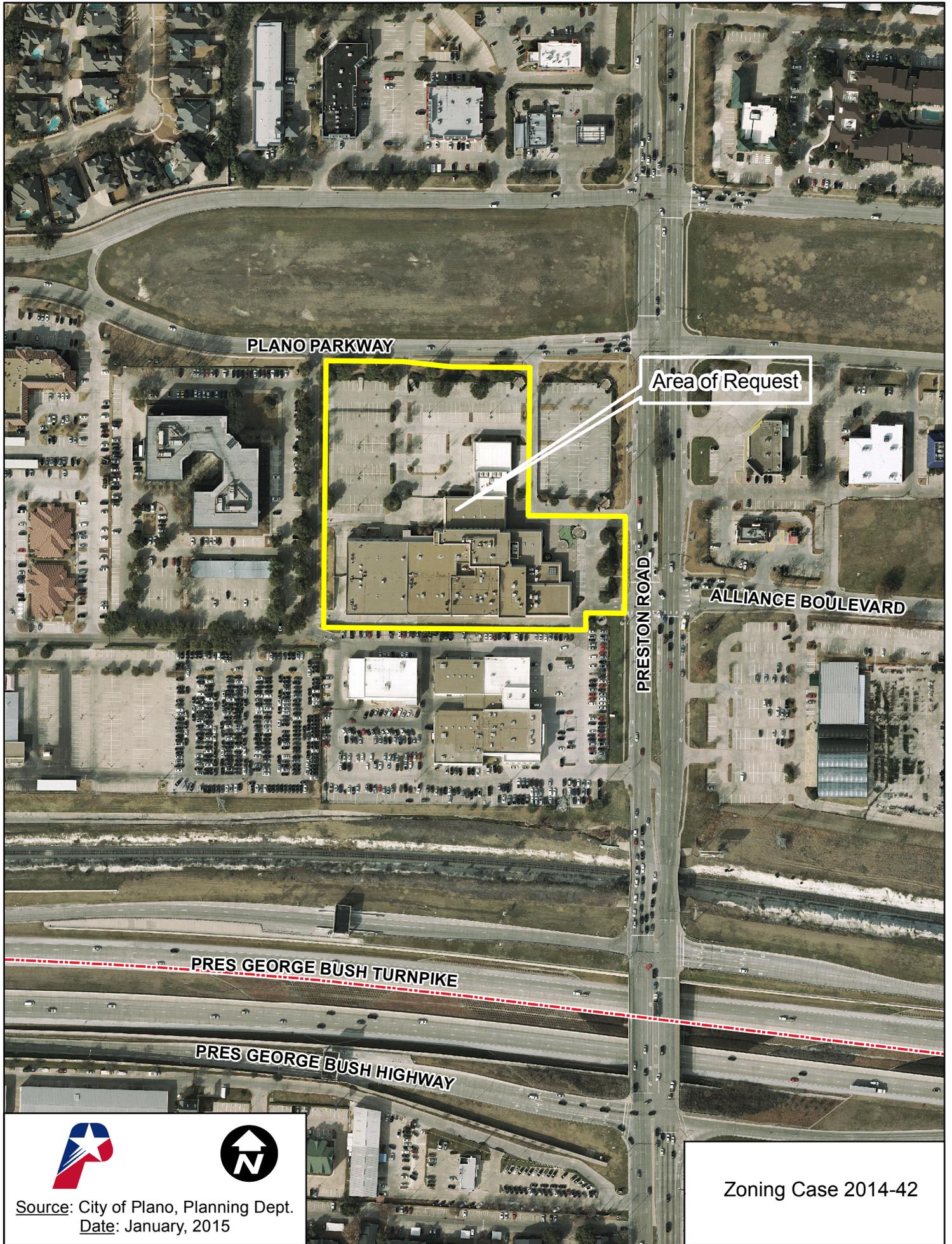
Zoning Case #: 2014-42

Existing Zoning: PLANNED DEVELOPMENT-201-LIGHT COMMERCIAL/  
PRESTON ROAD OVERLAY DISTRICT  
w/SPECIFIC USE PERMIT #537

- 200' Notification Buffer
- Subject Property
- Zoning Boundary
- - - Specific Use Permit
- - - City Limits
- Right-of-Way



Source: City of Plano Planning Department



PLANO PARKWAY

Area of Request

ALLIANCE BOULEVARD

PRESTON ROAD

PRES GEORGE BUSH TURNPIKE

PRES GEORGE BUSH HIGHWAY



Source: City of Plano, Planning Dept.  
Date: January, 2015

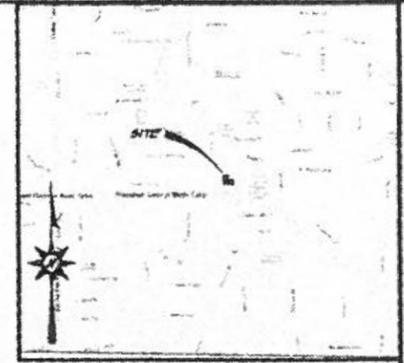
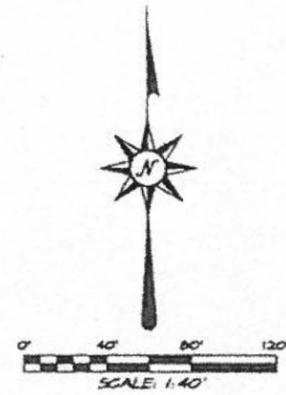
Zoning Case 2014-42

**PLANO PKWY**

Approximate Center Line

P.O.B.

S 89°54'00" E 120.00'



VICINITY MAP  
NOT TO SCALE

**Adams**  
surveying company, LLC

Web site : adamssurveyingcompany.com

P.O. Box 260392  
Plano, Texas 75026  
Phone (469) 311-0250  
Fax (214) 245-9844

APPROVAL OF THE ZONING CASE ASSOCIATED WITH THIS EXHIBIT SHALL NOT IMPLY APPROVAL OF ANY ASSOCIATED STUDY, PLAN, OR PLAN APPROVAL OF DEVELOPMENT STANDARDS SHOWN HEREON, OR THE INITIATION OF THE DEVELOPMENT PROCESS, PLANNING & ZONING COMMISSION AND/OR CITY COUNCIL ACTION ON STUDIES, PLATS OR PLANS RELATING TO THE DEVELOPMENT OF THIS PROPERTY SHALL BE CONSIDERED AS AN ACTION SEPARATE FROM ACTION TAKEN ON THIS ZONING CASE.

OWNER:  
CAR PARK PL TX LLC  
8570 BREENBORO DRIVE, SUITE 450  
HOLBEAN, VIRGINIA 22102

PROJECT REPRESENTATIVE:  
TOMMY HANN  
HINSTEAD PC  
500 HINSTEAD BUILDING  
2128 N. HARWOOD STREET  
DALLAS, TEXAS 75201  
(214) 749-9124

PLAN PREPARER:  
JERRY LOHREY  
ARCHITECTURE DENAREST  
2520 VALDINA STREET  
DALLAS, TEXAS 75207  
(214) 749-6655

Zoning: PD-550 R/O-2

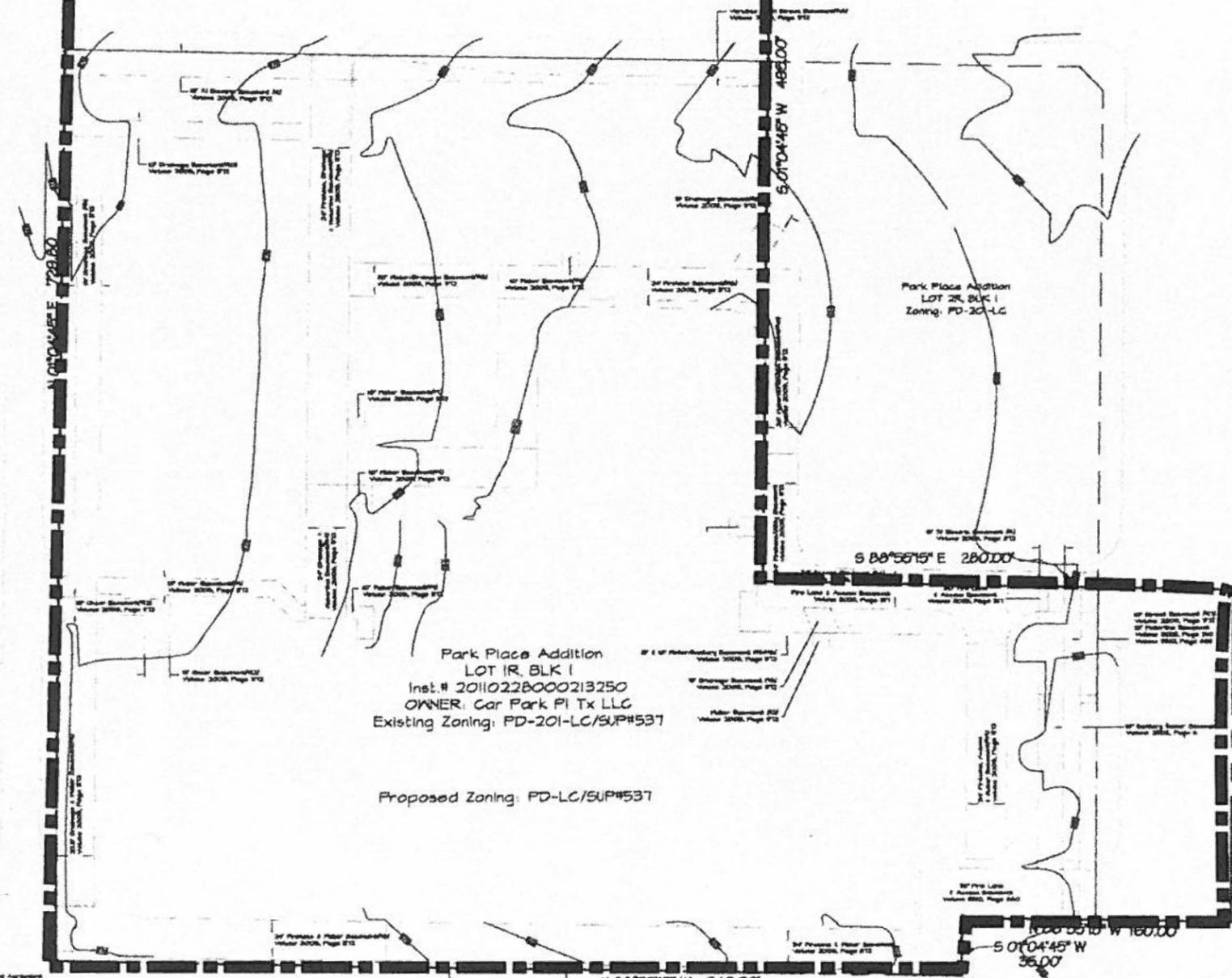
Zoning: PD-550 R/O-2

ALLIANCE BLVD.

Zoning: PD-550 R/O-2

Parkway Commons  
LOT 1, BLK 1  
Zoning: PD-308-O-2

Park Place Lente  
LOT 1, BLK A  
Zoning: LC



PRESTON RD  
S 89°56'15\"/>

ZC #2014-42  
Zoning Exhibit  
6.3 Acres

Lewis Wetzel Survey, Ab. No. 971  
City of Plano, Collin County, Texas

© COPYRIGHT 2014

Revisions	Date
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

Issue Dates:
November 5, 2014
November 5, 2014
November 18, 2014
November 19, 2014
December 10, 2014
December 23, 2014



## Zoning Case 2014-42

**An Ordinance of the City of Plano, Texas, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 6.3± acres of land out of the Lewis Wetsel Survey, Abstract No. 971, located on the south side of Plano Parkway, 185± feet west of Preston Road in the City of Plano, Collin County, Texas, from Planned Development-201-Light Commercial with Specific Use Permit #537 for New Car Dealer to Planned Development-494-Light Commercial with Specific Use Permit #537 for New Car Dealer; directing a change accordingly in the official zoning map of the City; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.**

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 9th day of February, 2015, for the purpose of considering rezoning 6.3± acres of land out of the Lewis Wetsel Survey, Abstract No. 971, located on the south side of Plano Parkway, 185± feet west of Preston Road in the City of Plano, Collin County, Texas, from Planned Development-201-Light Commercial with Specific Use Permit #537 for New Car Dealer to Planned Development-494-Light Commercial with Specific Use Permit #537 for New Car Dealer; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 9th day of February, 2015; and

**WHEREAS**, the City Council is of the opinion and finds that such rezoning would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to rezone 6.3± acres

of land out of the Lewis Wetsel Survey, Abstract No. 971, located on the south side of Plano Parkway, 185± feet west of Preston Road in the City of Plano, Collin County, Texas, from Planned Development-201-Light Commercial with Specific Use Permit #537 for New Car Dealer to Planned Development-494-Light Commercial with Specific Use Permit #537 for New Car Dealer, said property being described in the legal description on Exhibit "A" attached hereto.

**Section II.** The change granted in Section 1 is granted subject to the following:

Restrictions:

The permitted uses and standards shall be in accordance with the existing Light Commercial (LC) zoning district unless otherwise specified herein.

Mid-Rise Residential is a permitted use subject to the following standards:

1. Minimum Front Yard Setback: 30 feet
2. Maximum Number of Units: 465
3. Minimum Density: 50 dwelling units per acre
4. Maximum Height: 5 stories, 70 feet
5. Maximum Floor Area Ratio: 2:1
6. Maximum Lot Coverage: None
7. Parking structure facades must be concealed from view from Preston Road and Plano Parkway.
8. Nonresidential uses, including but not limited to leasing offices and resident amenity areas must have a minimum of 40% of the ground floor façade facing Preston Road and Plano Parkway comprised of window area. For purposes of this standard, ground floor is defined as that portion of a building from the street-level finish floor elevation and extending 12.5 feet above the street-level finish floor elevation.
9. Screening: A fence and irrigated living screen is required along the southern property line and must be a minimum of six feet in height at installation. A masonry screening wall is required along the eastern property line adjacent to first floor residential units and must not be less than eight feet in height.

**Section III.** It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

**Section IV.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**Section V.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section VI.** Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VII.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VIII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 9TH DAY OF FEBRUARY, 2015.**

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Harry LaRosiliere, MAYOR

ATTEST:

---

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

---

Paige Mims, CITY ATTORNEY

Zoning Case 2014-42

BEING a tract of land situated in the Lewis Wetsel Survey, Abstract Number 971, City of Plano, Collin County, Texas, and being all of Lot 1R, Block 1 of the Replat of Park Place Addition to the City of Plano, Texas, according to the plat recorded in Volume 2006, Page 571 of the Plat Records of Collin County, Texas, and more particularly described as follows:

BEGINNING at a City of Plano Monument Found for corner at the Northwest corner of said Lot 1R, Block 1, in the South right-of-way of Plano Parkway having a 360 foot right-of-way at this point, being the Northeast corner of Lot 1, Block 1 of Parkway Commons recorded in Cabinet F, Page 538 of the Plat Records of Collin County, Texas;

THENCE South 88° 54' 19" East along the South right-of-way line of said Plano Parkway a distance of 420.00 feet to a "X" cut set for corner, being the Northeast corner of said Lot 1R, Block 1, also being the Northwest corner of Lot 2R, Block 1 of the Replat of Park Place Addition according to the plat recorded in Volume 2006, Page 571 of the Plat Records of Collin County, Texas;

THENCE South 01° 04' 45" West leaving the South right-of-way line of said Plano Parkway, along the common line of said Lots 1R and 2R a distance of 315.00 feet to a "X" cut set for corner, being the Southwest corner of said Lot 2R;

THENCE South 88° 55' 15" East along the common line of said Lots 1R and 2R a distance of 200.00 feet to a "X" cut set for corner in the West right-of-way line of Preston Road having a 160 foot right-of-way at this point, being the most Easterly Northeast corner of said Lot 1R and being the Southeast corner of Lot 2R;

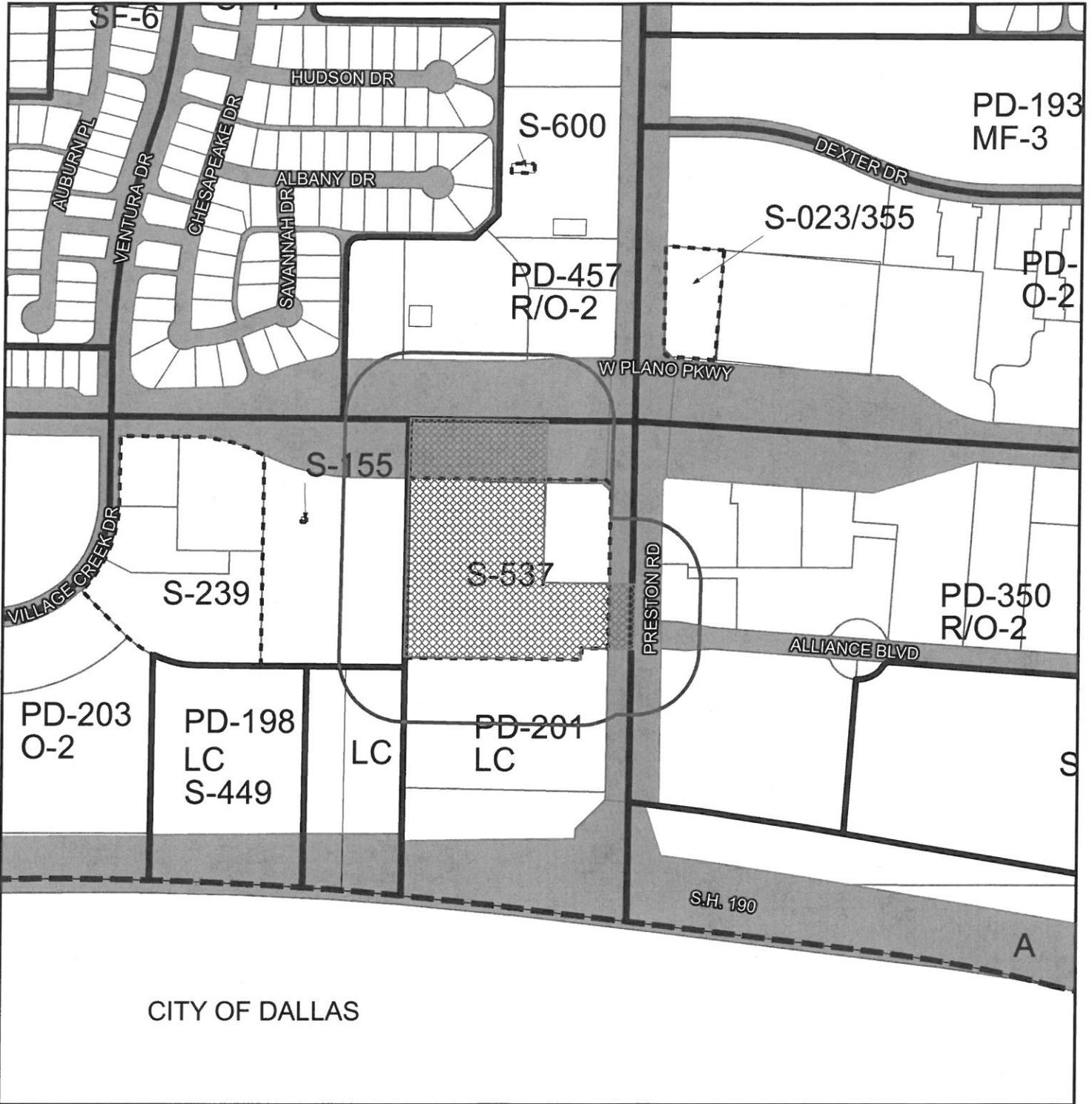
THENCE South 01° 04' 45" West along the West right-of-way of said Preston Road a distance of 199.69 feet to a "X" cut set for corner, being the Southeast corner of said Lot 1R, also being the Northeast corner of Lot 1, Block A of the Performance Addition recorded in Cabinet G, Page 770 of the Plat Records of Collin County, Texas;

THENCE North 88° 55' 15" West leaving the West right-of-way of said Preston Road a distance of 80.00 feet to an "X" cut set for corner of said Lot 1R Block 1, and said Lot 1, Block A;

THENCE South 01° 04' 45" West a distance of 35.00 feet to an "X" cut found for corner of said Lot 1R and said Lot 1;

THENCE North 88° 55' 15" West along the North line of said Lot 1, Block A, a distance of 540.00 feet to a 1/2-inch iron rod found with cap for the Southwest corner of said Lot 1R, Block 1, also being the Northwest corner of said Lot 1, Block A, and being in the East line of said Lot 1, Block 1 Parkway Commons;

THENCE North 01° 04' 45" East along the East line of said Lot 1, Block 1, Parkway Commons a distance of 549.80 feet to the POINT OF BEGINNING and containing 6.314 acres or 275,031 square feet of land, more or less.



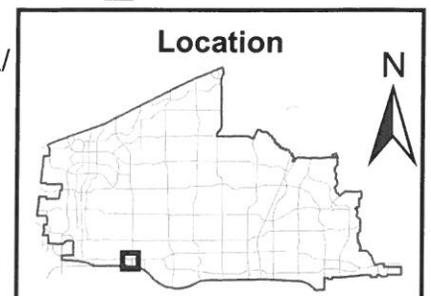
CITY OF DALLAS

Zoning Case #: 2014-42

Existing Zoning: PLANNED DEVELOPMENT-201-LIGHT COMMERCIAL/  
 PRESTON ROAD OVERLAY DISTRICT  
 w/SPECIFIC USE PERMIT #537



- 200' Notification Buffer
- (hatched) Subject Property
- Zoning Boundary
- City Limits
- - - Specific Use Permit
- (grey) Right-of-Way



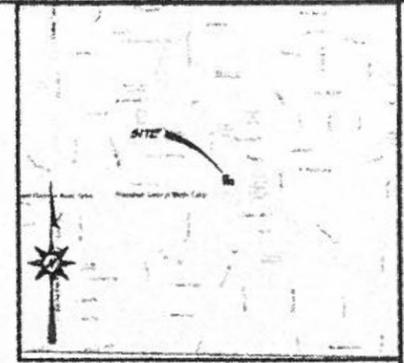
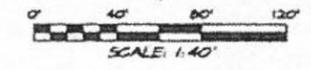
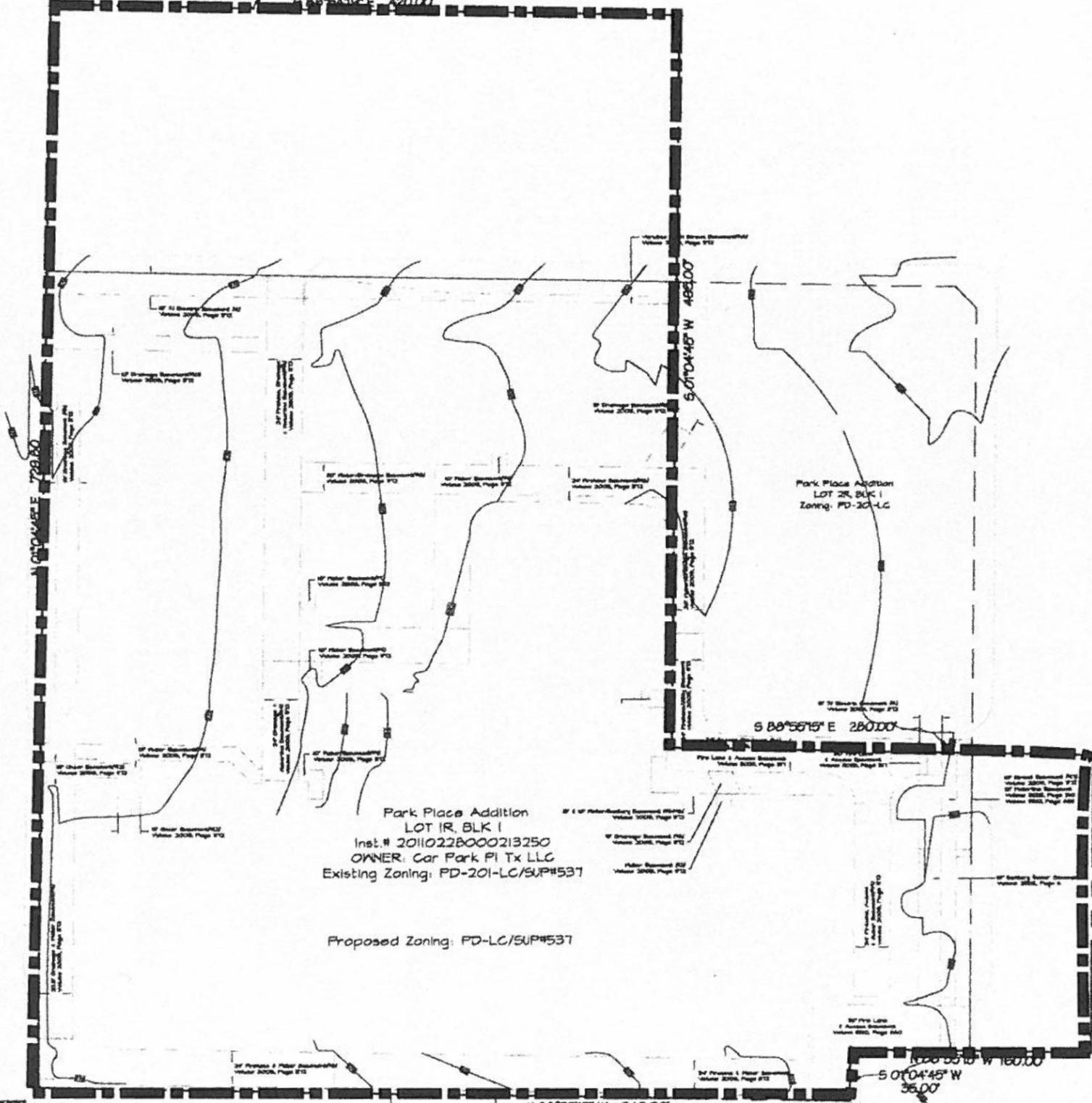
Source: City of Plano Planning Department

**PLANO PKWY**

Approximate Center Line

P.O.B.

S 88°54'00" E 120.00'



VICINITY MAP  
NOT TO SCALE

APPROVAL OF THE ZONING CASE ASSOCIATED WITH THIS EXHIBIT SHALL NOT IMPLY APPROVAL OF ANY ASSOCIATED STUDY, PLAN, OR PLAN APPROVAL OF DEVELOPMENT STANDARDS SHOWN HEREON, OR THE INITIATION OF THE DEVELOPMENT PROCESS, PLANNING & ZONING COMMISSION AND/OR CITY COUNCIL ACTION ON STUDIES, PLATS OR PLANS RELATING TO THE DEVELOPMENT OF THIS PROPERTY SHALL BE CONSIDERED AS AN ACTION SEPARATE FROM ACTION TAKEN ON THIS ZONING CASE.

OWNER:  
CAR PARK PL TX LLC  
8570 BREEDSBORO DRIVE, SUITE 450  
HOLEBEAN, VIRGINIA 22102

PROJECT REPRESENTATIVE:  
TOMMY HANN  
HINSTEAD PC  
500 HINSTEAD BUILDING  
2128 N. HARWOOD STREET  
DALLAS, TEXAS 75201  
(214) 749-9124

PLAN PREPARER:  
JERRY LOHREY  
ARCHITECTURE DENAREST  
2520 VALDINA STREET  
DALLAS, TEXAS 75207  
(214) 749-6659

Zoning: PD-550 R/O-2

Zoning: PD-550 R/O-2

ALLIANCE BLVD.

Zoning: PD-550 R/O-2

**Adams**  
surveying company, LLC

Web site : adamssurveyingcompany.com

P.O. Box 260392  
Plano, Texas 75026  
Phone (469) 311-0250  
Fax (214) 245-9844

Revisions	Date
1	
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7	
8	
9	
10	

Issue Dates:
November 5, 2014
November 5, 2014
November 18, 2014
November 19, 2014
December 10, 2014
December 23, 2014

ZC #2014-42  
Zoning Exhibit  
6.3 Acres  
Lewis Wetzel Survey, Ab. No. 971  
City of Plano, Collin County, Texas

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**DATE:** January 21, 2015  
**TO:** Honorable Mayor & City Council  
**FROM:** Richard Grady, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of January 20, 2015

**AGENDA ITEM NO. 6A - PUBLIC HEARING  
ZONING CASE 2014-48  
APPLICANT: LYONS EQUITIES, INC., TRUSTEE TEXAS CORP.**

Request to rezone 6.4± acres located on the north side of Park Boulevard, 334± feet east of Los Rios Boulevard **from** Planned Development-13-Retail **to** Single-Family Residence Attached. Zoned Planned Development-13-Retail.

**APPROVED:** 7-1 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 7

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 61

**PETITION(S) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval as submitted.

**FOR CITY COUNCIL MEETING OF:** February 9, 2015 (To view the agenda for this meeting, see [www.planotx.gov](http://www.planotx.gov))

**PUBLIC HEARING - ORDINANCE**

RA/ks

xc: Chris Lyons, Vice President, Lyons Equities, Inc., Trustee Texas Corp.  
Mardy Brown, Texas Development Services

<http://goo.gl/maps/svdo3>

CITY OF PLANO  
PLANNING & ZONING COMMISSION

January 20, 2015

**Agenda Item No. 6A**

**Public Hearing:** Zoning Case 2014-48

**Applicant:** Lyons Equities, Inc., Trustee Texas Corp.

---

**DESCRIPTION:**

Request to rezone 6.4± acres located on the north side of Park Boulevard, 334± feet east of Los Rios Boulevard **from** Planned Development-13-Retail **to** Single-Family Residence Attached. Zoned Planned Development-13-Retail.

**REMARKS:**

The purpose of this request is to rezone 6.4± acres located on the north side of Park Boulevard, 334± east of Los Rios Boulevard from Planned Development-13-Retail (PD-13-R) to Single-Family Residence Attached (SF-A). A planned development district provides the ability to amend use, height, setback, and other development standards at the time of zoning to promote innovative design and better development controls appropriate to both off- and onsite conditions. The R district is primarily intended to provide areas for neighborhood, local, and regional shopping facilities for the retail sales of goods and services including convenience stores, shopping centers, and regional malls but not including wholesaling and warehousing. The SF-A district is intended to provide for a variety of residential housing types and densities in medium density range (five-ten units/acres) on individually-platted lots or multiple units on a single lot.

The R zoning district allows SF-A development with approval of a Specific Use Permit (SUP). However, PD-13-R limits the maximum height of development to one-story or 32 feet, whichever is less. Rather than applying for an SUP, which would have a height limitation of one-story, the applicant is requesting to rezone which would allow for a two-story residential product.

A preliminary site plan, Venetian Villas North accompanies this request as Agenda Item 6B.

## **Surrounding Land Use and Zoning**

The area of request is currently undeveloped. To the south, across Park Boulevard, is undeveloped land zoned Planned Development-6-Retail (associated with Zoning 2014-49). To the east are existing residences zoned Single-Family Residence-7 (SF-7). To the north are existing residences zoned Two-Family Residence (Duplex). To the west are existing retail uses zoned Planned Development-13-Retail.

## **Conformance to the Comprehensive Plan**

**Future Land Use Plan** - The Future Land Use Plan designates this property as Residential with Neighborhood Commercial at the intersection of Los Rios Boulevard and Park Boulevard. The request is in conformance to the Future Land Use Plan.

**Interim Amendments to the Comprehensive Plan** - In April 2012, the City Council adopted interim amendments to the Land Use Element of the Comprehensive Plan which included recommendations pertaining to the use of the city's undeveloped land. Two of these recommendations are applicable to this request.

1. All residential rezoning requests should be evaluated to determine the impact on infrastructure, public safety response, school capacity, and access to and availability of amenities and services.

The proposed site is served by the 107 acre Cottonwood Creek Greenbelt Park which is approximately 1,100 feet to the east. Additionally, PISD representatives have stated that there is sufficient capacity at all four schools serving the property. The Fire Department has determined that response times are sufficient for single-family development at this location. Therefore, this request is consistent with this interim amendment to the Comprehensive Plan.

2. Isolated residential development should not be permitted; residential rezoning requests need to establish a complete neighborhood, or expand an existing neighborhood or an urban mixed-use center. Mid-rise multifamily development (five to twelve stories) and special needs housing (i.e. senior housing) could be an exception if the surrounding land uses are compatible.

The applicant is proposing 44 residential lots on the subject property. Although the proposed townhomes are a denser product than the existing residences in the area, single-family residential uses at this location are compatible with the adjacent single-family uses. The proposed units will be a rear entry product providing connectivity, via alley access, to the existing residential subdivision to the north and east. By expanding an existing neighborhood, this request is in conformance with this policy recommendation.

**Infill Housing Policy Statement** - The Infill Housing Policy recommends that infill housing be adjacent or be in close proximity to existing residential development to take advantage of existing amenities. The proposed development is an extension of an existing single-family neighborhood to the north and east. The policy statement also

recommends adding a variety of housing options to existing residential neighborhoods, to which this conforms.

**Rezoning Property to Meet Demand** - The subject property is physically appropriate for residential uses. The area is not affected by adverse environmental conditions such as noise, light, fumes, or related nuisances.

Additionally, the request is also consistent with the Housing Element of the Comprehensive Plan which encourages providing a wide variety of housing types to serve a diverse population. The Housing Element also states that the city should place medium density housing on the periphery of neighborhoods that have low density housing in the interior.

**Adequacy of Public Facilities** - Water and sanitary sewer services are available to serve the subject property via extensions from Park Boulevard. However, the applicant will need to verify that the sanitary sewer capacity is sufficient to accommodate the proposed change in use from commercial to single-family residential.

**Traffic Impact Analysis (TIA)** - A TIA is not required for this rezoning request. However in considering the traffic impact of the proposed residential development, using the average Institute of Traffic Engineers (ITE) trip generation rates, staff compared the proposed residential development with the potential build-out of the subject property as retail. Using the adjacent retail development and comparing it to the subject property we estimated that 39,000 square feet of retail could develop on the property. The table below shows the estimated traffic generation during peak hours (7:00-9:00 a.m. and 4:00-6:00 p.m.):

	AM	PM
SF-A	33	44
Retail	39	145

From these calculations, it is evident that retail development would generate greater traffic than the requested residential subdivision.

**School Capacity** - This is provided for informational purposes only. The subject property is within the Plano Independent School District and is served by the following schools:

<b>Elementary School</b>	<b>Dooley</b>
<b>Middle School</b>	<b>Armstrong</b>
<b>High School</b>	<b>McMillen</b>
<b>Senior High School</b>	<b>Plano East</b>

At this time, and based upon current boundaries, PISD has determined that there is sufficient capacity at all four schools.

## **Retail Zoning**

In 2003, City Council adopted the *Retail Study of Underperforming and Vacant Retail Areas* initiated by the cities of Carrollton, Richardson, and Plano. This study examined the retail market conditions in the three cities and offered alternatives to address underperforming and vacant retail properties. The study identified Plano as having an overabundance of R zoning resulting in commercial decline. Rezoning to residential is a recommended strategy to reduce retail zoned land.

As a result of this study, City Council amended the R zoning district to allow Single-Family Residence-Attached (SF-A), Two-Family Residence (2F) and Patio Home (PH) development with an SUP. Due to the existing height restrictions within PD-13-R, the applicant is requesting to rezone the property to SF-A to allow for two-story residences.

The Los Rios Boulevard and Park Boulevard neighborhood commercial area has a retail vacancy rate ranging from 17%-23%, as determined in the *Housing Value Retention Analysis*, which is considered a strong vacancy rate. The percentage of retail vacancy has been found to have a statistically significant impact on home prices. The proposed SF-A subdivision would help reduce the amount of undeveloped retail zoned property within the city and will also support existing retail centers within the area.

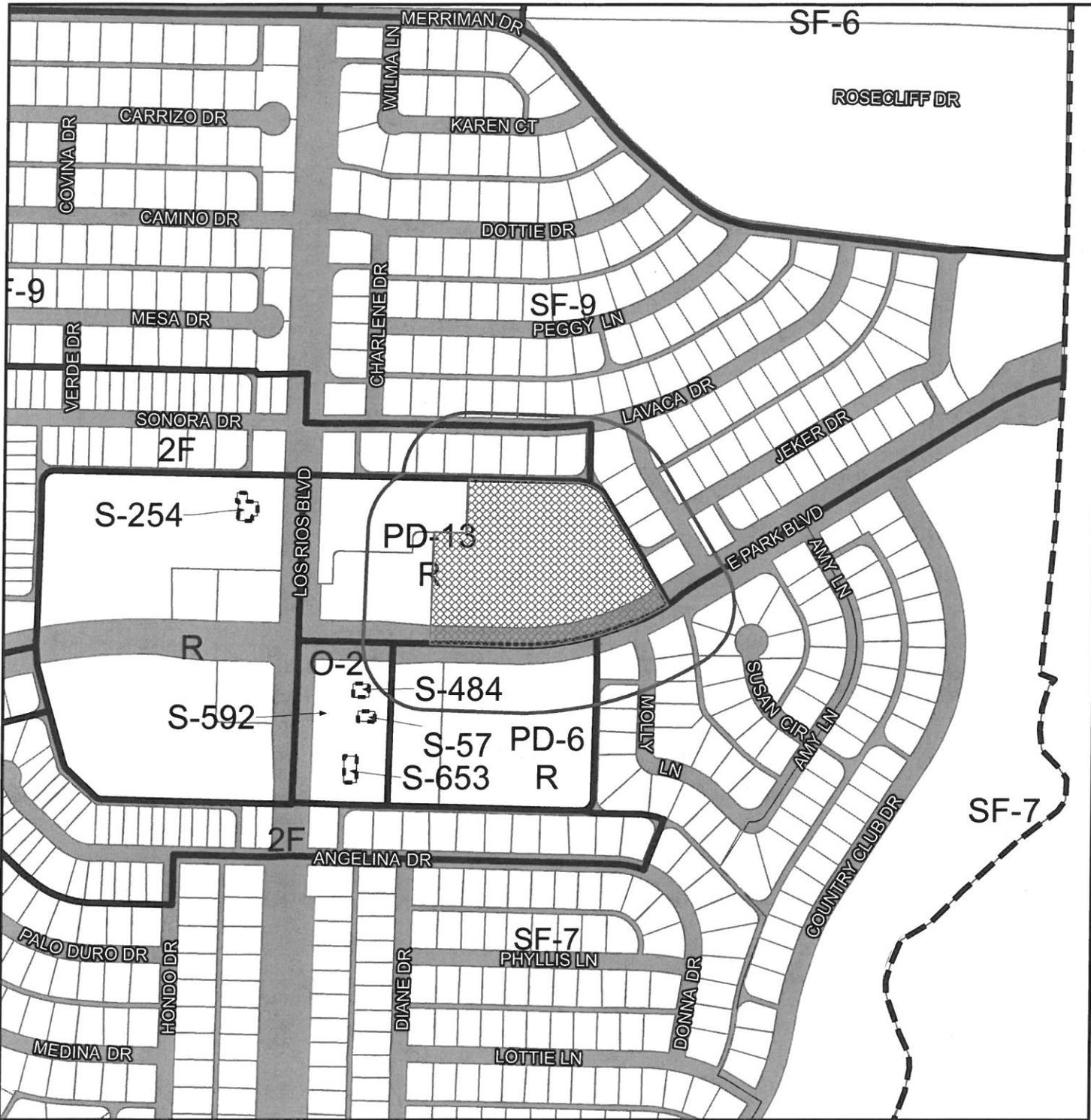
## **Summary**

The applicant is requesting to rezone the subject property from Planned Development-13-Retail to Single-Family Residence Attached. The requested rezoning for SF-A is compatible with the existing adjacent single-family residential neighborhoods and complies with the Future Land Use Plan and interim amendments to the Land Use Element of the Comprehensive Plan. The proposed townhomes would add variety of housing to the area to serve a diverse population and a residential development at this location would help reduce the amount of undeveloped retail zoned property within the city. For these reasons, staff is in support of this zoning request.

## **RECOMMENDATION:**

Recommended for approval as submitted.

DUE TO THE NUMBER OF RESPONSES, LETTERS FOR THIS ITEM HAVE BEEN POSTED UNDER SEPARATE COVER ON THE CITY'S WEBSITE.

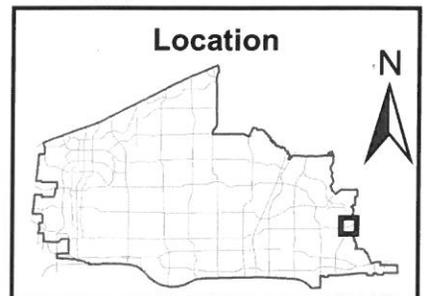


Zoning Case #: 2014-48

Existing Zoning: PLANNED DEVELOPMENT-13-RETAIL



Location



○ 200' Notification Buffer

— Zoning Boundary

- - - Specific Use Permit

▨ Subject Property

— City Limits

▬ Right-of-Way

Source: City of Plano Planning Department



Area of Request

dees 1/6/2015 X:\Dept\P&Z Locators & Graphics\Z2014-48A.mxd



Source: City of Plano, Planning Dept.  
Date: January, 2015

Zoning Case 2014-48



## Zoning Case 2014-48

**An Ordinance of the City of Plano, Texas, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 6.4± acres of land out of the Andrew Piara Survey, Abstract No. 687, located on the north side of Park Boulevard, 334± feet east of Los Rios Boulevard in the City of Plano, Collin County, Texas, from Planned Development-13-Retail to Single-Family Residence Attached; directing a change accordingly in the official zoning map of the City; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.**

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 9th day of February, 2015, for the purpose of considering rezoning 6.4± acres of land out of the Andrew Piara Survey, Abstract No. 687, located on the north side of Park Boulevard, 334± feet east of Los Rios Boulevard in the City of Plano, Collin County, Texas, from Planned Development-13-Retail to Single-Family Residence Attached; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 9th day of February, 2015; and

**WHEREAS**, the City Council is of the opinion and finds that such rezoning would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to rezone 6.4± acres of land out of the Andrew Piara Survey, Abstract No. 687, located on the north side of Park Boulevard, 334± feet east of Los Rios Boulevard in the City of Plano, Collin County, Texas, from Planned Development-13-Retail to Single-Family Residence Attached, said property being described in the legal description on Exhibit "A" attached hereto.

**Section II.** It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

**Section III.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**Section IV.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section V.** Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VI.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 9TH DAY OF FEBRUARY, 2015.**

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Harry LaRosiliere, MAYOR

ATTEST:

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Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

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Paige Mims, CITY ATTORNEY

Zoning Case 2014-48

BEING a 6.4036 acre tract of land situated in the Andrew Piara Survey, Abstract No. 687, City of Plano, Collin County, Texas and being all of Lot 3, Block A, East Park Market Place Shopping Center, an addition in the City of Plano, according to the plat thereof recorded in Cabinet Q, Slide 566, Map Records, Collin County, Texas, and being a portion of that certain tract conveyed to Lyons Equities, inc., Trustee, a Texas Corporation by deed recorded in Instrument No. 94-0100161, of the Deed Records of Collin County, Texas, and a portion of East Park Boulevard, and being more particularly described as follows:

BEGINNING at 1/2-inch iron rod found for corner at the common corner of Lot 3, and Lot 2, Block A, of said East Park Market Place Shopping Center, and being in the north right-of-way line of East Park Boulevard. (110 foot right-of-way);

THENCE North 01° 58' 39" East, along the common line of said Lot 2, and Lot 3, Block A, a distance of 282.97 feet to a 1/2-inch iron rod with plastic cap stamped "WAI" found for the common corner of said Lot 2, and Lot 3, said point being in the south line of Lot 1, Block A, of East Park Market Place, an Addition to the City of Plano, according to the map thereof recorded in Cabinet F, Slide 325, of the Map Records of Collin County, Texas;

THENCE along the common line of said Lot 3, and said Lot 1, Block A the following calls:

South 88° 01' 22" East, a distance of 98.02 feet to a 1/2- iron rod set for the common corner of said Lot 3, and Lot 1, Block A;

North 01° 58' 38" East, a distance of 163.00 feet to a 1/2-inch iron rod found the northwest corner of said Lot 3, Block A, same being the northeast corner of said Lot 1, Block A, said point being in the south line of a 15 foot wide alley.

THENCE South 88° 01' 22" East, along the north line of said Lot 3, and the south line of said alley, a distance of 330.14 feet to a 1/2-inch iron rod found for corner, said point being the beginning of curve to the right, having a radius of 100.00 feet, and a delta angle of 57° 18' 47";

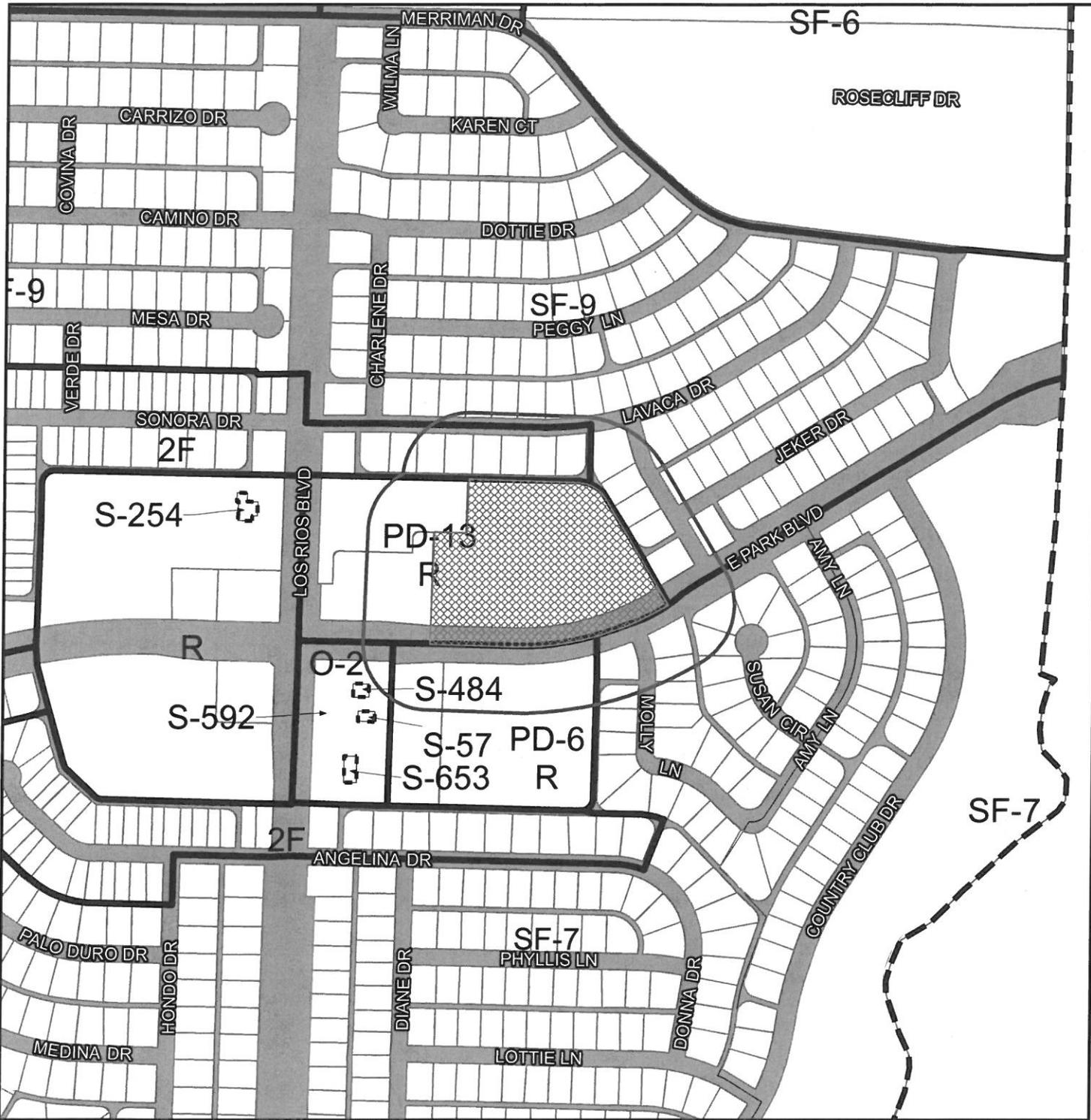
THENCE along said curve to the right, an arc distance of 100.03 feet, a cord bearing a distance of South 59° 21' 59" East, 95.91 feet to a 1/2-inch iron rod set for corner;

THENCE South 30° 42' 36" East, continuing along the southwest line of said alley, passing at a distance of 318.55 feet to a 1/2-inch iron rod found for corner, said point being the southeast corner of said Lot 3, being in the north right-of-way line of said East Park Boulevard, and continuing a total distance of 373.55 feet to a point for corner, in the centerline of said East Park Boulevard;

THENCE South  $59^{\circ} 17' 24''$  West, along the centerline of said East Park Boulevard, a distance of 12.96 feet to a point for corner; said point being the beginning of a curve to the right, having a radius of 850.00 feet, a delta angle of  $32^{\circ} 41' 11''$ ;

THENCE along said curve to the right, and the centerline of said East Park Boulevard, an arc distance of 484.92 feet, a cord bearing a distance of  $S 75^{\circ} 38' 02'' W$ , 478.37 feet to a point for corner;

THENCE North  $01^{\circ} 58' 39''$  East, a distance of 56.03 feet to the POINT OF BEGINNING and containing 278,941 square feet or 6.4036 acres of land, more or less.

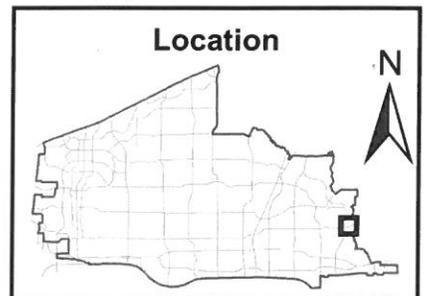


Zoning Case #: 2014-48

Existing Zoning: PLANNED DEVELOPMENT-13-RETAIL



Location



○ 200' Notification Buffer  
 ▨ Subject Property

— Zoning Boundary — — — Specific Use Permit  
 - - - City Limits ■ Right-of-Way

Source: City of Plano Planning Department



**DATE:** January 21, 2015  
**TO:** Honorable Mayor & City Council  
**FROM:** Richard Grady, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of January 20, 2015

**AGENDA ITEM NO. 7A - PUBLIC HEARING  
ZONING CASE 2014-49  
APPLICANT: LYONS EQUITIES, INC., TRUSTEE TEXAS CORP.**

Request for Specific Use Permit for Single-Family Residence Attached on 6.3± acres located on the south side of Park Boulevard, 115± feet west of Molly Lane. Zoned Planned Development-6-Retail.

**APPROVED:** 7-1 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 8

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **SUPPORT:** 1 **OPPOSE:** 19

**PETITION(S) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval as submitted.

**FOR CITY COUNCIL MEETING OF:** February 9, 2015 (To view the agenda for this meeting, see [www.planotx.gov](http://www.planotx.gov))

**PUBLIC HEARING - ORDINANCE**

RA/ks

xc: Chris Lyons, Vice President, Lyons Equities, Inc., Trustee Texas Corp.  
Mardy Brown, Texas Development Services

<http://goo.gl/maps/svdo3>

CITY OF PLANO  
PLANNING & ZONING COMMISSION

January 20, 2015

**Agenda Item No. 7A**

**Public Hearing:** Zoning Case 2014-49

**Applicant:** Lyons Equities, Inc., Trustee Texas Corp.

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**DESCRIPTION:**

Request for Specific Use Permit for Single-Family Residence Attached on 6.3± acres located on the south side of Park Boulevard, 115± feet west of Molly Lane. Zoned Planned Development-6-Retail.

**REMARKS:**

The requested zoning is for a Specific Use Permit (SUP) for Single-Family Residence Attached (SF-A). The subject property is an undeveloped tract located on the south side of Park Boulevard, 115± feet west of Molly Lane and is zoned Planned Development-6-Retail (PD-6-R). The R district is primarily intended to provide areas for neighborhood, local, and regional shopping facilities for the retail sales of goods and services including convenience stores, shopping centers, and regional malls but not including wholesaling and warehousing. The R district allows SF-A development with approval of an SUP. The purpose and intent of a SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established. SF-A developments are intended to provide for a variety of residential housing types and densities in the medium density range (five to ten units/acre) on individually-platted lots or multiple units on a single lot.

A preliminary site plan, Venetian Villas South, accompanies this SUP request as Agenda Item 7B.

**Surrounding Land Use and Zoning**

The area of request is currently undeveloped. To the north, across Park Boulevard, is undeveloped land zoned Planned Development-13-Retail that is associated with Zoning 2014-48. To the east are existing residences zoned Single-Family Residence-7 (SF-7). To the south are existing residences zoned Two-Family Residence (Duplex). To the west are existing retail, restaurant, and general office uses zoned General Office (O-2)

with Specific Use Permits #57 for Restaurant, #484 for Veterinary Clinic, #592 for Kennel (Indoor Pens)/Commercial Pet Sitting, and #653 for a Health/Fitness Center.

### **Conformance to the Comprehensive Plan**

**Future Land Use Plan** - The Future Land Use Plan designates this property as Residential with Neighborhood Commercial at the intersection of Los Rios Boulevard and Park Boulevard. The request is in conformance to the Future Land Use Plan.

**Interim Amendments to the Comprehensive Plan** - In April 2012, the City Council adopted interim amendments to the Land Use Element of the Comprehensive Plan which included recommendations pertaining to the use of the city's undeveloped land. Two of these recommendations are applicable to this request.

1. All residential rezoning requests should be evaluated to determine the impact on infrastructure, public safety response, school capacity, and access to and availability of amenities and services.

The proposed site is served by the 107 acre Cottonwood Creek Greenbelt Park which is approximately 1,000 feet to the east. Additionally, PISD representatives have stated that there is sufficient capacity at all four schools serving the property. The Fire Department has determined that response times are sufficient for single-family development at this location. Therefore, this request is consistent with this interim amendment to the Comprehensive Plan.

2. Isolated residential development should not be permitted; residential rezoning requests need to establish a complete neighborhood, or expand an existing neighborhood or an urban mixed-use center. Mid-rise multifamily development (five to twelve stories) and special needs housing (i.e. senior housing) could be an exception if the surrounding land uses are compatible.

The applicant is proposing 51 residential lots on the subject property. Although the proposed townhomes are a denser product than the existing residences in the area, single-family residential uses at this location are comparable with the adjacent single-family uses. The proposed units will be a rear entry product providing connectivity, via alley access, to the existing residential subdivision to the south. By expanding an existing neighborhood, this request is in conformance with this policy recommendation.

**Infill Housing Policy Statement** - The Infill Housing Policy recommends that infill housing be adjacent or be in close proximity to existing residential development to take advantage of existing amenities. The proposed development is an extension of an existing single-family neighborhood to the south and east. The policy statement also recommends adding a variety of housing options to existing residential neighborhoods, to which this conforms.

**Rezoning Property to Meet Demand** - The subject property is physically appropriate for residential uses. The area is not affected by adverse environmental conditions such as noise, light, fumes, or related nuisances.

Additionally, the request is also consistent with the Housing Element of the Comprehensive Plan which encourages providing a wide variety of housing types to serve a diverse population. The Housing Element also states that the city should place medium density housing on the periphery of neighborhoods that have low density housing in the interior.

**Adequacy of Public Facilities** - Water and sanitary sewer services are available to serve the subject property via extensions from Park Boulevard. However, the applicant will need to verify that the sanitary sewer capacity is sufficient to accommodate the proposed change in use from commercial to single-family residential.

**Traffic Impact Analysis (TIA)** - A TIA is not required for this rezoning request. However in considering the traffic impact of the proposed residential development, using the average Institute of Traffic Engineers (ITE) trip generation rates, staff compared the proposed residential development with the potential build-out of the subject property as retail. Using the adjacent retail development and comparing it to the subject property we estimated that 44,000 square feet of retail could develop on the property. The table below shows the estimated traffic generation during peak hours (7:00-9:00 a.m. and 4:00-6:00 p.m.):

	AM	PM
<b>SF-A</b>	38	52
<b>Retail</b>	44	164

From these calculations it is evident that retail development would generate greater traffic than the requested residential subdivision.

**School Capacity** - This is provided for informational purposes only. The subject property is within the Plano Independent School District and is served by the following schools:

<b>Elementary School</b>	<b>Dooley</b>
<b>Middle School</b>	<b>Armstrong</b>
<b>High School</b>	<b>McMillen</b>
<b>Senior High School</b>	<b>Plano East</b>

At this time and based upon current boundaries, PISD has determined that there is sufficient capacity at all four schools.

### **Retail Zoning**

In 2003, City Council adopted the Retail Study of Underperforming and Vacant Retail Areas initiated by the cities of Carrollton, Richardson, and Plano. This study examined the retail market conditions in the three cities and offered alternatives to address underperforming and vacant retail properties. The study identified Plano as having an overabundance of R zoning resulting in commercial decline. Rezoning to residential is a recommended strategy to reduce Retail zoned land.

As a result of this study, City Council amended the R zoning district to allow Single-Family Residence-Attached (SF-A), Two-Family Residence (2F), and Patio Home (PH) development with an SUP. The Zoning Ordinance allows these types of residential development in R zoning districts as long as the following criteria are met:

1. The proposed type of residential development (i.e. SF-A, 2F, PH) complies with the respective zoning district standards for that type of residential development;
2. The use is developed on individually platted lots;
3. The use abuts residential zoned land that is not separated by a Type C or larger thoroughfare;
4. The use has a minimum land area of five acres.

The Los Rios Boulevard and Park Boulevard neighborhood commercial area has a retail vacancy rate ranging from 17%-23%, as determined in the Housing Value Retention Analysis, which is considered a strong vacancy rate. The percentage of retail vacancy has been found to have a statistically significant impact on home prices. The proposed SF-A subdivision would help reduce the amount of undeveloped retail zoned property within the city and will also support existing retail centers within the area.

The area of request is in conformance to the criteria listed above.

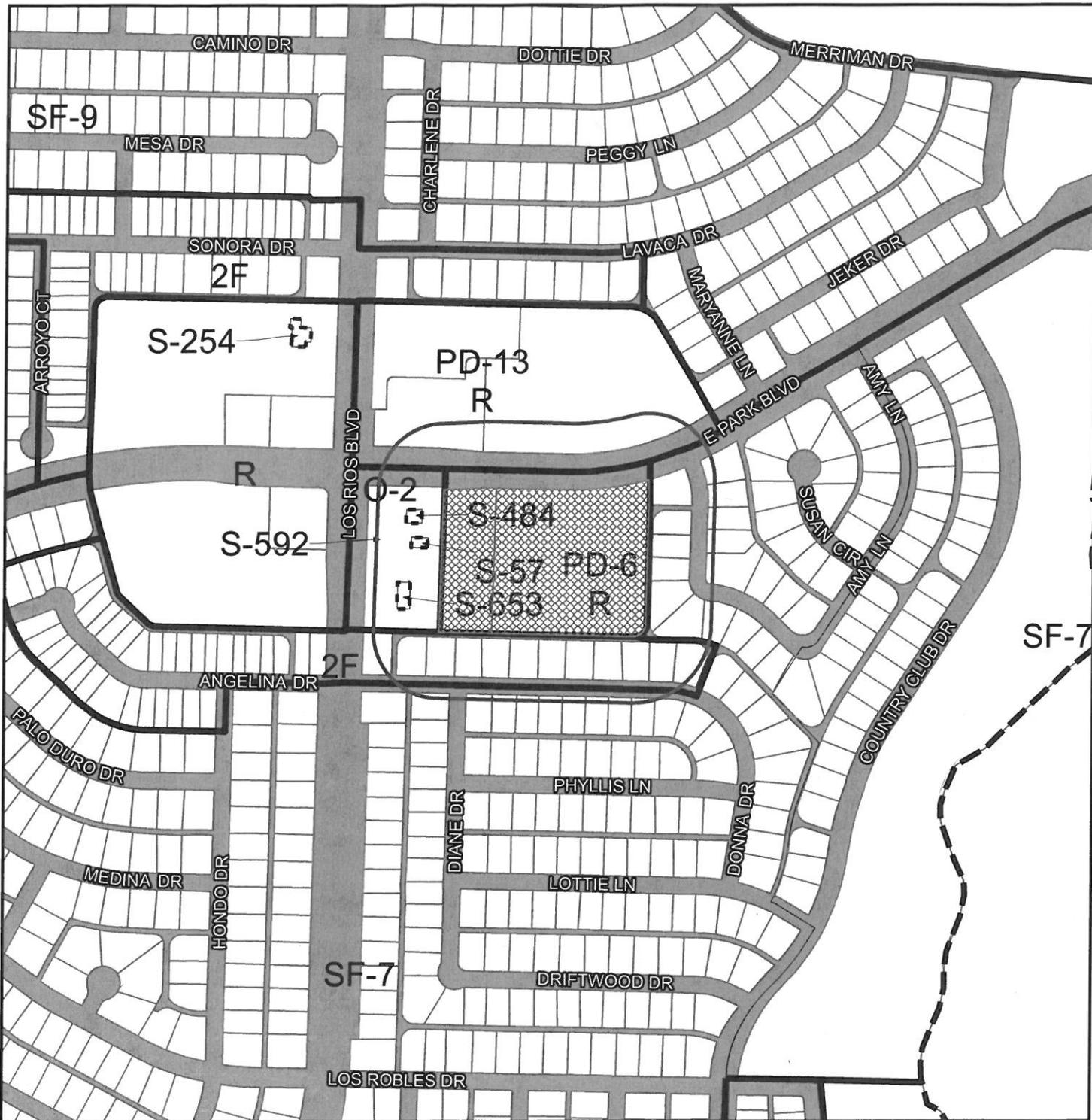
### **Summary**

The applicant is requesting a Specific Use Permit for Single-Family Residence Attached. The request is compatible with the existing adjacent single-family residential neighborhoods and complies with the Future Land Use Plan and interim amendments to the Comprehensive Plan, as well as the requirements of the Retail zoning district for residential uses. The proposed townhomes would add variety of housing to the area to serve a diverse population and a residential development at this location would help reduce the amount of undeveloped retail zoned property within the city. For these reasons, staff is in support of this zoning request.

### **RECOMMENDATION:**

Recommended for approval as submitted.

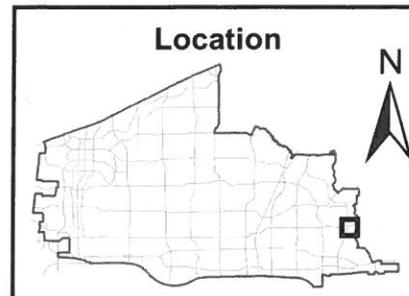
DUE TO THE NUMBER OF RESPONSES, LETTERS FOR THIS ITEM HAVE BEEN POSTED UNDER SEPARATE COVER ON THE CITY'S WEBSITE.



Zoning Case #: 2014-49

Existing Zoning: PLANNED DEVELOPMENT-6-RETAIL

- |   |                          |   |                 |   |                     |
|---|--------------------------|---|-----------------|---|---------------------|
|  | 200' Notification Buffer |  | Zoning Boundary |  | Specific Use Permit |
|  | Subject Property         |  | City Limits     |  | Right-of-Way        |



Source: City of Plano Planning Department



Area of Request

MESA DRIVE

SONORA DRIVE

CHARLENE DRIVE

PEGGY LANE

LAVACA DRIVE

MARYANNE LANE

JEKER DRIVE

PARK BOULEVARD

LOS RIOS BOULEVARD

MOLLY LANE

AMY LANE

ANGELINA DRIVE

PHYLLIS LANE

HONDO DRIVE

DIANE DRIVE

DONNA DRIVE

COUNTRY CLUB DRIVE

LOTTIE LANE

DRIFTWOOD DRIVE

LOS ROBLES DRIVE



Source: City of Plano, Planning Dept.  
Date: January, 2015

Zoning Case 2014-49



## Zoning Case 2014-49

**An Ordinance of the City of Plano, Texas, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 656 so as to allow the additional use of Single-Family Residence Attached on 6.3± acres of land out of the Andrew Piara Survey, Abstract No. 687, located on the south side of Park Boulevard, 115± feet west of Molly Lane, in the City of Plano, Collin County, Texas, presently zoned Planned Development-6-Retail; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.**

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 9th day of February, 2015, for the purpose of considering granting Specific Use Permit No. 656 for the additional use of Single-Family Residence Attached on 6.3± acres of land out of the Andrew Piara Survey, Abstract No. 687, located on the south side of Park Boulevard, 115± feet west of Molly Lane, in the City of Plano, Collin County, Texas, presently zoned Planned Development-6-Retail; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 9th day of February, 2015; and

**WHEREAS**, the City Council is of the opinion and finds that the granting of Specific Use Permit No. 656 for the additional use of Single-Family Residence Attached on 6.3± acres of land out of the Andrew Piara Survey, Abstract No. 687, located on the south side of Park Boulevard, 115± feet west of Molly Lane, in the City of Plano, Collin County, Texas, presently zoned Planned Development-6-Retail, would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

**WHEREAS**, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to grant Specific Use Permit No. 656 for the additional use of Single-Family Residence Attached on 6.3± acres of land out of the Andrew Piara Survey, Abstract No. 687, located on the south side of Park Boulevard, 115± feet west of Molly Lane, in the City of Plano, Collin County, Texas, presently zoned Planned Development-6-Retail, said property being more fully described on the legal description in Exhibit "A" attached hereto.

**Section II.** It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

**Section III.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**Section IV.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section V.** Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VI.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 9TH DAY OF FEBRUARY, 2015.**

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Harry LaRosiliere, MAYOR

ATTEST:

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Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

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Paige Mims, CITY ATTORNEY

ZC 2014-49

BEING a 6.2807 acre tract of land situated in the Andrew Piara Survey, Abstract No. 687 and being all of the certain called 6.280 acre tract of land described in a deed to Lyons Equities, Inc., recorded in Volume 4074, Page 275, Deed Records, Collin County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING at an "X" cut in concrete set at the northwest corner of said called 6.280 acre tract, same being in the northeast corner of Lot 1, Block 1, Park Rios Addition an addition to the City of Plano according to the plat recorded in Cabinet F, Slide 181, Map Records, Collin County Texas, said point being in the south line of East Park Boulevard (variable width right-of-way);

THENCE South 89° 28' 46" East, along the north line of said called 6.280 acre tract, and the south right-of-way line of said East Park Boulevard, a distance of 359.09 feet to a 5/8-inch iron rod found for corner, said point being the beginning of a curve to the left having a radius of 905.00 feet and a delta angle of 16° 45' 35";

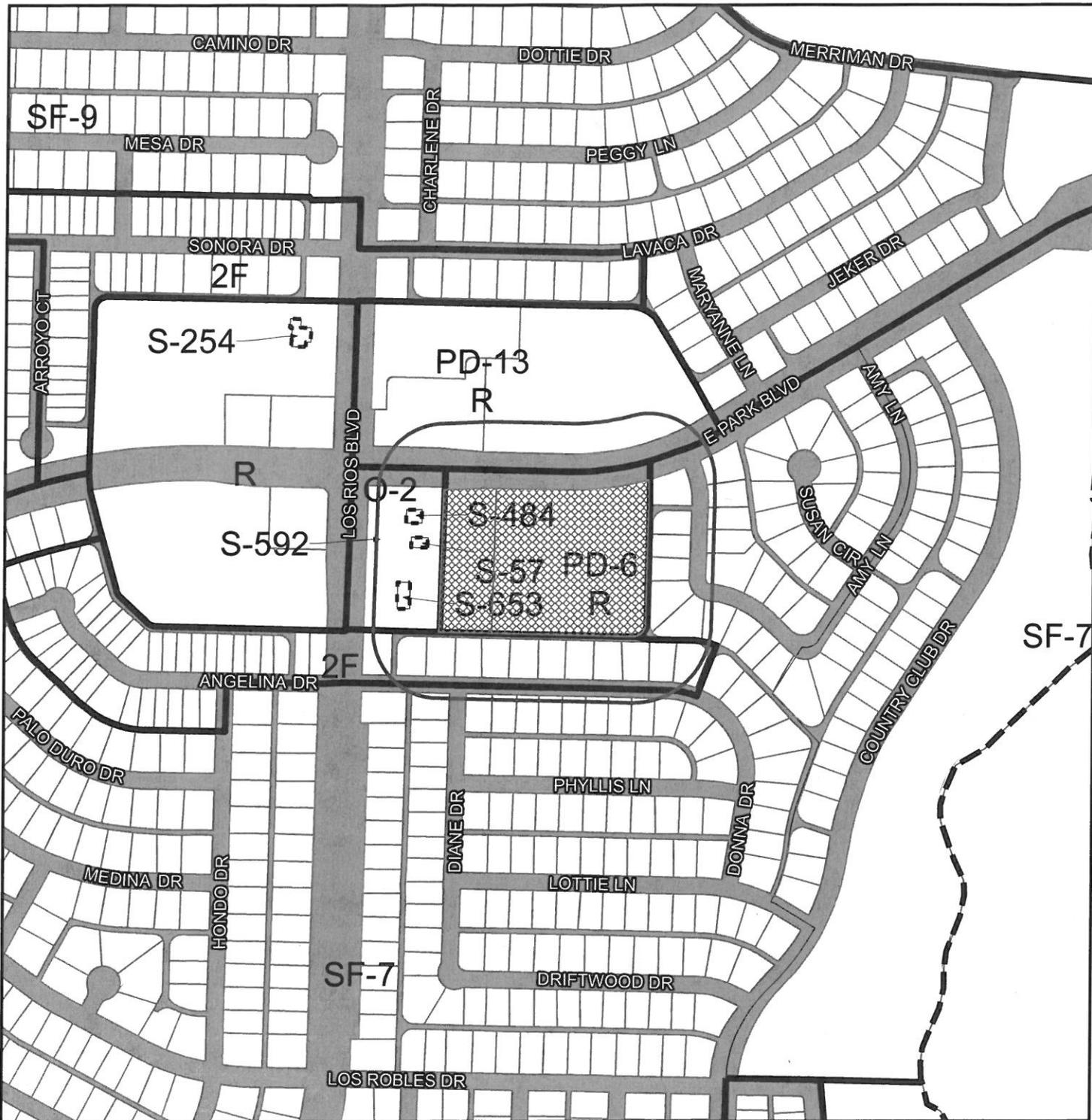
THENCE along the north line of said called 6.280 acre tract, and the south right-of-way line of said East Park Boulevard, and along said curve to the left, an arc distance of 264.72 feet, a chord bearing and distance of North 82° 08' 27" East, 263.78 feet to a 1/2-inch iron rod found at the northeast corner of said called 6.280 acre tract, same being the northwest corner of Lot 60, Block 1, Creekside Estates No. 2, an addition to the City of Plano according to the plat recorded in Cabinet C, Slide 265, Map Records, Collin County Texas;

THENCE South 00° 31' 14" West, along the east line of said called 6.280 acre tract, passing the southwest corner of said Lot 60, Block 1, a total distance of 434.88 feet to a 1/2-inch iron rod found for corner, said point being the beginning of a curve to the right having a radius of 40.00 feet, and a delta angle of 90° 00' 11";

THENCE along said curve to the right, an arc distance of 62.83 feet, a chord bearing and distance of south 45° 31' 14" West, 56.57 feet to a 1/2-inch iron rod found for corner, said point being in the north line of Creekside Estates No. 1, an addition to the City of Plano according to the plat recorded in Cabinet C, Slide 291, Map Records, Collin County, Texas same being in the north line of 15.00 foot wide alley;

THENCE North 89° 28' 46" West, along the south line of said called 6.280 acre tract, and the north line of said 15 foot alley, a distance of 580.05 feet to a 1/2-inch iron rod set for the southwest corner of said called 6.280 acre tract, same being the southeast corner of said Lot 1, Block 1, from which a 1/2-inch iron rod found bears South 15° 47' 38" East, 1.12 feet;

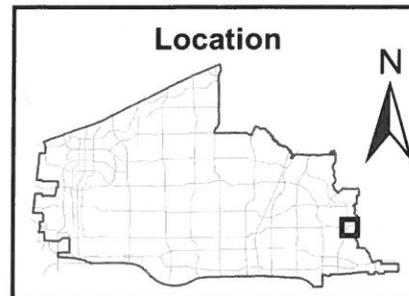
THENCE North 00° 31' 14" East, along the common line of said called 6.280 acre tract, and said Lot 1, Block 1, a distance of 436.44 feet to the POINT OF BEGINNING AND CONTAINING 273,586 SQUARE FEET OR 6.2807 ACRES OF LAND MORE OR LESS.



Zoning Case #: 2014-49

Existing Zoning: PLANNED DEVELOPMENT-6-RETAIL

- |   |                          |   |                 |   |                     |
|---|--------------------------|---|-----------------|---|---------------------|
|  | 200' Notification Buffer |  | Zoning Boundary |  | Specific Use Permit |
|  | Subject Property         |  | City Limits     |  | Right-of-Way        |



Source: City of Plano Planning Department





# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		February 9, 2015		
Department:		Planning		
Department Head		Christina Day		
Agenda Coordinator (include phone #): <b>Tammy Stuckey, ext 7156</b>				
<b>CAPTION</b>				
Public Hearing and consideration of an Appeal of the Planning & Zoning Commission's Denial of Zoning Case 2014-41 - Request to rezone 21.8± acres located at the northwest corner of Independence Parkway and Plano Parkway from Planned Development-373-Retail/General Office to Single-Family Residence Attached. Zoned Planned Development-373-Retail/General Office. Applicant: Plano Parkway Investments LP				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>2014-15</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
		<b>TOTALS</b>		
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S): <b>N/A</b>				
COMMENTS: This item has no financial impact.				
STRATEGIC PLAN GOAL: Consideration of a request to rezone relates to the Council's goal of Financially Strong City with Service Excellence.				
<b>SUMMARY OF ITEM</b>				
At its January 5, 2015 meeting, the Planning & Zoning Commission denied this request by a vote of 6-2. The applicant has appealed the Commission's denial.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Letter of Appeal			Planning & Zoning Commission	
2 <sup>nd</sup> Vice Chair Report				
P&Z Follow-Up Memo				
Staff Report				
Locator Map				
Aerial				
Concept Plan				



**Ion  
Design  
Group**

Note:

To: Eric Hill, City of Plano  
From: Bryan Klein, Ion Design Group  
Date: January 15, 2015  
Subject: Middleton rezoning appeal – Case #2014-41 (Plano and Independence Parkway)

I am writing on behalf of Plano Parkway Investments, LP, at the request of Megatel Homes, to ask that the Planning & Zoning Commission be appealed. The applicant wants to have the case heard by the City Council. I understand that there is time for legal notices to be posted and for the case to be placed on the City Council docket for the February 9, 2015 meeting.

Please let me know if you need other information from the applicant to move this ahead.

Thanks for your consideration and assistance.

*Bryan DK Klein*

## Recommendation of the Planning & Zoning Commission

### Zoning Case 2014-41

January 5, 2015

Second Vice Chairman's Report

Zoning Case 2014-41, Agenda Items No. 6A, and 6B – Public Hearing. Items heard together, but voted separately. Item 6B, concept plan, was discussed first, item 6A, the zoning case, followed. All eight Commissioners were present.

Applicant: Plano Parkway Investments L.P.

**Zoning Case 2014-41 Agenda Item No. 6B – Concept Plan** for 184 Single-Family Residence Attached lots and nine common area lots on 18.7 acres located on the northwest corner of Independence Parkway and Plano Parkway. Zoned Planned Development-373 Retail/General Office/190 Tollway Parkway Overlay District.

Staff Recommendation: The Staff recommended withdrawal of the Concept Plan due to staff error and improper posting on the agenda, to be properly posted and added to the January 20, 2015 P & Z commission meeting. There was no discussion in this regard.

A motion was made for the withdrawal of Agenda Item No. 6B – Concept Plan, and the motion was approved unanimously by the Commission.)

Please note this Concept plan application is contingent upon approval of Zoning Case 2014-41 (Agenda Item No 6A).

**Zoning Case 2014-41 Agenda Item No. 6A, and 6B–** Request to rezone 21.8 acres located on the northwest corner of Independence Parkway and Plano Parkway from Planned Development-373 Retail/General Office (PD-373-R/O-2) to Single Family Residential Attached (SFA). Zoned Planned Development-373 Retail/General Office/190 Toll way Parkway Overlay District.

Staff Recommendation: The Staff recommended approval of the zoning change for the following reasons:

1. Although the request for Residential Zoning is **not** in conformance with the Future Land Use Plan which recommends this property be developed as Low Intensity Office (LIO), it is consistent with the interim amendments to the Land Use Element of the Comprehensive Plan. The Physical character of the property is appropriate for residential use due to two recommendations pertaining to undeveloped land:
  - a. The impact on infrastructure, public safety, school capacity, and access to and availability of amenities and services is acceptable and appropriate.
  - b. This is not an isolated residential development and, although much higher in density, would be compatible to the adjacent residential neighborhood, according to the Infill Housing Policy regarding the addition of a variety of housing types to existing neighborhoods.
2. Linda Lane, which ends at the northern boundary of the property, is a two-lane residential street built to collector street standards, and along with the existing alley, provides opportunity for the proposed residential development to tie into the existing neighborhood.

3. Although this rezoning would reduce the amount of nonresidential zoned property within the Plano Parkway corridor, several large vacant properties are available within the corridor which could accommodate future economic development and employment generating opportunities.
4. The Applicant's request (6B) for reduction of the required 30' landscape edge fronting Independence Parkway and Plano Parkway to 15' would be acceptable to support the reasonable development of the property.

Commission Action:

**Comments made in Support of the issue 6A and 6B included:**

- There was only one speaker in support of the Residential Zoning, but indicated that density was a concern.
- The applicant indicated:
  - a) No exceptions have been requested to the SF-A standards have been requested except for the landscape setback for Independence and Plano Parkways reduction from 30' to 15'.
  - b) There will be no access to the alley on the north side.
  - c) Property access will be on Plano Parkway, Independence Parkway and Linda Lane.
  - d) This development will be a suitable use for an unusually shaped infill parcel.
- Comprehensive plan indicates need for Single-Family Attached integrated into Residential neighborhoods.
- Water and sanitary sewer services are available to serve the property.
- Park and other city amenities are available to serve the property.
- PISD has confirmed that there is available capacity at all four of the schools serving this area.
- Public safety response times are sufficient to serve a residential use of this site.

**Comments made in Opposition of issue 6A included:**

- Opposition to the zoning request was strong from the residential neighborhood to the north (82 letter of opposition).
- 184 units would exacerbate automobile traffic and traffic patterns, limiting turning options onto Independence north and south as well as Plano Parkway east as well as west.
- Linda Lane width at Princeton is inadequate. Increased traffic at east and south site egress would force higher levels of traffic onto Linda Lane and subsequently to east/west residential streets.
- Existing residential streets don't support increases two way traffic plus parking both sides.
- Independence is already a five block back up which would be exacerbated with the eastern ingress/egress to Independence.
- Provide Less density to lower traffic impact.
- 15' is inadequate landscape space at Plano Parkway and Independence Parkway.
- This zoning would lower property values, and detract from family walkability/bike ability.
- Lot size and density is not compatible with neighborhood.
- Extension of Princeton into development overloads this street traffic.
- Prefer commercial/retail use on Plano Parkway.
- While the product appears to be appropriate, the proposed plan did not respond to the traffic concerns indicated by the commissioners and residents.

Commission discussion indicated that this may be an appropriate site for residential use, even SFA use, but the density portrayed in the site plan was excessive, and created a significant traffic concern. Difficulty in not considering the site plan, due to withdrawal (6B), made it impossible to consider the zoning change.

A motion was made for the denial of the Zoning Case 2014-41, Issue 6A, contrary to staff recommendation. Motion for Denial was approved by the Commission 6 votes to 2. (Commissioners Bender and Prince opposed).

Respectfully Submitted,



William Hilburn

Second Vice-Chair

Planning & Zoning Commission

**DATE:** January 6, 2015  
**TO:** Applicants with Items before the Planning & Zoning Commission  
**FROM:** Richard Grady, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of January 5, 2015

**AGENDA ITEM NO. 6A - PUBLIC HEARING  
ZONING CASE 2014-41  
APPLICANT: PLANO PARKWAY INVESTMENTS LP**

Request to rezone 21.8± acres located at the northwest corner of Independence Parkway and Plano Parkway **from** Planned Development-373-Retail/General Office **to** Single-Family Residence Attached. Zoned Planned Development-373-Retail/General Office/190 Tollway/Plano Parkway Overlay District. Tabled December 15, 2014.

**APPROVED:** \_\_\_\_\_ **DENIED:** 6-2 **TABLED:** \_\_\_\_\_

**STIPULATIONS:**

Denied.

ST/ts

xc : Ray Jaffrey, Plano Parkway Investments LP  
Bryan D. Klein, Ion Design Group  
Wayne Snell, Permit Services Manager

<http://goo.gl/maps/QwJqC>

CITY OF PLANO  
PLANNING & ZONING COMMISSION

January 5, 2015

**Agenda Item No. 6A**

**Public Hearing:** Zoning Case 2014-41

**Applicant:** Plano Parkway Investments LP

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**DESCRIPTION:**

Request to rezone 21.8± acres located at the northwest corner of Independence Parkway and Plano Parkway **from** Planned Development-373-Retail/General Office **to** Single-Family Residence Attached. Zoned Planned Development-373-Retail/General Office/190 Tollway/Plano Parkway Overlay District. Tabled December 15, 2014.

**REMARKS:**

This item was tabled at the December 15, 2014 Planning & Zoning Commission meeting. It must be removed from the table.

The purpose of this request is to rezone 21.8± acres located at the northwest corner of Independence Parkway and Plano Parkway from Planned Development-373-Retail/General Office (PD-373-R/O-2) to Single-Family Residence Attached (SF-A). A planned development district provides the ability to amend use, height, setback, and other development standards at the time of zoning to promote innovative design and better development controls appropriate to both off- and onsite conditions. The R district is primarily intended to provide areas for neighborhood, local, and regional shopping facilities for the retail sales of goods and services including convenience stores, shopping centers, and regional malls but not including wholesaling and warehousing. The O-2 district is intended to allow for a variety of low-, mid-, and high-rise office developments providing for professional, financial, medical, and similar services to local residents; corporate offices for regional and national operations; and major centers of employment for Plano and surrounding communities. The SF-A district is intended to provide for a variety of residential housing types and densities in the medium density range (five-ten units/acre) on individually-platted lots or multiple units on a single lot.

A concept plan for Villas of Middleton accompanies this request as Agenda Item 6B.

## **Surrounding Land Use and Zoning**

The area of request is currently undeveloped. To the north are existing residences zoned Single-Family Residence-9. To the east across Independence Parkway is an existing convenience store with gas pumps zoned Planned Development-374-Retail. To the south across Plano Parkway is an existing office development zoned Planned Development-373-Retail/General Office. Immediately adjacent to the west is an assisted living facility development currently under construction, zoned PD-373-R/O-2.

## **Conformance to the Comprehensive Plan**

**Future Land Use Plan** - The Future Land Use Plan designates this area as Low Intensity Office (LIO). The proposed SF-A zoning is inconsistent with the Future Land Use Plan.

**Interim Amendments to the Comprehensive Plan** - In April 2012, the City Council adopted interim amendments to the Land Use Element of the Comprehensive Plan which included recommendations pertaining to the use of the city's undeveloped land. Two of these recommendations are applicable to this request.

1. All residential rezoning requests should be evaluated to determine the impact on infrastructure, public safety response, school capacity, and access to and availability of amenities and services.

The proposed site is served by Longhorn Park located to the northwest of the subject property within the adjacent subdivision. Additionally, PISD representatives have stated that there is sufficient capacity at all four schools serving the property. The Fire Department has determined that response times are sufficient for single-family development at this location. Therefore, this request is consistent with this interim amendment to the Comprehensive Plan.

2. Isolated residential development should not be permitted; residential rezoning requests need to establish a complete neighborhood, or expand an existing neighborhood or an urban mixed-use center. Mid-rise multifamily development (5 to 12 stories) and special needs housing (i.e. senior housing) could be an exception if the surrounding land uses are compatible.

The applicant is proposing 184 residential lots on the subject property. Although the proposed townhomes are a denser product than the existing residences in the area, residential uses at this location are consistent with the adjacent single-family uses. The proposed north-south street would be a continuation of Linda Lane which provides connectivity to the existing residential subdivision to the north. By expanding an existing neighborhood, this request is in conformance with this policy recommendation.

**Infill Housing Policy Statement** - The Infill Housing Policy recommends that infill housing be adjacent or be in close proximity to existing residential development to take advantage of existing amenities. The proposed development is an extension of an existing single-family neighborhood to the north. The policy statement also recommends adding a variety of housing options to existing residential neighborhoods.

**Rezoning Property to Meet Demand** - The subject property is physically appropriate for residential uses. The area is not affected by adverse environmental conditions such as noise, light, fumes, or related nuisances. Although this rezoning would reduce the amount of nonresidential zoned property within the Plano Parkway corridor, there are still several large vacant properties within the corridor which could accommodate future economic development and employment generating opportunities. Specifically, south of the subject property, across Plano Parkway, are several large vacant parcels of land with similar retail and office zoning.

Additionally, the request is also consistent with the Housing Element of the Comprehensive Plan which encourages providing a wide variety of housing types to serve a diverse population. The Housing Element also states that the city should place medium density housing on the periphery of neighborhoods that have low density housing in the interior. Furthermore, Linda Lane, which ends at the northern boundary of the property, is a two-lane residential street built to collector street standards. Linda Lane, along with the existing alley, provides opportunity for proposed residential to naturally tie into the existing neighborhood.

**Adequacy of Public Facilities** - Water service is available at the site. Sanitary sewer and storm water facilities have sufficient capacity, but services have to be extended to the site.

**Traffic Impact Analysis (TIA)** - A TIA is not required for this rezoning request.

**School Capacity** - This is provided for informational purposes only. The subject property is within the Plano Independent School District and is served by the following schools:

Elementary School	Jackson
Middle School	Wilson
High School	Vines
Senior High School	Plano Senior

At this time and based upon current boundaries, PISD has determined that there is sufficient capacity at all four schools.

## Summary

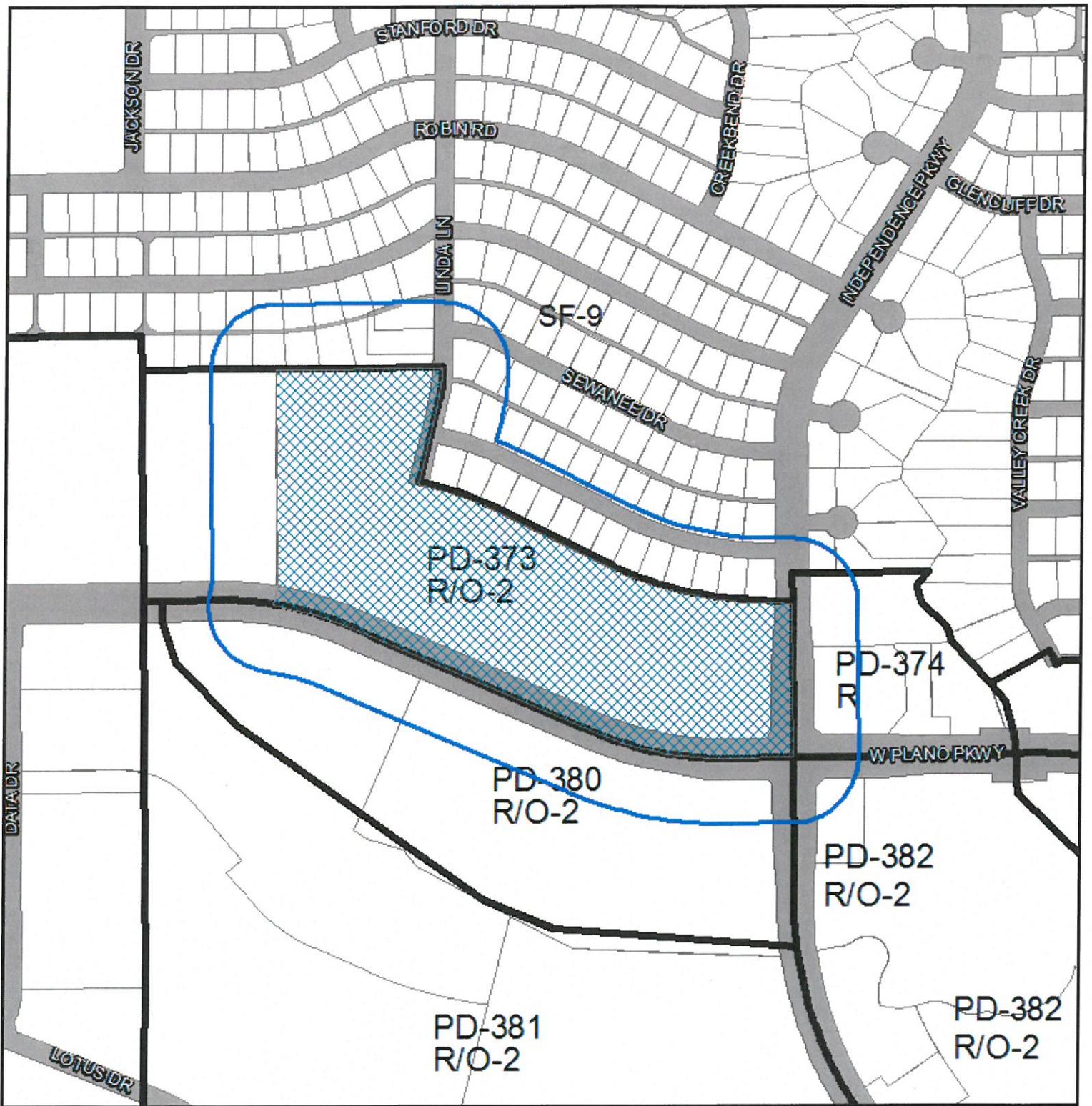
The applicant is requesting to rezone the property from PD-373-R/O-2 to SF-A. Although the request is inconsistent with the Future Land Use Plan designation of Low Intensity Office, the request is consistent with the interim amendments to the Land Use Element of the Comprehensive Plan, as well as, other key policies regarding residential zoning requests. The physical character of the property is appropriate for residential uses and this development would provide streets which connect it to the existing subdivision to the north. The proposed townhomes would add variety of housing to the area to serve a diverse population, and rezoning this property would still leave several

large, undeveloped parcels of land along Plano Parkway for future economic development. For these reasons, staff is in support of this zoning request.

**RECOMMENDATION:**

Recommended for approval as submitted.

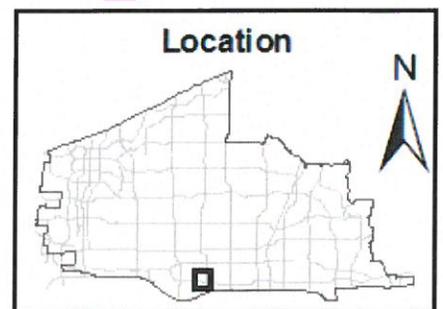
DUE TO THE NUMBER OF RESPONSES, LETTERS FOR THIS ITEM HAVE BEEN POSTED UNDER SEPARATE COVER ON THE CITY'S WEBSITE.



Zoning Case #: 2014-41

Existing Zoning: PLANNED DEVELOPMENT-373-  
 RETAIL/GENERAL OFFICE/  
 190 TOLLWAY/PLANO PARKWAY OVERLAY DISTRICT

-  200' Notification Buffer
-  Subject Property
-  Zoning Boundary
-  City Limits
-  Specific Use Permit
-  Right-of-Way



Source: City of Plano Planning Department



JACKSON DRIVE

STANFORD DRIVE

CREEKBEND DRIVE

ROBIN ROAD

DARTMOUTH DRIVE

SEWANEE DRIVE

PRINCETON DRIVE

Area of Request

PLANO PARKWAY

INDEPENDENCE PARKWAY

LOTUS DRIVE



Source: City of Plano, Planning Dept.  
Date: February, 2015

Zoning Case 2014-41



**DATE:** January 21, 2015  
**TO:** Honorable Mayor & City Council  
**FROM:** Richard Grady, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of January 20, 2015

**AGENDA ITEM NO. 9 - PUBLIC HEARING  
 ZONING CASE 2014-45  
 APPLICANT: CITY OF PLANO**

Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations) and related sections of the Zoning Ordinance to consider amendments to the definitions of Automobile Repair-Major and Automobile Repair-Minor/Service Station.

**APPROVED:** 8-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**STIPULATIONS:**

Recommended for approval as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

Amend Section 1.600 (Definitions) of Article 1 (General Regulations), such portion of section to read as follows:

Automobile Repair - Major	<del>General</del> <u>Major</u> repair or reconditioning of engines and transmissions, and <u>retrofitting of</u> air-conditioning systems, for motor vehicles; wrecker service; collision services including body, frame, or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust proofing; and other similar uses.
Automobile Repair - Minor/Service Station	An establishment used for the retail dispensing or sales of automobile fuels, lubricants, and automobile accessories; the minor repair or replacement of parts, paintless dent repair, and performing state inspections and making minor repairs necessary to pass said inspection. Uses listed under Automobile Repair - Major or any other similar uses are not included. Vehicles, which are inoperative or are being repaired, may not remain <del>parked outside</del> <u>onsite</u> for a period greater than <del>seven</del> <u>four</u> days.

**FOR CITY COUNCIL MEETING OF:** February 9, 2015 (To view the agenda for this meeting, see [www.planotx.gov](http://www.planotx.gov))

**PUBLIC HEARING - ORDINANCE**

RA/ks

CITY OF PLANO  
PLANNING & ZONING COMMISSION

January 20, 2015

**Agenda Item No. 9**

**Public Hearing:** Zoning Case 2014-45

**Applicant:** City of Plano

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**DESCRIPTION:**

Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations) and related sections of the Zoning Ordinance to consider amendments to the definitions of Automobile Repair-Major and Automobile Repair-Minor/Service Station.

**REMARKS:**

This item was tabled at the January 5, 2015 Planning & Zoning Commission meeting. It must be removed from the table.

This is a request to amend Section 1.600 (Definitions) of Article 1 (General Regulations) and related sections of the Zoning Ordinance to consider amendments to the definition of Automobile Repair-Major and Automobile Repair-Minor/Service Station. At the September 15, 2014 Planning & Zoning Commission meeting, Mr. Lisle Budden, Owner/Operator of Preston Kwik Kar located at 6308 Preston Road, addressed the Planning & Zoning Commission and requested that the definition of minor automobile repair be reviewed and updated due to the advancements in technology and diagnostics in the automobile repair business. The Commission called a public hearing on November 17, 2014 in order to consider potential changes to the automobile repair definitions and regulations.

Currently the Zoning Ordinance has two classifications for automobile repair:

*Automobile Repair - Major:* General repair or reconditioning of engines and transmissions, and air-conditioning systems, for motor vehicles; wrecker service; collision services including body, frame, or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust proofing; and other similar uses.

*Automobile Repair - Minor/Service Station:* An establishment used for the retail dispensing or sales of automobile fuels, lubricants, and automobile accessories; the minor repair or replacement of parts, paintless dent repair, and performing

state inspections and making minor repairs necessary to pass said inspection. Uses listed under Automobile Repair - Major or any other similar uses are not included. Vehicles, which are inoperative or are being repaired, may not remain parked outside for a period greater than seven days.

Automobile repair businesses such as Kwik Kar, Firestone, Jiffy Lube, and similar repair shops provide minor repair services including air-conditioning (a/c) system repairs. Due to today's technology, many a/c repairs, and other "minor" engine repairs are often processed quickly within the span of a few hours, with minimal impact to the remainder of the engine or mechanical systems. For this reason, staff believes most a/c repair work could be considered as a minor repair due to the nature of the work being performed (disconnecting hoses and belts and removing bolts for parts replacement). The only a/c repair work that would not fit into the 'minor' category would be retrofitting of older a/c systems. This process requires significant repair work that is more appropriately associated with major automotive repair.

Additionally, the current definition for minor automobile repair includes the language "minor repair or replacement of parts". Through discussions with repair shops, staff believes that it is appropriate to allow some minor engine repair, as well as a/c system repair under the minor automobile repair definition, as long as the services include minor repair or replacement of parts. For further clarification, staff is proposing to reduce the maximum time frame vehicles are allowed to remain onsite from seven days to four days. If repairs cannot be completed in this time, they will be classified as major repairs. These proposed updates are intended to bring the city's definitions in line with modern car repair processes and procedures.

Staff recommends amending the automobile repair definitions as follows:

*Automobile Repair - Major.* ~~General~~ Major repair or reconditioning of engines and transmissions, and retrofitting of air-conditioning systems, for motor vehicles; wrecker service; collision services including body, frame, or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust proofing; and other similar uses.

*Automobile Repair - Minor/Service Station:* An establishment used for the retail dispensing or sales of automobile fuels, lubricants, and automobile accessories; the minor repair or replacement of parts, paintless dent repair, and performing state inspections and making minor repairs necessary to pass said inspection. Uses listed under Automobile Repair - Major or any other similar uses are not included. Vehicles, which are inoperative or are being repaired, may not remain ~~parked outside~~ onsite for a period greater than ~~seven~~ four days.

For information purposes, automobile repair is allowed within the following zoning districts (subject to conformance with Residential Adjacency Standards):

	NONRESIDENTIAL ZONING DISTRICTS													
USE	O-1	O-2	R	BG	LC	CE	CB-1	LI-1	LI-2	RE	RC	RT	CC	UMU
Minor			R		R	R	R	R	R		R		R	
Major					R	R*	R	R	R				R	

*R = Residential Adjacency Standards*

*\*Permitted as an accessory use but not as a primary use.*

Additionally, the city has two use classifications for tire dealers with distinctions related to open storage. Some of these businesses also offer automobile repair services and could be classified as tire dealers and automobile repair uses.

**RECOMMENDATION:**

Recommended for approval as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

Amend Section 1.600 (Definitions) of Article 1 (General Regulations), such portion of section to read as follows:

Automobile Repair - Major	<del>General</del> <u>Major</u> repair or reconditioning of engines and transmissions, and <u>retrofitting of</u> air-conditioning systems, for motor vehicles; wrecker service; collision services including body, frame, or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust proofing; and other similar uses.
Automobile Repair - Minor/ Service Station	An establishment used for the retail dispensing or sales of automobile fuels, lubricants, and automobile accessories; the minor repair or replacement of parts, paintless dent repair, and performing state inspections and making minor repairs necessary to pass said inspection. Uses listed under Automobile Repair - Major or any other similar uses are not included. Vehicles, which are inoperative or are being repaired, may not remain <del>parked outside</del> <u>onsite</u> for a period greater than <del>seven</del> <u>four</u> days.

## Zoning Case 2014-45

**An Ordinance of the City of Plano, Texas, amending Section 1.600 (Definitions) of Article 1 (General Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, regarding Automobile Repair-Major and Automobile Repair-Minor/Service Station; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.**

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 9th day of February, 2015, for the purpose of considering a change in the Zoning Ordinance; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 9th day of February, 2015; and

**WHEREAS**, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Section 1.600 (Definitions) of Article 1 (General Regulations) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended regarding Automobile Repair-Major and Automobile Repair-Minor/Service Station, such portion of section to read as follows:

## Section 1.600 Definitions

Automobile Repair Major	- Major repair or reconditioning of engines and transmissions, and retrofitting of air-conditioning systems, for motor vehicles; wrecker service; collision services including body, frame, or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust proofing; and other similar uses.
Automobile Repair Minor/ Service Station	- An establishment used for the retail dispensing or sales of automobile fuels, lubricants, and automobile accessories; the minor repair or replacement of parts, paintless dent repair, and performing state inspections and making minor repairs necessary to pass said inspection. Uses listed under Automobile Repair - Major or any other similar uses are not included. Vehicles, which are inoperative or are being repaired, may not remain onsite for a period greater than four days.

**Section II.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section III.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section IV.** Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section V.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VI.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 9TH DAY OF FEBRUARY, 2015.**

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Harry LaRosiliere, MAYOR

ATTEST:

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Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

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Paige Mims, CITY ATTORNEY

**DATE:** January 21, 2015  
**TO:** Honorable Mayor & City Council  
**FROM:** Richard Grady, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of January 20, 2015

**AGENDA ITEM NO. 12 - PUBLIC HEARING  
ZONING CASE 2014-51  
APPLICANT: CITY OF PLANO**

Request to amend the boundaries of the Haggard Park Heritage District (H-20) by removing the 0.8± acre located north of Wolcott Lane and the alley extending to the southwest. The base zonings [Urban Residential (UR), Retail (R), Corridor Commercial (CC), Downtown Business/Government (BG) and Planned Development District 179-Downtown Business Government (PD-179-BG)] and specific use permits (SUPs) will remain unchanged.

**APPROVED:** 8-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **SUPPORT:** 7 **OPPOSE:** 4

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**PETITION(s) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval as submitted.

**FOR CITY COUNCIL MEETING OF:** February 9, 2015 (To view the agenda for this meeting, see [www.planotx.gov](http://www.planotx.gov))

**PUBLIC HEARING - ORDINANCE**

BM/ks

<http://goo.gl/maps/UAzYk>

CITY OF PLANO  
PLANNING & ZONING COMMISSION

January 20, 2015

**Agenda Item No. 12**

**Public Hearing:** Zoning Case 2014-51

**Applicant:** City of Plano

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**DESCRIPTION:**

Request to amend the boundaries of the Haggard Park Heritage District (H-20) by removing the 0.8± acre located north of Wolcott Lane and the alley extending to the southwest. The base zonings [Urban Residential (UR), Retail (R), Corridor Commercial (CC), Downtown Business/Government (BG) and Planned Development District 179-Downtown Business Government (PD-179-BG)] and specific use permits (SUPs) will remain unchanged.

**REMARKS:**

In January 2000, the Plano City Council adopted Ordinance No. 2000-1-6 designating the Haggard Park Heritage District as the first heritage resource district in Plano. A map showing the current HPHD boundary was adopted with the ordinance (see Attachment 1). The ordinance also identified the need to periodically update this map to reflect any future change in status of the district.

Background:

The subject properties proposed to be removed from the Haggard Park Heritage District (H-20) are located within the Lexington Park #2 Subdivision, north of Wolcott Lane and the alley extending to the southwest of the development. This area contains ten (10) vacant lots and has been part of the Haggard Park Heritage District (HPHD) since inception.

Request:

The Heritage Commission recently reviewed and approved 10 new construction projects in the subject area. During the review process, the Commission determined that the HPHD boundary may need to be amended to reflect the changed conditions of the Haggard Park district and requested the Planning & Zoning (P&Z) Commission call a public hearing to discuss modifications to the HPHD boundaries. On December 1, 2014, the P&Z Commission called a public hearing to consider potential amendments to the HPHD boundaries.

At the time of the Heritage District designation, the subject site was part of a larger subdivision composed of two large lots. This subdivision extended from 16<sup>th</sup> Street to 18<sup>th</sup> Street, with the eastern parcel line adjacent to G Avenue. The north parcel line of Lot 1, which was the southernmost lot, determined the boundary line for the HPHD west of G Avenue.

In 2005, Planned Development-179-Downtown Business/Government (PD-179-BG) was approved to allow single-family attached dwellings for the entire site. In 2012, a final plat was approved for the southern portion of the site (Lexington Park #1) for 14 single family attached dwellings that is accessible from the 16<sup>th</sup> Street right-of-way, the remainder of this site being Lexington Park #2. These townhomes were reviewed by the Heritage Commission and have been constructed. The single family attached plat included most of the original Lot 1; however, the subject area proposed for removal from the HPHD was not included in the currently constructed townhome development.

In 2014, an approved re-zoning for PD-179-BG included this remnant from the original Lot 1 into a single-family detached subdivision composed of sixty-one (61) lots (Lexington Park #2/Rice Field Addition). Therefore, the HPHD boundary currently bisects the Rice Field Addition subdivision's southwest quadrant. Out of these 61 lots, only 10 lots, which are not visible from either the 16<sup>th</sup> Street or G Avenue rights-of-way, are included in the HPHD boundaries.

Staff believes that the removal of the subject property (north of Wolcott Lane and the alley extending to the southwest) from the current HPHD limits would be appropriate for the following reasons:

1. The development pattern of the subject site has changed since the original HPHD boundaries were created.
2. The new development pattern isolated the 10 lots from the existing historic context of the district. There are no existing historic buildings located within close proximity to these lots;
3. The removal of this portion of the district would not have an adverse impact on the character of the site nor the HPHD.

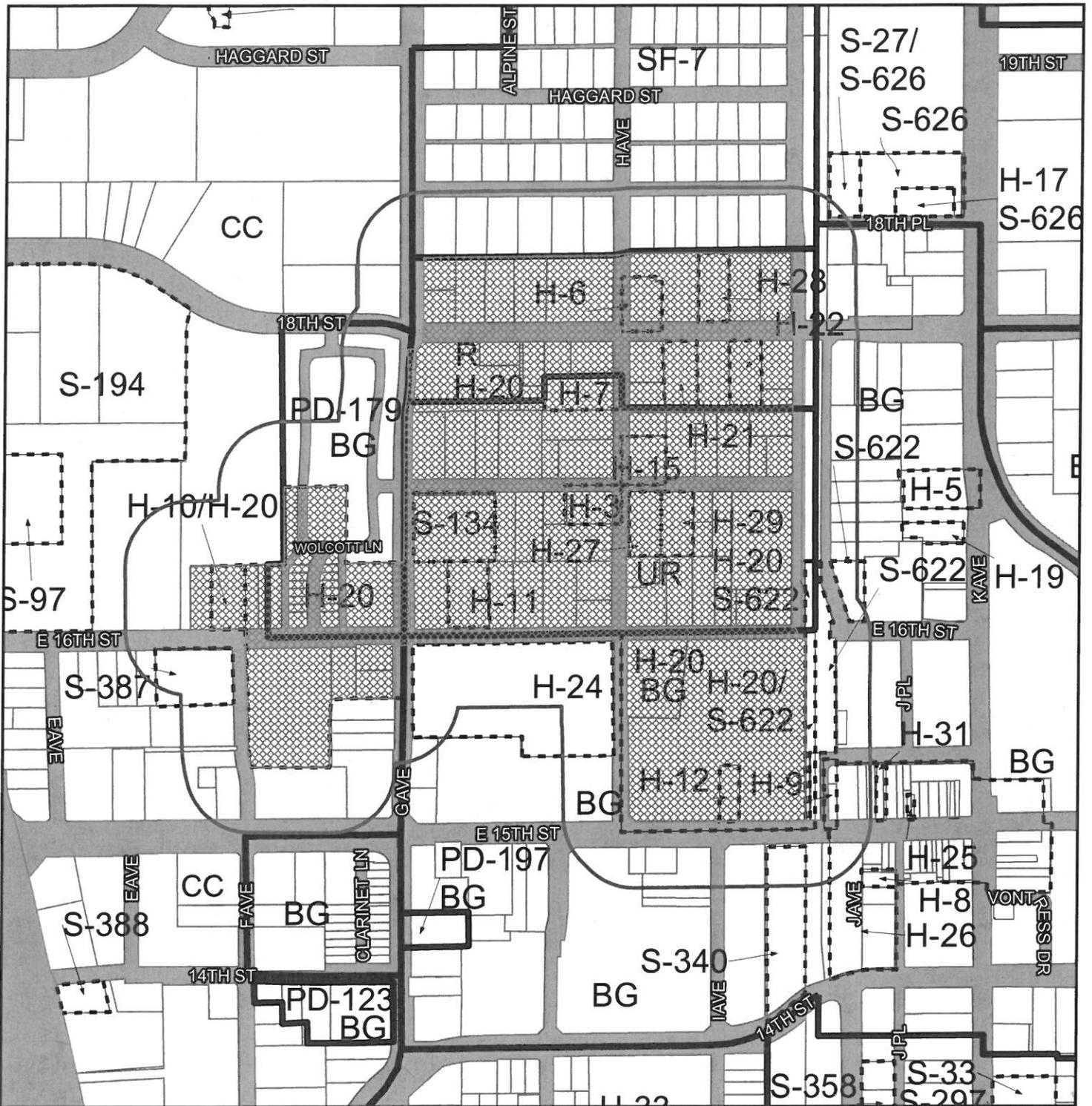
Please note that the subject area is currently eligible for the Heritage Tax Exemption program. If a heritage district boundary modification is approved, any structures built on properties outside of the district boundary will no longer be eligible to participate in the Heritage Tax Exemption program unless the property is Individually Designated.

#### **HERITAGE COMMISSION ACTION:**

At its December 18, 2014 meeting, the Heritage Commission unanimously recommended to modify the existing HPHD (H-20) boundary by removing the 0.8± acre located north Wolcott Lane and the alley extending to the southwest. The Commission stated that the proposed amendment is appropriate and reflects the current needs of the Haggard Park neighborhood. Further, the Commission noted that it would be inappropriate to have only 10 out of the 61 Lexington Park #2 lots as part of the HPHD.

**RECOMMENDATION:**

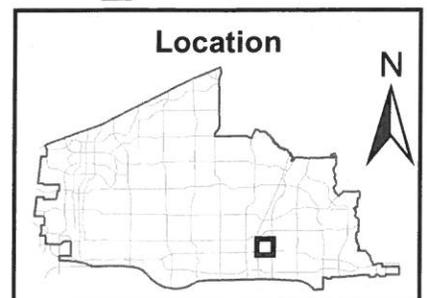
The Heritage Commission recommends approval of the proposed Haggard Park Heritage Resource District (H-20) boundary amendment by removing the 0.8± acre located north Wolcott Lane and the alley extending to the southwest.



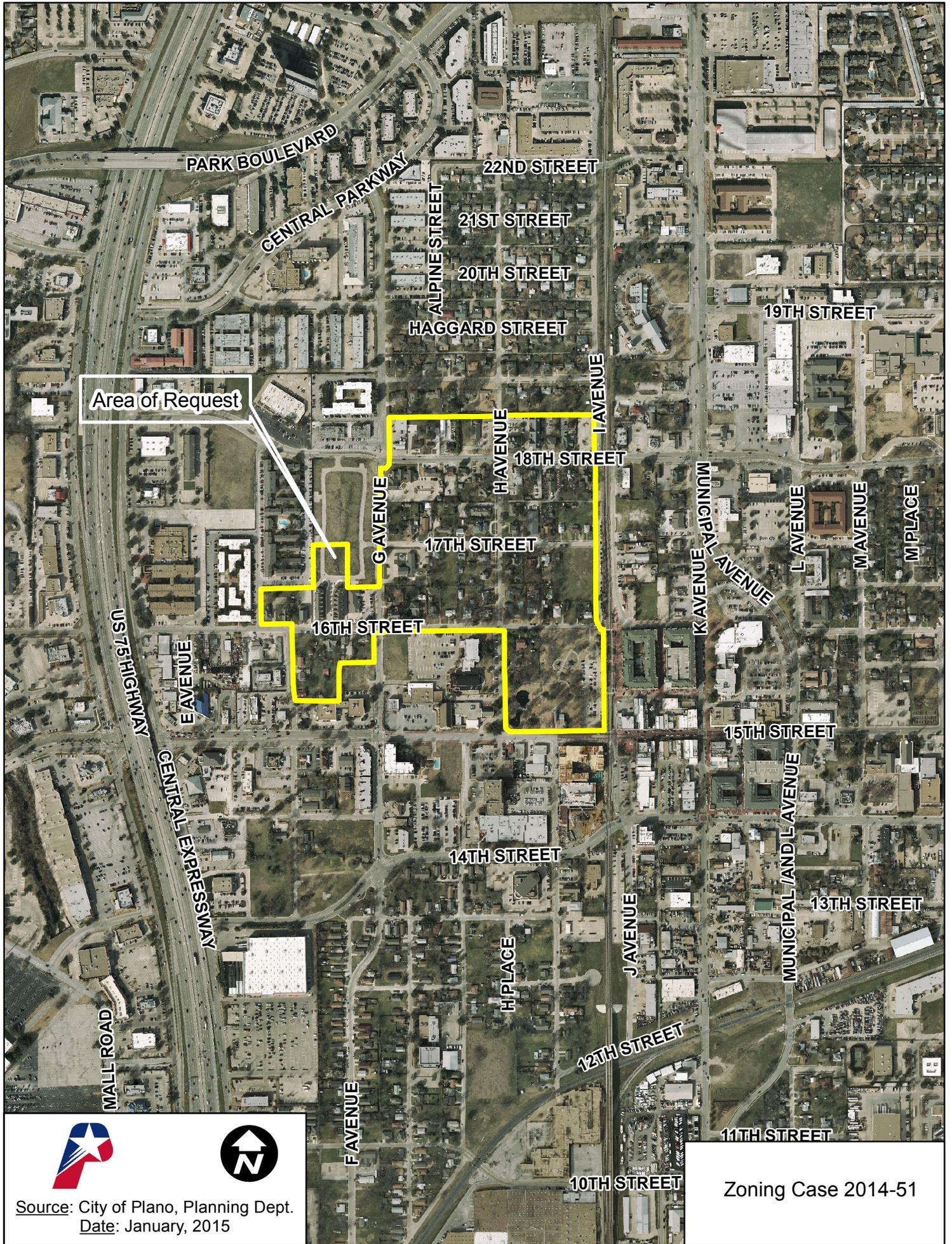
Zoning Case #: 2014-51

Existing Zoning: RETAIL, PLANNED DEVELOPMENT-179-  
 DOWNTOWN BUSINESS/GOVERNMENT,  
 URBAN RESIDENTIAL, DOWNTOWN  
 BUSINESS/GOVERNMENT, &  
 CORRIDOR COMMERCIAL  
 w/SPECIFIC USE PERMITS #134 & #622 &  
 H-3, H-6 & 7, H-10-12, H-15, H-21 & 22, & H-27-29/  
 HAGGARD PARK HERITAGE RESOURCE DISTRICT

- 200' Notification Buffer
- Subject Property
- Zoning Boundary
- City Limits
- - - Specific Use Permit
- Right-of-Way



Source: City of Plano Planning Department



Area of Request

dees 1/15/2015 X:\Dept\P&Z Locators & Graphics\Z2014-51A.mxd



Source: City of Plano, Planning Dept.  
Date: January, 2015

Zoning Case 2014-51

# Attachment 2

HAGGARD ST

19TH ST

18TH ST

17TH ST

E 16TH ST

E 15TH ST

14TH ST

WOOSTER LN

WOFFORD LN

MILLSAP LN

WOLCOTT LN

GAVE

HAVE

I AVE

JAVE

I AVE

FAVE

FAVE

CLARNET LN

HAVE

I AVE

JAVE

AREA TO BE REMOVED  
FROM HAGGARD PARK  
HERITAGE DISTRICT (H-20)



## Zoning Case 2014-51

**An Ordinance of the City of Plano, Texas, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to remove 0.8± acre of the Lexington Park #2 located north of Wolcott Lane and the alley extending to the southwest, from the Haggard Park Heritage Resource District (H-20); thereby retaining only the Planned Development District 179-Downtown Business Government zoning; directing a change accordingly in the official zoning map of the city; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.**

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 9th day of February, 2015, for the purpose of considering a change in the Zoning Ordinance; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 9th day of February, 2015; and

**WHEREAS**, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The Comprehensive Zoning Ordinance No 2006-4-24, as the same has been heretofore amended, is hereby further amended to remove 0.8± acre of the Lexington Park #2 located north of Wolcott Lane and the alley extending to the southwest, from the Haggard Park Heritage Resource District (H-20) and provide for a new Haggard Park Heritage Resource District (H-20) boundary, including all parcels within a boundary beginning at the corner of 18<sup>th</sup> Street and G Avenue, extending east along 18th Street to the Dallas Area Rapid Transit (DART) right-of-way, formerly the Southern Pacific Railroad, thence south to 15th Street, thence west to H Avenue,

thence north to 16th Street, thence west along 16th Street to G Avenue and thence north along G Avenue back to 18th Street, and also including the following parcels:

Plano Original Donation (CPL), Block 26, Lot 9 & Joe Forman, 17C

Joe Forman Addition, Lot 9

Joe Forman Addition, Lot 17A

Joe Forman Addition, Lot 17B

Davis Place Office Park (CPL), Block A, Lot 2

Joe Forman Addition, Lot 8B

Joe Forman Addition, Lot 8A

Joe Forman Addition, Lot 1B & 8C

Davis Place Office Park (CPL), Block A, Lot 1

H & C (CPL), Block A, Lot 1

H & C (CPL), Block A, Lot 2

Plano Original Donation (CPL), Block 26, Lot 9R, ROW

Lexington Park #1, Block 3, Lot 1, 2, 3, 4, 5, 6, 7, and 8

Lexington Park #1, Block 4, Lot 1, 2, 3, 4, 5, 6, 7, and 8

Bridgemans Office, Block 1, Lot 1

Plano Original Donation, Block 24, Lot 1A

Plano Original Donation, Block 24, Lot 2A

Plano Original Donation, Block 23, Lot 3

Plano Original Donation, Block 23, Lot 2

Plano Original Donation, Block 23, Lot 1, 1A, 1B, 1C, and 1D

Plano Original Donation, Block 23, Lot 4

**Section II.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section III.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section IV.** Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section V.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VI.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 9TH DAY OF FEBRUARY, 2015.**

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Harry LaRosiliere, MAYOR

ATTEST:

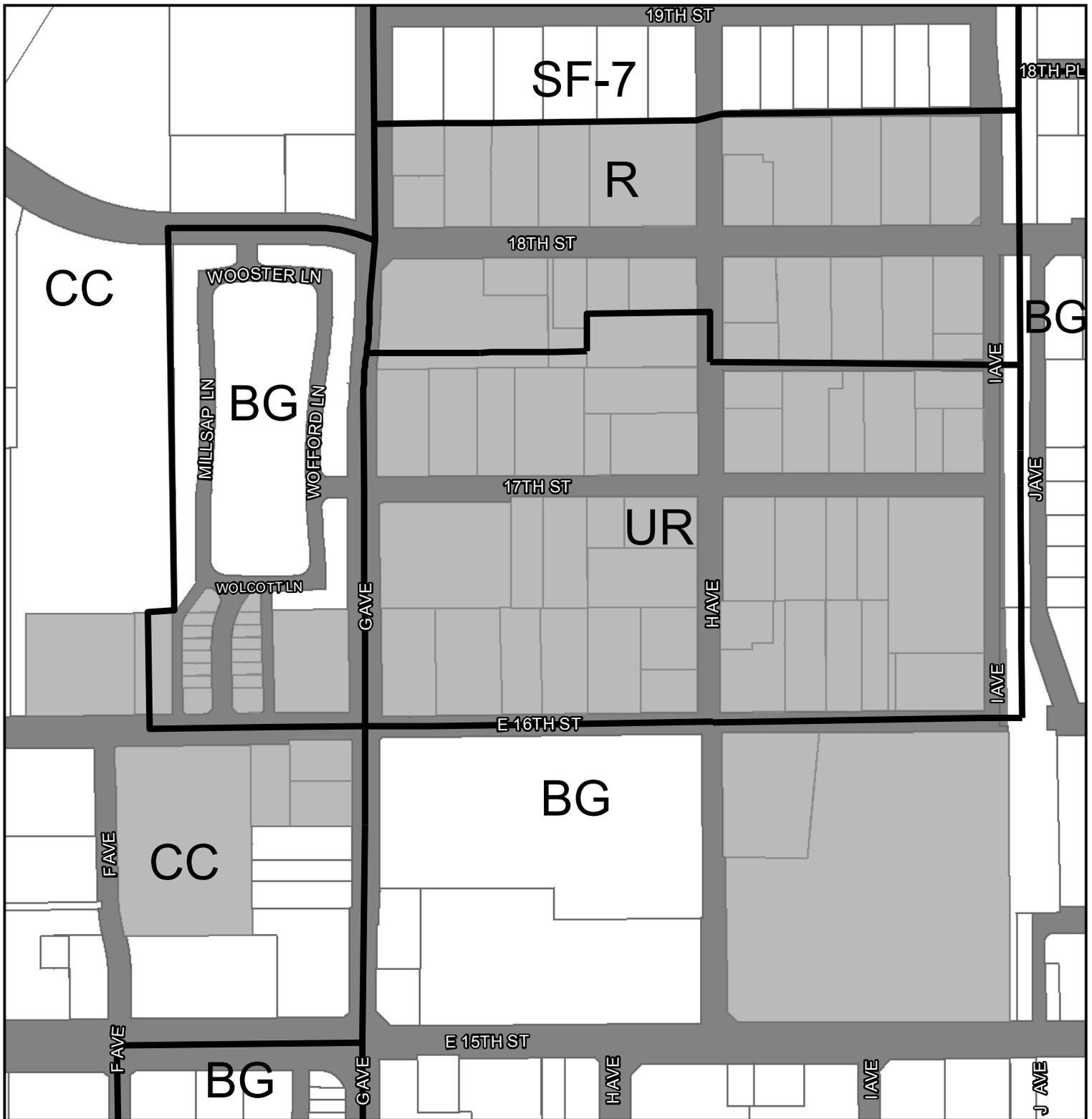
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Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

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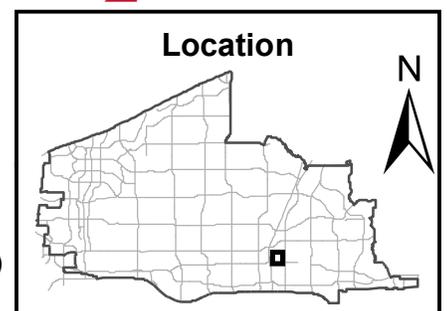
Paige Mims, CITY ATTORNEY



Zoning Case #: 2014-51

Existing Zoning: RETAIL, PLANNED DEVELOPMENT-179-DOWNTOWN BUSINESS/GOVERNMENT, URBAN RESIDENTIAL, DOWNTOWN BUSINESS/GOVERNMENT, & CORRIDOR COMMERCIAL w/SPECIFIC USE PERMITS #134 & #622 & H-3, H-6 & 7, H-10-12, H-15, H-21 & 22, & H-27-29/ HAGGARD PARK HERITAGE RESOURCE DISTRICT (H-20)

Haggard Park Heritage Resource District (H-20)
  Zoning Boundary
  Right-of-Way



Source: City of Plano Planning Department