



Mayor
Ron Silvia
Mayor Pro Tempore
Ben White
City Manager
Glenn Brown

Council Members
John Happ
Ron Gay
Lynn McIlhane
Chris Scotti
David Ruesink

Agenda
College Station City Council
Regular Meeting
Thursday, March 22, 2007 at 7:00 p.m.
City Hall Council Chamber, 1101 Texas Avenue
College Station, Texas

1. Pledge of Allegiance, Invocation, Consider absence requests

Hear Visitors: Any citizen may address the City Council on any item which does not appear on the posted Agenda. Registration forms are available in the lobby and at the desk of the City Secretary. This form should be completed and delivered to the City Secretary by 6:45 p.m. Please limit remarks to three minutes. A timer alarm will sound after 2 1/2 minutes to signal that you have thirty seconds remaining so that you may conclude your remarks. The City Council will receive the information, ask staff to look into the matter, or place the issue on a future agenda. Topics of operational concerns shall be directed to the City Manager.

Consent Agenda

Individuals who wish to address the City Council on a consent or regular agenda item not posted as a public hearing shall register with the City Secretary prior to the Mayor's reading of the agenda item. Registration forms are available in the lobby and at the desk of the City Secretary. The Mayor will recognize individuals who wish to come forward to speak for or against the item. The speaker will please state their name and address for the record and provided three minutes. A timer alarm will sound after 2 1/2 minutes to signal thirty seconds remaining so that the speaker may conclude your remarks.

Vision Statement I - Core Services
Professionals providing world-class customer focused services at a competitive cost through innovation and planning.

2. Presentation, possible action, and discussion of consent agenda items which consists of ministerial or "housekeeping" items required by law. Items may be removed from the consent agenda by majority vote of the Council.

- a. Presentation, possible action, and discussion regarding a resolution supporting the construction of the I-69 and the East West Corridor (I-14) and requesting the expansion of the corridors' study areas to include Brazos County.
- b. Presentation, discussion, and possible action on consideration of an ordinance amending Chapter 10, "Traffic Code," to restrict parking on both sides of Victoria Avenue between Rock Prairie Road and SH 40 (William D. Fitch Parkway), so bike lanes can be added.
- c. Presentation, possible action, and discussion regarding the renewal of an annual price agreement for Janitorial Supplies, bid #06-44, in the amount of \$54,498.31.
- d. Presentation, possible action, and discussion regarding a resolution determining the public necessity to acquire right-of-way and easement interests for the Rock Prairie Road Widening Design and ROW Project.
- e. Presentation, possible action, and discussion regarding approval of a contract with Information Station Specialists for the purchase and construction of a secondary low power AM emergency advisory radio transmitter and flashing beacons and associated radio and solar power units for advisory signs in an amount not to exceed \$82,980.
- f. Presentation, possible action, and discussion regarding on the second reading of an ordinance approving a non-exclusive gas and oil gathering franchise agreement with Energy Transfer Corporation.
- g. Presentation, possible action and discussion regarding the racial profile report required annually by Senate Bill 1074, of the Texas 77th legislative session.
- h. Presentation, possible action and discussion on a bid award for the purchase of various padmount transformers maintained in inventory to HD Supply for \$43,050.00 and KBS Electrical for \$16,875.00 for total expenditures of \$59,925.00. Bid #07-57
- i. Presentation, possible action, and discussion regarding approval of minutes for the College Station City Council Workshop and Regular Meeting of March 8, 2007.

Regular Agenda

Individuals who wish to address the City Council **on a regular agenda item not posted as a public hearing** shall register with the City Secretary prior to the Mayor's reading of

the agenda item. The Mayor will recognize you to come forward to speak for or against the item. The speaker will state their name and address for the record and allowed three minutes. A timer alarm will sound after 2 1/2 minutes to signal thirty seconds remaining so that the speaker may conclude your remarks.

Individuals who wish to address the City Council on an item **posted as a public hearing** shall register with the City Secretary prior to the Mayor's announcement to open the public hearing. The Mayor will recognize individuals who wish to come forward to speak for or against the item. The speaker will state their name and address for the record and allowed three minutes. A timer alarm will sound after 2 1/2 minutes to signal thirty seconds remaining so that the speaker may conclude your remarks. After a public hearing is closed, there shall be no additional public comments. If Council needs additional information from the general public, some limited comments may be allowed at the discretion of the Mayor.

If an individual does not wish to address the City Council, but still wishes to be recorded in the official minutes as being in support or opposition to an agenda item, the individual may complete the registration form provided in the lobby by providing the name, address, and comments about a city related subject. These comments will be referred to the City Council and City Manager.

<p style="text-align: center;"><u>Vision Statement III – Planning and Development</u> <i>Professionals who plan and develop a sustainable community balancing neighborhood and community interests.</i></p>

1. Public hearing, presentation, possible action, and discussion on an ordinance amending the Comprehensive Land Use Plan for one 5-acre lot from Single Family Residential Medium Density to Planned Development, located at 1850 William D. Fitch Parkway.
2. Public hearing, presentation, possible action, and discussion on an ordinance rezoning one 5-acre lot from A-O (Agricultural Open) to PDD (Planned Development District), located at 1850 William D. Fitch Parkway.
3. Public hearing, presentation, possible action, and discussion on an ordinance amending the Comprehensive Land Use Plan from Single Family Residential, High Density to a mix of Neighborhood Retail, Residential Attached, and Planned Development for 110 lots on 89.563 acres of the property generally surrounded by FM 2818, Holleman Drive West, Jones Butler Road, and Luther West.
4. Public hearing, presentation, possible action, and discussion on an ordinance rezoning .52 acres from R-1 (Single-Family Residential) to R-4 (Multi-Family Residential), located at 701 Luther Street West.

5. Public hearing, presentation, possible action, and discussion on an ordinance rezoning 3.13 acres from C-1 (General Commercial) to R-4 (Multi-Family) and A-O (Agricultural Open) located at 1505 University Drive, just north of Home Depot.
6. Public hearing, presentation, possible action, and discussion on an ordinance rezoning 1.996 acres from A-O (Agricultural Open) to A-OR (Rural Residential), located at 3105 Freneau Drive.

Vision Statement IV – Economic Development
Professionals promoting a robust, sustainable, growing, and diverse economic environment.

7. Presentation, possible action, and discussion regarding approval of a memorandum of understanding to sell the Spring Creek Business Park tract.
8. The City Council may convene the executive session following the regular meeting to discuss matters posted on the executive session agenda for March 22, 2007.
9. Final action on executive session, if necessary.
10. Adjourn.

If litigation issues arise to the posted subject matter of these Council Meetings an executive session will be held.

APPROVED:

City Manager

Notice is hereby given that a Regular Meeting of the City Council of the City of College Station, Texas will be held on the Thursday, March 22, 2007 at 7:00 p.m. at the City Hall Council Chambers, 1101 Texas Avenue, College Station, Texas. The following subjects will be discussed, to wit: See Agenda.

Posted this the 19th day of March, 2007 at 2:45 p.m.

City Secretary

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and

that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, www.cstx.gov . The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on March 19, 2007 at 2:45 p.m. and remained so posted continuously for at least 72 hours proceeding the scheduled time of said meeting.

This public notice was removed from the official posting board at the College Station City Hall on the following date and time: _____ by _____.

Dated this ____ day of _____, 2007.

By _____

Subscribed and sworn to before me on this the ____ day of _____, 2007.

Notary Public – Brazos County, Texas

My commission expires: _____

The building is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive service must be made 48 hours before the meeting. To make arrangements call (979) 764-3517 or (TDD) 1-800-735-2989. Agendas may be viewed on www.cstx.gov . Council meetings are broadcast live on Cable Access Channel 19.

March 22, 2007
Consent Agenda Item
Interstate 69/East-West Corridor (I-14) Resolution

To: Glenn Brown, City Manager

From: Kathy Merrill, Assistant City Manager

Agenda Caption: Presentation, possible action, and discussion regarding a resolution supporting the construction of the I-69 and the East West Corridor (I-14) and requesting the expansion of the corridors' study areas to include Brazos County.

Recommendation(s): Staff recommends approval of the resolution.

Summary: Economic development and job creation for the College Station area continues to be hampered by the lack of transportation service from an interstate highway. The attached resolution requests that the study areas for two proposed interstate highway projects, Interstate 69 and the East-West Corridor (I-14), be expanded to include Brazos County.

Budget & Financial Summary: N/A

Attachments:

1. Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, REQUESTING THAT: (1) THE STUDY AREA FOR THE TTC-69 BE EXPANDED TO INCLUDE BRAZOS COUNTY; (2) THE PROPOSED TTC-69 ROUTE ENTER BRAZOS COUNTY; AND (3) THE PROPOSED EAST WEST CORRIDOR INCLUDE BRAZOS COUNTY.

WHEREAS, economic development and job creation for the College Station area has been hampered by the lack of transportation service from an interstate highway; and,

WHEREAS, an effort has been underway for over a decade to build a new interstate highway, I-69, linking the US/Mexico Border to Canada; and,

WHEREAS, half of the freight traffic between the United States and Mexico passes through Laredo and the Lower Rio Grande Valley which would be served by the proposed I-69 route; and,

WHEREAS, the Texas Department of Transportation proposes to build I-69 as Trans-Texas Corridor 69 (TTC-69); and,

WHEREAS, the Port of Brownsville, Port of Corpus Christi and the Port of Houston will be connected to the proposed TTC-69 route; and,

WHEREAS, the Brazos Valley has the opportunity to be served by TTC-69 and share in the economic development, service to business and job creation the corridor will bring; and

WHEREAS, the Texas Department of Transportation has approved a \$2,000,000.00 study to determine the feasibility of an East-West Corridor from El Paso to Louisiana which could provide the basis for "Strategic Interstate 14" to serve Central Texas; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the City of College Station requests that the study area for TTC-69 be expanded to include Brazos County;

PART 2: That the proposed TTC-69 route enter Brazos County to serve our existing industrial base and the future industrial sites proposed for the City of College Station and Brazos County.

PART 3: That the proposed East West Corridor include Brazos County to serve our existing industrial base and the future industrial sites proposed for the City of College Station and Brazos County.

ORDINANCE NO. _____

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ADOPTED this _____ day of _____, A.D. 2007.

ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:



City Attorney

**March 22, 2006
Consent Agenda
Victoria Avenue Parking Restrictions**

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, discussion, and possible action on consideration of an ordinance amending Chapter 10, "Traffic Code," to restrict parking on both sides of Victoria Avenue between Rock Prairie Road and SH 40 (William D. Fitch Parkway), so bike lanes can be added.

Recommendation(s): Staff recommends approval of the ordinance amendment.

Summary: This item will amend Chapter 10, "Traffic Code," by restricting parking on both sides of Victoria Avenue between Rock Prairie Road and SH 40 (William D. Fitch Parkway) to add bike lanes in accordance with the city's approved Bike and Pedestrian Master Plan. On the section of Victoria between Rock Prairie Road and Graham Road, the parking has already been removed and bike lanes striped. This ordinance will allow the bike lanes to extend south improving bike and pedestrian connectivity.

Budget & Financial Summary: The "No Parking" and "Bike Lane" signs as well as striping are planned operation and maintenance expenses accounted for in the Public Works Traffic Operation budget.

Attachments:

1. Ordinance
2. Location Map

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, "TRAFFIC CODE", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 10, "Traffic Code", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

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

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed liable for a civil offense and, upon a finding of liability thereof, shall be punished by a civil penalty of not less than One Dollar (\$1.00) nor more than nor more than Five Hundred Dollars (\$500.00). Said Ordinance becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2007.

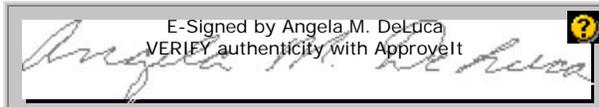
APPROVED:

RON SILVIA, Mayor

ATTEST:

Connie Hooks, City Secretary

APPROVED:



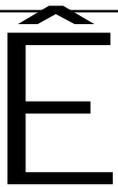
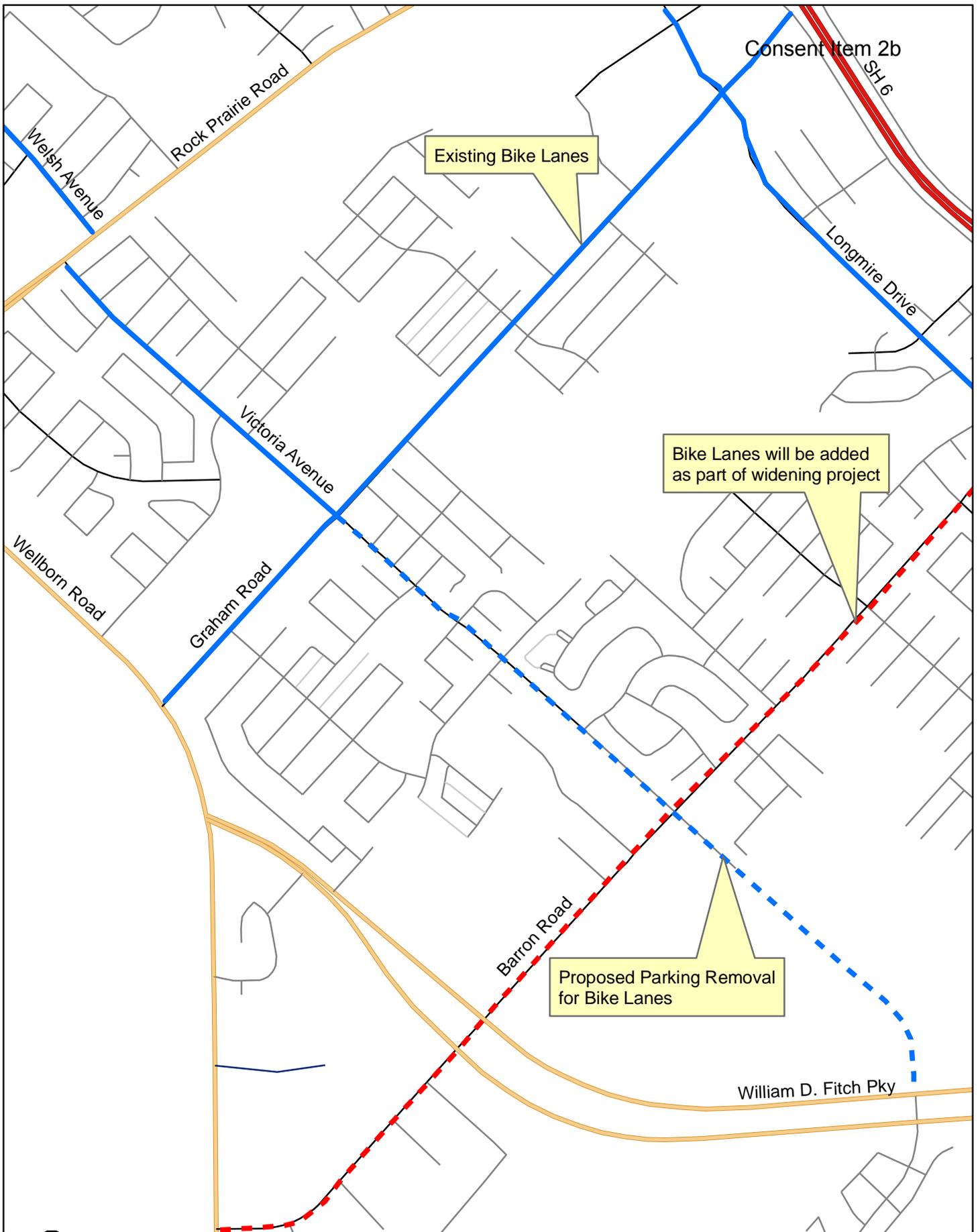
City Attorney

ORDINANCE NO. _____

EXHIBIT "A"

That Traffic Control Device Inventory - Schedule XI as referenced in Chapter 10, "Traffic Code", Section 4 "Administrative Adjudication of Parking Violations", Sub-section E "No Parking" is hereby amended to include the following:

"No Parking on both sides of Victoria Avenue between Rock Prairie Road and SH 40 (William D. Fitch Parkway)."



Victoria Avenue Parking Removal

0 625 1,250 2,500 Feet

March 22, 2007

**Consent Agenda
Annual Price Agreement for Janitorial Supplies**

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding the renewal of an annual price agreement for Janitorial Supplies, bid #06-44, in the amount of \$54,498.31.

Recommendation(s): Staff recommends renewal of the contract to Pro Star Industries for \$54,498.31.

Summary: On March 23, 2006 council approved an annual price agreement to Pro Star Industries (Item 12.6) for janitorial supplies, not to exceed \$54,498.31.

Renewal is dependent upon mutual consent of the City and the vendor. This is the first renewal of the agreement. The renewal is for one (1) year, from March 24, 2007- March 23, 2008, with one (1) additional year remaining.

Budget & Financial Summary: Funds are budgeted and available in the Public Works Facilities Maintenance Operations Budget.

Attachments:

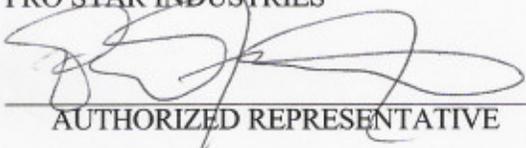
1. Renewal Letter.

.....
RENEWAL ACCEPTANCE

By signing herewith, I acknowledge and agree to renew Bid 06-44 for janitorial supplies, in accordance with all terms and conditions previously agreed to and accepted. This is the first renewal of the contract.

I understand this renewal term will be for the period beginning March 24, 2007 through March 23, 2008.

PRO STAR INDUSTRIES



AUTHORIZED REPRESENTATIVE

3/01/07

DATE

CITY OF COLLEGE STATION

Ron Silvia, Mayor

DATE

ATTEST:

Connie Hooks, City Secretary

DATE

APPROVED:

City Manager

DATE



City Attorney

DATE

Chief Financial Officer

DATE

March 22, 2007
Consent Agenda
Rock Prairie Road East Widening Needs Resolution No. 3

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding a resolution determining the public necessity to acquire right-of-way and easement interests for the Rock Prairie Road East Widening Design and ROW Project.

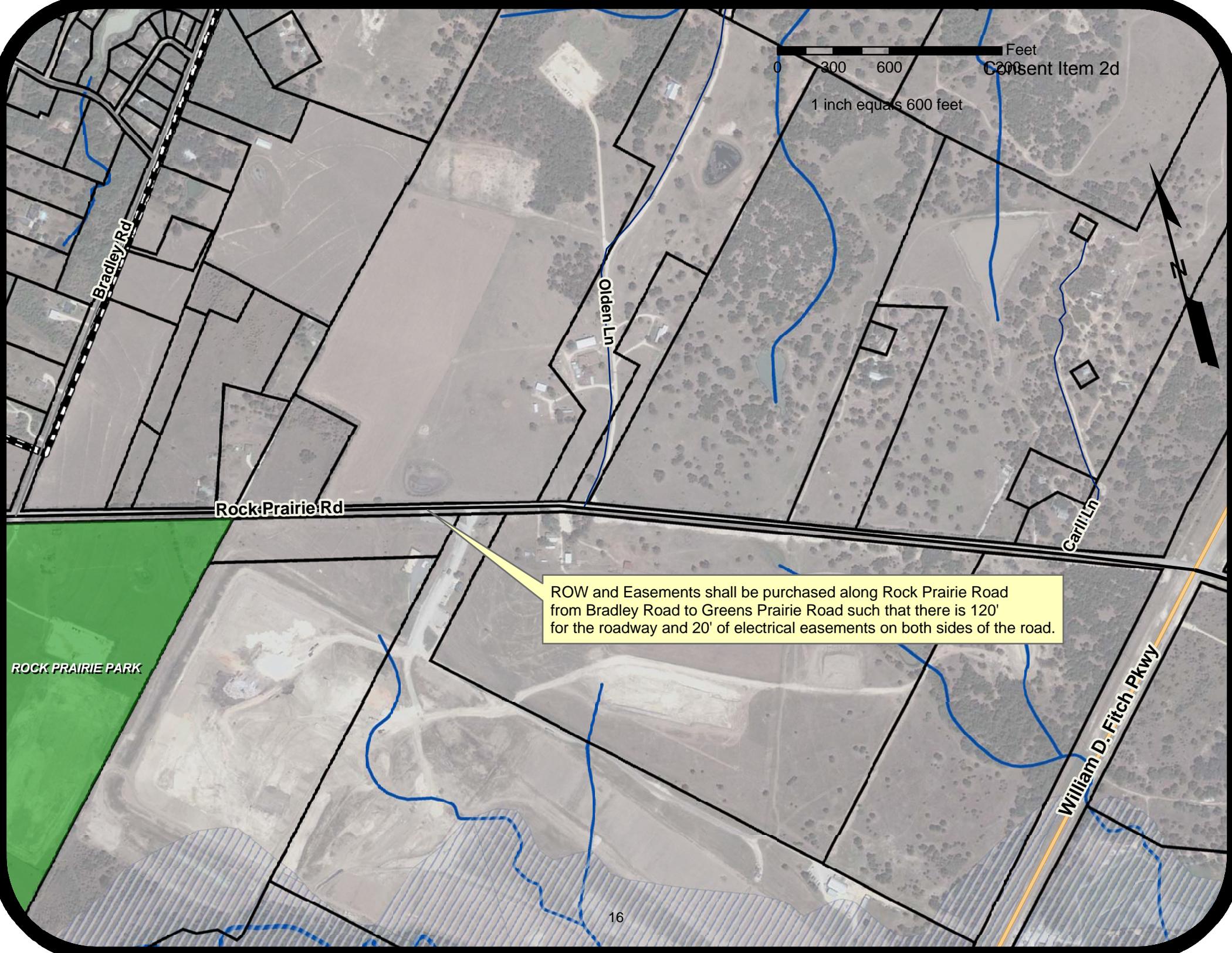
Recommendation(s): Staff recommends approval of the resolution.

Summary: Additional easement and right-of-way space is required for public utilities, access, landscape, and construction of improvements along Rock Prairie Road East between the Bradley Road and Greens Prairie Road. The design will be completed by the June 2007. Pending right-of-way and easement acquisition is expected to start soon after City Council's approval of this resolution. This is the third in a series of three Needs Resolutions to cover all the ROW and easements necessary to purchase three and a half miles of property along Rock Prairie Road East.

Budget & Financial Summary: The budget for the Rock Prairie Road East Widening Design and ROW Project is \$2,969,000. A total of \$841,863.58 has been expended or committed to date for the design of this project, leaving a balance of \$2,127,136.42. These expenditures are currently estimated for FY08 and FY09. Funding for this project is from the 2003 general obligation bond fund.

Attachments:

1. Location Map
2. Needs Resolution
3. Exhibit A – Legal descriptions of property to be acquired available in the City Secretary's Office.
4. Exhibit B – Legal descriptions of property to be acquired available in the City Secretary's Office.



Feet
Consent Item 2d

1 inch equals 600 feet

Bradley Rd

Olden Ln

Carlil Ln

Rock Prairie Rd

William D. Fitch Pkwy

ROCK PRAIRIE PARK

ROW and Easements shall be purchased along Rock Prairie Road from Bradley Road to Greens Prairie Road such that there is 120' for the roadway and 20' of electrical easements on both sides of the road.

RESOLUTION DETERMINING NEED

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, RELATING TO: (1) THE AUTHORITY OF THE CITY TO INITIATE, COMPLETE, AND ACQUIRE, BY PURCHASE OR CONDEMNATION, RIGHT-OF-WAY AND EASEMENT INTEREST IN CERTAIN PROPERTY FOR THE ROCK PRAIRIE ROAD WIDENING PROJECT; (2) A DECLARATION THAT PUBLIC NECESSITY EXISTS FOR THE CITY TO ACQUIRE SUCH INTEREST, THROUGH PURCHASE OR CONDEMNATION; AND (3) ESTABLISHING PROCEDURES FOR THE ACQUISITION OF SUCH INTEREST IN THE PROPERTY.

WHEREAS, the City of College Station, Texas (“City”) is a home rule municipality duly incorporated and chartered under the Constitution and laws of Texas; and

WHEREAS, the City owns, operates, constructs, repairs and maintains a city roadway system as a public service; and

WHEREAS, the City’s ownership, operation, construction, repair, and maintenance of the city roadway system is a benefit to the public; and

WHEREAS, the City, through a condemnation proceeding, may exercise the power of eminent domain to acquire property in order to carry out the ownership, operation, construction, repair, and maintenance of its street system pursuant to Chapter 251 of the Texas Local Government Code, Chapter 21 of the Texas Property Code, and Article II of the City’s Charter; and

WHEREAS, the City is engaged in the following project regarding improvements to Rock Prairie Road between Highway 6 and William D. Fitch Parkway, including widening of the road, installation of public utilities, access, and landscaping, (the “Project”); and

WHEREAS, the City determines that the best interests and needs of the public, including the health, safety and welfare of the public, require that the City improve Rock Prairie Road between Highway 6 and William D. Fitch Parkway, through the City’s acquisition, by purchase or condemnation proceeding, of the right-of-way and easements as provided in Exhibits A and B, attached hereto and incorporated herein by reference for all purposes (the “Right-of-Way and Easements”); now, therefore;

BE IT RESOLVED by the City Council of the City of College Station, Texas:

ORDINANCE NO. _____

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- PART 1: That the City Council of the City of College Station, Texas, hereby officially determines that there is a public necessity for the Right-of-Way and Easements, and the public welfare and convenience will be served by the acquisition of the Right-of-Way and Easements.
- PART 2: That the City Manager is hereby authorized to contract, on behalf of the City of College Station, with a professional appraiser for the appraisal services, with a professional real estate agent to act as a Land Agent for the City and with attorneys for preparation of title opinions needed by the City from time to time in connection with acquisition of the Right-of-Way and Easements.
- PART 3: That the City's Land Agent or other staff appraiser is hereby authorized and directed to examine the independent appraisal reports as they are submitted to the City to determine whether said appraisal reports are supported by sufficient data. Based upon such examination of said appraisal reports, the Land Agent or other staff appraiser shall make a recommendation to the City Manager as to the establishment and approval of the amount of the just compensation for the Right-of-Way and Easements.
- PART 4: After consideration of said recommendation, the City Manager shall establish and approve the amount determined for acquisition of the Right-of-Way and Easements.
- PART 5: Upon establishment and approval by the City Manager of the amount of just compensation for the acquisition of the Right-of-Way and Easements, the City's Land Agent or other staff appraiser is authorized to communicate a written offer to the property owners for the acquisition of such interest at the full amount determined and established to be just compensation therefore and to negotiate with said owners on behalf of the City.
- PART 6: That the Mayor after approval by City Council, or the City Manager as delegated, is hereby authorized to execute all documents necessary to acquire said Right-of-Way and Easements for the Project, on behalf of the City of College Station.
- PART 7: That, if necessary, and should a property owner fail to accept a bona fide, good faith offer from the City to purchase the required Right-of-Way and Easements, City representatives shall have the authority to initiate and complete condemnation proceedings against said owner, in order to

ORDINANCE NO. _____

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acquire through condemnation all required property interests and title regarding such property.

PART 8: That the City Manager be and is hereby authorized to sell any such surplus improvements, or order the demolition thereof, if any, located on the real property acquired in connection with this Project.

PART 9: That this resolution shall take effect immediately from and after its passage.

ADOPTED this _____ day of _____, A.D. 2007.

ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:



City Attorney

March 22, 2007
Consent Agenda
Low Power AM Emergency Advisory Radio System Purchase

To: Glenn Brown, City Manager

From: Olivia Burnside, Chief Information Officer

Agenda Caption: Presentation, possible action, and discussion regarding approval of a contract with Information Station Specialists for the purchase and construction of a secondary low power AM emergency advisory radio transmitter and flashing beacons and associated radio and solar power units for advisory signs in an amount not to exceed \$82,980.

Recommendation(s): Staff recommends approval of the contract for the secondary low power AM emergency advisory radio transmitter and flashing beacons and associated radio and solar power units for advisory signs.

Summary: Low Power AM emergency advisory radio systems are used to alert the public to emergency or special situations. Highway signs with beacons that flash when emergency alerts are aired are strategically placed to alert the public to tune into the emergency radio station. In August 2004 the City of College Station, the City of Bryan, Brazos County and the Brazos County Emergency Communications District (Brazos 911) entered into an interlocal agreement for the purchase, maintenance and use just such a system in Brazos County. This agreement calls for placing multiple transmitters throughout the county and allowing any partner to put emergency messages on any or all of the transmitters as needed. Brazos 911 will pay for five primary transmitters, the City of College Station will negotiate the contracts and any partner may add secondary transmitters and signage to the system in their area. One primary transmitter is to be placed in each city and at this time two (2) are planned in Brazos County outside the cities. The City of College Station plans to put in a secondary transmitter and signs at strategic locations with beacons that flash when emergency messages are aired.

During non-emergency times the College Station AM radio station will be used to air public messages and will be a part of the City's Communication Plan.

Brazos 911 has approved their contract for the purchase and construction of four primary low power AM emergency advisory transmitters.

Budget & Financial Summary: Funds are available for this project in the General Fund balance; this project was included in the FY05 and FY06 budgets with a budget of \$95,000, but no money was spent. A budget amendment will be brought to Council in the near future to provide the budget appropriation for this expenditure.

There are costs associated with this project that are not a part of the contract amount of \$82,980. The total cost of the project is expected to be approximately \$110,000. Any expenditure that exceeds \$95,000 will come from the Information Services operating budget.

Attachments:

Contract between the City and ISS available in hard copy in City Secretary's Office

Contract between Brazos 911 and ISS available in hard copy in City Secretary's Office

March 22, 2007
Consent Agenda
Energy Transfer Corporation Gas & Oil Gathering Franchise Agreement

To: Glenn Brown, City Manager

From: Olivia Burnside, Chief Information Officer

Agenda Caption: Presentation, possible action, and discussion regarding on the second reading of an ordinance approving a non-exclusive gas and oil gathering franchise agreement with Energy Transfer Corporation.

Recommendation(s): Staff recommends approval of the franchise with Energy Transfer Corporation (ETC).

Summary: The City Council approved Ordinance 1923 on October 10, 1991, providing for an oil & gas pipeline franchise agreement with Ferguson Crossing Pipeline Company. On September 13, 2001, Council approved Ordinance 2516 naming Mitchell Gas Services, L.P. as successor to the franchise and extending Ordinance 1923 for five years. In September 2003 the Mitchell Gas Services, L.P. altered its name and began doing business as Devon Gas Services, L.P. On October 21, 2004, Council approved Ordinance 2762 naming Energy Transfer Corporation as successor to the franchise. The franchise fee structure has not changed since the original franchise in 1991.

While the franchise was completely rewritten two changes are significant. The first is that the franchise fees are set within the ordinance and not by resolution. The second is that franchise fees are applied only to pipeline in the City's right of ways and that fee was raised from \$1.50 per linear foot to \$2.50 per linear foot.

Budget & Financial Summary: Although the fee per linear foot of pipeline in the right of way was increased there is a decrease in the overall revenue from this franchise due to eliminating the franchise fee on pipeline not in the right of way. Revenue from this franchise will decrease from approximately \$78,000 to approximately \$45,000 per year.

Attachments:
Franchise Ordinance

ORDINANCE NO _____

AN ORDINANCE GRANTING TO ETC TEXAS PIPELINE, LTD., ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO GATHER, COLLECT, RECEIVE, TRANSPORT FOR COLLECTION AND STORE OIL, GAS, OR OTHER FLUIDS USED OR PRODUCED IN CONNECTION WITH OIL AND GAS GATHERING OPERATIONS IN AND AROUND COLLEGE STATION, TEXAS AND TO OCCUPY THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF COLLEGE STATION WITH ITS FACILITIES FOR THAT PURPOSE, PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF STREETS, ALLEYS, AND PUBLIC WAYS, PROVIDING THAT IT SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES, PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS, AND LIMITATIONS UNDER WHICH SAID FRANCHISE SHALL BE EXERCISED; REPEALING ALL PREVIOUS ETC TEXAS PIPELINE, LTD FRANCHISE ORDINANCES AND ORDINANCES IN CONFLICT HEREWITH, REQUIRING COMPLIANCE WITH ALL REGULATORY ORDINANCES OF THE CITY, PROVIDING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS

SECTION 1 GRANT OF AUTHORITY

(A) The City of College Station, Texas, herein after called "City," hereby grants to ETC Texas Pipeline, Ltd., hereinafter called "Company," its successors and assigns, privilege and license to use and occupy the present and future Public Rights-of-Way of the City for the purpose of laying, maintaining, constructing, protecting, operating, and replacing the System needed and necessary to gather, collect, transport in, out of, and through the City to an approved storage or disposal site or for injection into a transportation pipeline oil, gas, and other fluids used or produced in connection with oil and gas collection operations within the corporate city limits, as such limits may be amended from time to time.

(B) Said privilege and license being granted by this Ordinance is for a term of ten (10) years from and after the effective date of this Ordinance. The Company shall give the City written notice of any request for renewal of this franchise six (6) months prior to the expiration of the franchise granted by this Ordinance.

(C) This franchise covers the geographical area of the entire corporate limits of the City of College Station, Texas. With the exception of compensation provisions, this franchise also applies to the extraterritorial jurisdiction of the City. The Company agrees that the corporate limits are subject to expansion or reduction by annexation and contraction of municipal boundaries and that the Company has no vested right in a specific area. If the City approves any corporate limits expansion or reduction by annexation or contraction, the City will provide written notice to the Company. The Company must revise prospectively the calculation of its payments due to any expansion or reduction by annexation or contraction within a reasonable time after notice by the City of such expansion or reduction, but, in any event, beginning no later than sixty (60) days after receipt of notice.

(D) The provisions set forth in this ordinance represent the terms and conditions under which the Company shall construct, operate, and maintain the System within the City. In granting this franchise, the City does not in any manner surrender or waive its regulatory or other rights and powers under and by virtue of the Constitution and statutes of the State of Texas as the same may be amended, nor any of its rights and powers under or by virtue of present or future ordinances of the City. Company, by its acceptance of this franchise, agrees that all such lawful regulatory powers and rights as the same may be from time to time vested in the City shall be in full force and effect and subject to the exercise thereof by the City at any time.

SECTION 2. DEFINITIONS

For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(A) "City" shall mean the City of College Station, Texas.

(B) "Company" shall mean ETC Texas Pipeline, Ltd., its successors and assigns, but does not include an ETC Texas Pipeline, Ltd. affiliate, which shall have no right or privilege granted hereunder except through succession or assignment in accordance with Section 11.

(C) "City Manager" shall mean the City's manager, or his or her designee.

(D) "ETC Texas Pipeline, Ltd. Affiliate" shall mean in relation to the Company, a Person that controls, is controlled by, or is under common control with the Company. As used in this definition, the term "control" means, with respect to a Person that is a corporation, the ownership, directly or indirectly, of more than 50% of the voting securities of such person or, with respect to a Person that is not a corporation, the power to direct the management or policies of such Person whether by operation of law, by contract or otherwise.

(E) "Linear Feet" shall mean each foot of pipeline in the Public Rights-of-Way, measured linearly without regard to size of pipeline installed therein.

(F) "Person" shall mean any natural person, or association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit, but shall not, unless the context clearly intends otherwise, include the City or any employee, agent, servant, representative or official of the City.

(G) "Public Rights-of-Way" shall mean public streets, alleys, highways, bridges, public easements, public places, public thoroughfares, grounds, and sidewalks of the City, as they now exist or may be hereafter constructed, opened, laid out or extended within the present limits of the City, or in such territory as may hereafter be added to, consolidated or annexed to the City.

(H) "System" or "System facilities" shall mean all of the Company's pipelines and other appurtenant equipment needed and necessary to gather, collect, receive, transport in, out of, and through the City to an approved storage or disposal site or for injection into a transportation pipeline oil, gas, and other fluids used or produced in connection with oil and gas gathering operations of the Company.

SECTION 3 ACCEPTANCE OF TERMS OF FRANCHISE

(A) The Company shall have sixty (60) days from and after passage and approval of this Ordinance to file its written acceptance thereof with the City Manager. If the Company does not file such written acceptance of this Franchise Ordinance, the Franchise Ordinance shall be rendered null and void. The effective date shall be determined in accordance with the requirements of Section 25.

(B) At midnight on June 10, 2017, ALL rights, franchises and privileges herein granted, unless they have already at that time ceased or been forfeited or extended by mutual agreement while a new franchise is being negotiated, shall at once cease and terminate.

SECTION 4 NO THIRD PARTY BENEFICIARIES

This franchise is made for the exclusive benefit of the City and the Company, and nothing herein is intended to, or shall confer any right, claim, or benefit in favor of any third party.

SECTION 5 PARAGRAPH HEADINGS, CONSTRUCTION

The paragraph headings contained in this ordinance are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the preparation of this ordinance and this ordinance shall not be construed either more or less strongly against or for either party

SECTION 6 SEVERABILITY

This Franchise Ordinance and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision, or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance. If any term or provision of this Ordinance is held to be illegal, invalid or unenforceable, the legality, validity or unenforceability of the remaining terms or provisions of this Ordinance shall not be affected thereby

SECTION 7 NO WAIVER

Either City or the Company shall have the right to waive any requirement contained in this Ordinance, which is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Ordinance shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or a different type of breach or violation.

SECTION 8 VENUE

The venue of all actions at law and in equity, concerning any matter or controversy growing out of or incident to any exercise or abuse of the privileges and power granted hereunder, or any default of the duties or obligations imposed hereunder, shall be in the State courts of competent jurisdiction of Brazos County, Texas; and the Company, by the exercise of the privileges and the enjoyment of the benefits of this franchise, expressly agrees in all such matters to submit to the jurisdiction of the courts of the State of Texas, and hereby expressly waives whatever rights it may have to be sued or proceeded against in any other tribunal, provided, however, that if the laws of the State of Texas require such matters to be first submitted to a regulatory body of the State of Texas, same shall be done before recourse may be had to the State Courts, and provided further that this section is subject to the jurisdiction of other courts as required by law

SECTION 9 COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES

(A) This franchise is granted subject to the laws of the United States of America and its regulatory agencies and commissions, the laws of the State of Texas and its regulatory agencies and commissions, the College Station City Charter, as amended, and all other applicable ordinances of the City of College Station, not inconsistent herewith.

(B) Company hereby agrees that with regard to the System installed it shall provide a certificate to the City that such installation was made in accordance with the laws and regulations pertaining thereto

SECTION 10 CONFLICTING ORDINANCES

All ordinances and parts of ordinances of the City of College Station, Texas, with ETC Texas Pipeline, Ltd. in conflict with the provisions of this ordinance are hereby repealed.

SECTION 11 SUCCESSORS AND ASSIGNS

No assignment or transfer of this franchise shall be made, in whole or in part, except in the case of assignment or transfer to an Affiliate of Company without approval of the City Council of the City Notice

of said transfer or assignment to an Affiliate shall be provided to the City. The City will grant such approval unless withheld for good cause. Upon approval, the rights, privileges, and franchise herein granted to the Company shall extend to and include its successors and assigns. The terms, conditions, provisions, requirements and agreements contained in this franchise shall be binding upon the successors and assigns of the Company.

SECTION 12. RESERVATION OF RIGHTS. GENERAL

(A) The City reserves to itself the right and power at all times to exercise, in the interest of the public and in accordance with state law, regulation and control of Company's use of the Public Rights-of-Way to ensure the rendering of efficient public service, and the maintenance of Company's System in good repair throughout the term of this franchise.

(B) The rights, privileges, and franchises granted by this Ordinance are not to be considered exclusive, and City hereby expressly reserves the right to grant, at any time, like privileges, rights, and franchises as it may see fit to any other person or corporation for the purpose of oil and gas gathering.

(C) City expressly reserves the right to own and/or operate its own system for the purpose of oil and gas gathering and may, in accordance with applicable state law and the College Station City Charter, purchase this franchise from the Company.

(D) Except as may be expressly set forth in this Ordinance, in granting this franchise the City does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Texas as the same may be amended, or any of its rights and powers under or by virtue of present or future ordinances of the City.

SECTION 13 CONDITIONS OF OCCUPANCY

(A) All construction and the work done by Company, and the operation of its business, under and by virtue of this Ordinance, shall be in conformance with the ordinances, rules and regulations now in force and that may hereafter be adopted by the City, relating to the use of the Public Rights-of-Way of the City. This Franchise Ordinance shall in no way affect or impair the rights, obligations or remedies of the parties under the Texas Utilities Code, or other state or federal Law. Nothing herein shall be deemed a waiver, release or relinquishment of either party's right to contest or appeal any action or decision of the other party, including ordinances adopted by the City, that it believes is contrary to any federal, state or local law or regulation.

(B) The Company shall comply with the City's Right-of-Way ordinance, a current copy of which is attached as Exhibit A. Pursuant to the City's police power authority, this Right-of-Way ordinance may be superseded by a new or amended ordinance, which shall be of general application to all users of City Rights-of-Way other than the City. In the event the Company believes that the current, new or amended ordinance is contrary to the City's legitimate police power or any federal, state or local law or regulation, and imposes obligations on the Company or deprives the Company of benefits conferred by this Franchise Ordinance, nothing in this Franchise Ordinance shall preclude the Company from taking any action it deems appropriate to preserve its rights.

(C) Company shall lay, maintain, construct, operate, and replace its System facilities so as to interfere as little as possible with traffic. The placement of all System facilities shall be subject to the approval of the City Manager prior to construction. Reproducible copies of maps showing the location of all System facilities shall be furnished to the City Manager.

(D) In determining the location of Company's System facilities within the City, Company shall minimize interference with the existing underground structures of the City or other utility franchisees or users of the Public Rights-of-Way. Likewise, in determining the location of the facilities of the City and other utility franchisees or users of the Public Rights-of-Way within the City, City shall minimize

interference with existing System facilities of Company and shall require other utility franchisees or user of the Public Rights-of-Way to minimize interference with existing System facilities of Company

(E) When Company makes or causes to be made excavations or places or causes to be placed obstructions in any Public Right-of-Way or other public place, the public shall be protected by barriers and lights placed, erected, marked and maintained by Company in accordance with applicable state and federal requirements. Company shall repair, clean up, and restore to as good a condition as before commencement of work, all Public Rights-of-Way or other public places disturbed during the construction and repair of its System. In the event the Company fails to restore the Public Rights-of-Way or public places to as good a condition as before the commencement of the work and within a reasonable time, the City may restore or maintain same, after giving the Company thirty (30) days' written notice, provided however that if the Company is proceeding diligently to restore the property, the time for restoration shall be extended for such time as is necessary for the Company to complete the restoration. If the Company fails to restore the Public Rights-of-Way or public places appropriately, the Company will receive a bill for the cost of the City repairing same. The Company shall, within thirty (30) days after receiving such bill, pay the actual cost for such service.

SECTION 14 MAPPING OF SYSTEM FACILITIES

(A) The Company shall provide the City with "plans of record" (*also called as built plans*) as provided for in the City's Right-of-Way ordinance.

(B) It is further agreed by City and Company that provision of this information does not relieve the City or other third parties from an obligation to utilize all appropriate procedures to locate underground facilities, including the obligation to notify a notification center established pursuant to Texas Utility Code Chapter 251, prior to conducting work in the right-of-way such as excavating, drilling, underground boring, jacking, or open cutting.

SECTION 15 RELOCATION OF COMPANY FACILITIES

(A) If the City in constructing its sewers, water lines, electrical lines, streets, utilities or other public works should require any mains, pipes or other System facilities or equipment maintained in the Public right-of-way, to be shifted or relocated, such mains, pipes or other System equipment shall, upon reasonable notice, be timely shifted or relocated by Company at its own expense; provided, however, that the City shall pay the cost of relocating System equipment if such System equipment is located in a Company easement that has priority over the City's right to use the Public's Rights-of-Way as provided in Texas Utility Code §121.2025

(B) When the Company is required by City to remove or relocate its mains, laterals, and other facilities to accommodate construction of streets and alleys by City, and Company is eligible under federal, state, county, local or other programs for reimbursement of costs and expenses incurred by Company as a result of such removal or relocation, and such reimbursement is required to be handled through City, Company costs and expenses shall be included in any application by City for reimbursement, if Company submits its cost and expense documentation to City prior to the filing of the application. City shall provide reasonable notice to Company of the deadline for Company to submit documentation of the costs and expenses of such relocation to City. If the Company is required by City to remove or relocate its mains, laterals, or other facilities for any reason other than the construction of streets and alleys by City or for reasons listed in paragraph (A) of this section, Company shall be entitled to reimbursement from City or others of the cost and expense of such removal or relocation.

(C) If the City abandons any Public Rights-of-Way in which Company has facilities, such abandonment shall be conditioned on Company's right to maintain its use of the former Public Rights-of-Way and on the obligation of the party to whom the Public Rights-of-Way is abandoned to reimburse Company for all removal or relocation expenses if Company agrees to the removal or relocation of its facilities following abandonment of the Public Rights-of-Way. If the party to whom the Public Rights-of-Way is abandoned requests the Company to remove or relocate its facilities and Company agrees to such

removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Rights-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

SECTION 16 CONFLICTING FRANCHISES

If the Company, in laying its pipes, shall come into conflict with the rights of any other person or corporation having a franchise from the City, the City Council shall decide all questions concerning the conflicting rights of the respective parties, and shall determine the location of the structures of the said parties and what shall reconcile their differences. The Company records shall be available to City for review and inspection for compliance with this franchise at reasonable times and upon reasonable notice.

SECTION 17 ABANDONING OR TEMPORARILY ABANDONING FACILITIES

In the event the Company abandons or temporarily abandons any part of its System facilities, it shall be the duty of the Company under observation of the City Manager to comply with the following:

- (a) Facilities to be abandoned or temporarily abandoned in place shall be disconnected from all sources of the transported gas, oil or fluid such as wells, other pipeline, meter stations, control lines, and other appurtenances, and
- (b) Facilities to be abandoned or temporarily abandoned in place shall be purged of the transported gas, oil or fluid which shall be replaced with an inert material vented as appropriated and the ends sealed.

SECTION 18 LAYING OF LINES IN ADVANCE OF PAVING

(A) Whenever the City shall conclude to pave any Public Rights-of-Way in which mains and pipes already exist or in which Company may propose to lay its mains or pipes, the Company will be provided the opportunity, at no expense to the City, in advance of such paving to renew such mains or pipes, if defective or inadequate in size.

(B) The Company shall be given ninety (90) days written notice of the intention of the City to pave any such Public Rights-of-Way and specifying the new locations for the facilities. Within ninety (90) days from receipt of such notice, the Company, if it has determined a need, shall initiate work and thereafter proceed in a workmanlike manner to completion of the necessary work. If the Company should fail to so proceed, and such street or alley is thereupon paved, except in an emergency, the Company shall for two (2) years thereafter not be allowed to cut such pavement or excavate in such paved street or alley for any purpose, except by written permission of the City Manager under such terms and conditions as the City Manager may prescribe.

SECTION 19 FRANCHISE FEES, PAYMENTS TO THE CITY

(A) In consideration of the privilege and license granted by City to Company to use and occupy the Public Rights-of-Way in the City for the conduct of its business, the City will assess, and the Company, its successors and assigns, will pay, a reasonable annual charge for the City's expenses for administering, supervising, inspecting and otherwise regulating the location of the System, including maintaining records and maps of the location of the System, in the amount and manner described herein.

(B) Franchise fee payments shall be based on Two Dollars and Fifty Cents (\$2.50) per linear foot per annum of facilities on, in or under Public Rights-of-Way or City owned property

(C) Such payment shall be made once each year during the month of February

(D) At the time of the annual payment, Company shall also submit to the City a sworn statement in the form attached as Exhibit B showing the total linear feet of Company's pipeline in Public Rights-of-Way as of the end of each month within the previous calendar year. The franchise fee shall be a sum of money calculated by multiplying the per linear foot charge in Section 19(B) by the average linear feet per month for the previous calendar year. The average linear feet per month for the previous calendar year shall be calculated by adding the total linear feet for each of the twelve months as reported in the Company's sworn statement and dividing by twelve (12).

(E) It is also expressly agreed that the aforesaid payments shall be in lieu of any and all other and additional occupation taxes, easement, franchise taxes or charges (whether levied as an ad valorem, special, or other character of tax or charge), municipal license, permit, and inspection fees, bonds, street taxes, and street or alley rentals or charges, and all other and additional municipal taxes, charges, levies, fees, and rentals of whatsoever kind and character that City may now impose or hereafter levy and collect from Company or Company's agents, excepting only 1) the usual general or special ad valorem taxes that City is authorized to levy and impose upon real and personal property, 2) the Company's separate obligation to reimburse the City for street repairs in accordance with Section 13(E), and 3) penalties as may be provided for by this Franchise Ordinance or the Right-of-Way Ordinance. Should City not have the legal power to agree that the payment of the foregoing sums of money shall be in lieu of occupation taxes, licenses, fees, street or alley rentals or charges, easements or franchise taxes, then City agrees that it will apply so much of said sums of money paid as may be necessary to satisfy Company's obligations, if any, to pay such occupation taxes, licenses, charges, fees or rentals.

(D) If the Company fails to pay when due any payment provided for in this Section, Company shall pay such amount plus interest at the rate of ten percent (10%) per annum from the date the payment is due until and including the date the payment is received by the City.

SECTION 20 ACCOUNTING, AUDIT, INSPECTION

(A) The Company shall maintain, at its local office or principal place of business within the State of Texas, adequate books and records relating to the performance of its obligations under this franchise.

(B) City may cause, upon reasonable notice, an audit to be made of the books and records of the Company relating to the Company's performance under this franchise. The omission by the City to exercise its rights to any audit at any time shall not constitute a waiver of such right. In the event City elects to exercise its right of audit, City shall provide to the Company written notice of such election at least forty-eight (48) hours in advance of the time of such audit. City shall have the right to select auditors to make the audit. The Company shall make available to the auditor such personnel and records as the City may in its reasonable discretion request in order to complete such audit, and shall make no charge to the City therefor. The Company shall assist the City during any audit conducted under this franchise, including answering questions and providing any requested records or information within seven (7) days of having received a written request therefor. The cost of an audit pursuant to this provision shall be borne by the City, unless the audit reveals an underpayment of fees paid during the audit period in excess of two percent (2%), in which case the Company shall pay for the audit.

(C) The acceptance of any statement or payment shall not stop the Company or the City from asserting that the amount paid is not the amount due or from recovering any deficit or overpayment, including interest, by any lawful proceeding provided that any payment made by Company pursuant to this franchise shall be deemed final and correct as to both Company and City unless questioned by either party upon notice delivered to the other within five (5) years following the date of such payment.

(D) Upon completion of the audits, the City shall make the audit report available to the Company, and shall give the Company an opportunity to respond to the audit findings. If requested by either party, the City and the Company shall meet and attempt in good faith to resolve any disputed issues arising out of the audit report. In the event the Company shall be determined to have under-remitted the fee

required by this franchise, the Company shall pay, in addition to the arrearage, interest on the arrearage at the statutory rate from the time of the underpayment until full payment is made. Intentional underpayment of fees by the Company may also subject the Company to penalties for noncompliance with this franchise. After reviewing the Company's response to the audit findings, the City shall make an initial determination as to whether the Company shall also be required to pay a penalty for noncompliance. The amount of the penalty, if any, shall not exceed eight percent (8%) of the arrearage. The City Council shall make the final determination of whether a penalty shall be required, and the amount of same subject to all legal rights and remedies available to Company

(E) If any of the records to be provided by Company or to be made available by Company are considered by the Company to be proprietary in nature or if such records are confidential under federal, state or local law, upon request by the Company such information shall be treated by the City as confidential, and shall be made available only to those persons who must have access to perform their duties on behalf of the City, including but not limited to the City Manager, Chief Financial Officer, the City Attorney, and the Council Members. City shall promptly notify Company of any requests for public disclosure of such records under Chapter 552, Texas Government Code, and Company shall have the sole responsibility to assert its claims regarding the proprietary or confidential nature of such records.

SECTION 21. RIGHT TO INDEMNIFICATION AND TO BE HELD HARMLESS

(A) In consideration of the granting of this franchise, Company shall, at its sole cost and expense, indemnify, defend and hold harmless City and all associated, affiliated, allied and subsidiary entities of City, now existing or hereinafter created, and their respective officers, boards, commissions, employees, agents, attorneys, and contractors (City and such other persons and entities being collectively referred to herein as "Indemnities"), from and against all suits, actions or claims of injury to any person or persons, or damages to any property brought by or made for or on account of any death, injuries to, or damages received or sustained by any person or persons or for damage to or loss of property arising out of, or occasioned by Company's intentional and/or negligent acts or omissions in connection with Company's operations.

(B) The Company's obligation to indemnify Indemnitees under this Franchise Ordinance shall not extend to claims, losses, and other matters covered hereunder that are caused or contributed to by the negligence of one or more Indemnitees. In such case the obligation to indemnify shall be reduced in proportion to the negligence of the Indemnitees. By entering into this Franchise Ordinance, City does not consent to suit, waive any governmental immunity available to the City under Texas law or waive any of the defenses of the parties under Texas law

(C) City shall not at any time be required to pay from its own funds for injury or damage occurring to any person or property from any cause whatsoever arising out of Company's construction, reconstruction, maintenance, repair, use, operation or dismantling of System or Company's provision of service.

(D) In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder, Company shall, upon notice from any of the Indemnitees, at Company's sole cost and expense, resist and defend the same with legal counsel selected by Company and consented to by City, such consent not to be unreasonably withheld, provided, however, that Company shall not admit liability in any such matter on behalf of the Indemnitees without their written consent and provided further that Indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of Company. Company's obligation to defend shall apply regardless of whether City is solely or concurrently negligent. The Indemnitees shall give Company prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section 21. Nothing herein shall be deemed to prevent the Indemnitees at their election and at their own expense from cooperating with Company and participating in the defense of any litigation by their own counsel.

SECTION 22. **INSURANCE**

(A) **COMPANY** shall procure and maintain at its sole cost and expense for the duration of the franchise insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by **COMPANY**, its agents, representatives, volunteers, employees or subcontractors.

(B) **COMPANY's** insurance coverage shall be primary insurance with respect to the **CITY**, its officials, employees and volunteers. Any insurance or self-insurance maintained by the **CITY**, its officials, employees or volunteers shall be considered in excess of the **COMPANY's** insurance and shall not contribute to it.

(C) **COMPANY** shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

(D) **All Certificates of Insurance and endorsements shall be furnished to the CITY Manager at the time of execution of this Agreement, attached hereto as Exhibit C, and approved by the CITY before work commences.**

A. *Standard Insurance Policies Required.*

- 1 Commercial General Liability Policy
2. Automobile Liability Policy
- 3 Workers' Compensation Policy
- 4 Pollution Liability Policy
- 5 Excess Liability Policy

B *General Requirements Applicable to all Policies*

- 1 Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
2. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only
- 3 "Claims Made" policies will not be accepted.
- 4 Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City of College Station.
- 5 Upon request, certified copies of all insurance policies shall be furnished to the City of College Station.
- 6 The City of College Station, its officials, employees and volunteers, are to be added as "Additional Insured" to all applicable Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the **CITY**, its officials, employees or volunteers.

C *Commercial General Liability*

Standard comprehensive general liability including coverage for premises, operations, explosion, products-completed operations, blanket contractual liability, underground property damage, broad form property damage, independent contractors and personal injury:

- 1 General Liability insurance shall be written by a carrier with a B+ VII or better rating in accordance with the current Best Key Rating Guide.
2. Minimum Limit of \$2,000,000 00 per occurrence bodily injury, \$2,000,000 00 aggregate.
Minimum Limit of \$2,000,000 00 per occurrence property damage, \$2,000,000 00 aggregate.
- 3 Coverage shall be at least as broad as Insurance Service's Office Number CG 00 01
- 4 No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.
- 5 The coverage shall include but not be limited to the following: premises/operations; independent contracts, products/completed operations; contractual liability (insuring the indemnity provided herein); and where exposures exist, "Explosion, Collapse, and Underground" coverage.

D *Automobile Liability*

- 1 Business Automobile Liability insurance shall be written by a carrier with a B+ VII or better rating in accordance with the current Best Key Rating Guide.
2. Minimum Combined Single Limit of \$1,000,000 00 per occurrence for bodily injury and property damage.
- 3 The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
- 4 The coverage shall include owned or leased autos, non-owned autos, and hired cars. Where applicable endorsement MCS-90 (Motor Carrier Policies for Insurance for Public Liability) is required.
- 5 COMPANY is responsible for any liability and/or costs that exceed the dollar limits set forth in this section.

E. *Workers' Compensation*

- 1 Employer's Liability limits of \$500,000/\$500,000/\$500,000 are required.
2. City of College Station shall be named as Alternate Employer on endorsement WC 99 03 OI unless written through TWCARP
- 3 Texas Waiver of Our Right to Recover from Others Endorsement, WC 42 03 04 shall be included in this policy
- 4 Texas must appear in Item 3A of the Workers' Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND OH, WA, WV, WY

SECTION 23 TERMINATION

(A) In addition to any rights set out elsewhere in this Franchise Ordinance, the City reserves the right to terminate the franchise and all rights and privileges pertaining thereto, in the event that the Company violates any material provision of the franchise or the Company becomes insolvent, or is adjudged bankrupt.

(B) The City may, at any time, terminate this franchise for a continuing material violation by the Company of any of the substantial terms hereof. In such event, the City shall give to Company written notice, specifying all grounds on which termination or forfeiture is claimed, by registered mail, addressed and delivered to the Company at the address set forth in Section 24 hereof. The Company shall have sixty (60) days after the receipt of such notice within which to cease such violation and comply with the terms and provisions hereof. In the event Company fails to cease such violation or otherwise comply with the terms hereof, then Company's franchise is subject to termination under the following provisions. Provided, however, that, if the Company commences work or other efforts to cure such violations within thirty (30) days after receipt of written notice and shall thereafter prosecute such curative work with reasonable diligence until such curative work is completed, then such violations shall cease to exist, and the franchise will not be terminated.

(C) Termination shall be declared only by written decision of the City Council after an appropriate public proceeding whereby the Company is afforded the full opportunity to be heard and to respond to any such notice of violation or failure to comply. The Company shall be provided at least ten-(10) day's prior written notice of any public hearing concerning the termination of the franchise. In addition, ten (10) days notice by publication shall be given of the date, time and place of any public hearing to interested members of the public, which notice shall be paid for by the Company.

(D) The City, after full public hearing, and upon finding material violation or failure to comply, may terminate the franchise or excuse the violation or failure to comply, upon a showing by the Company of mitigating circumstances or upon a showing of good cause of said violation or failure to comply as may be determined by the City Council.

(E) Nothing herein stated shall prevent the City from seeking to compel compliance by suit in any court of competent jurisdiction if the Company fails to comply with the terms of this franchise after due notice and the providing of adequate time for Company to comply with said terms.

SECTION 24 NOTICES

Any notices required or desired to be given from one party to the other party to this Ordinance shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below, (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified, or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

CITY
City Manager
City of College Station
P O Box 9960
310 Krenek Tap Road
College Station, Texas 77842

COMPANY
ETC Texas Pipeline, Ltd.
800 E. Sonterra Blvd., Suite 400
San Antonio, TX 78258

SECTION 25 EFFECTIVE DATE

This franchise shall be effective only after (a) sixty (60) days following its final passage by the City Council, and (b) receipt by the City of Company's acceptance as provided by Section 3 herein.

PRESENTED, AND GIVEN first reading on the ___ day of _____, 2007, by a vote of ___ ayes and ___ noes at a regular meeting of the City Council of the City of College Station, Texas; and given second reading, passed and approved on the ___ day of _____, 2007, by a vote of ___ ayes and ___ noes at a regular meeting of the City Council of the City of College Station, Texas; and given third reading, passed and approved on the ___ day of _____, 2007, by a vote of ___ ayes and ___ noes at a regular meeting of the City Council of the City of College Station, Texas.

ATTEST

CITY OF COLLEGE STATION

Connie Hooks, City Secretary

Ron Silvia, Mayor

APPROVED AS TO FORM.

Carla A Robinson
City Attorney

**March 22, 2007
Consent Agenda
2006 Racial Profiling Analysis Report**

To: Glenn Brown, City Manager

From: Michael Clancey, Chief of Police

Agenda Caption: Presentation, possible action and discussion regarding the racial profile report required annually by Senate Bill 1074, of the Texas 77th legislative session.

Recommendation(s): This item is presented according to statutory requirements. Staff requests Council's acceptance of this report.

Summary: Each year, in an effort to remain transparent to our community, the Police Department employs an independent consultant to analyze traffic stop data and develop this report. This year's analysis yields remarkable similarities to past year results with no significant anomalies to give rise for concern. A copy of this report was provided to Council prior to March 1st in compliance with statutory requirements.

Since January 1, 2002, the College Station Police Department, in accordance with the Texas Racial Profiling Law (SB No. 1074), has been required to implement and maintain policy and procedures to satisfy the requirements of the law. The requirements include:

- Development of a policy, which clearly defines the acts that constitute racial profiling and prohibits any peace officer employed by the department from engaging in racial profiling.
- Conduct Racial Profiling Training to Law Enforcement Officers.
- Implementation and publication of complaint and disciplinary processes for addressing racial profiling complaints.
- Development of a policy which establishes procedures for reviewing video and audio documentation.
- Collection of tier 1 traffic stop data.
- Production of an annual report on police traffic contacts (tier 1) and conveyance of that report to the City Council before March 1 of each year.

Budget & Financial Summary: n/a

Attachments:

2006 Racial Profiling Analysis Report

The College Station Police Department Annual Traffic Contact Report (2006)



Del Carmen Consulting, LLC

(I) Introduction

Opening Statement

February 5, 2007

College Station City Council
1011 Texas Avenue South
College Station, Texas 77842

Dear Distinguished Members of the City Council,

The racial profiling issue is regarded as one of the most prevalent themes among law enforcement agencies in the United States. Almost five years ago, the Texas legislature, in an attempt to address the issue of racial profiling in policing, passed the Texas Racial Profiling Law. Since, the College Station Police Department, in accordance with the law, has collected and reported traffic-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices among police officers.

In this report, you will find three sections that contain information on traffic-based contact data along with documentation which aims at demonstrating the manner in which the College Station Police Department has complied with the Texas Racial Profiling Law. Specifically, section 1 contains the table of contents in addition to the Texas Senate Bill (SB1074) which introduced the Texas Racial Profiling Law. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCLEOSE (Texas Commission on Law Enforcement Officer Standards and Education) is included. In addition, sections 2 and 3 contain documentation which demonstrates compliance by the College Station Police Department relevant to the requirements as established in the Texas Racial Profiling Law. That is, documents relevant to the implementation of an institutional policy banning racial profiling, the implementation of a racial profiling complaint process (which has been disclosed to the public), and the training administered to all law enforcement personnel, are included.

The final component of this report provides statistical data relevant to contacts, made during the course of traffic stops, between 1/1/06 and 12/31/06. This information has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard and to traffic-based contact data collected between 2002 and 2005. The final analysis and recommendations are also included in this report.

I am hopeful that the findings presented in this report serve as evidence of the College Station Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.
Del Carmen Consulting, LLC

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TCLEOSE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of *what* must be accomplished by an agency but allows wide latitude in determining *how* the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an “agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers’ official duties.”

The article further defines race or ethnicity as being of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American.” The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

Standard 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person's race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer's best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, "the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose."

Standard 3

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary

Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide and analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

Standard 4

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

Commentary

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

Standard 5

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

Commentary

None

Standard 6

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

Commentary

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

Standard 7

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

Commentary

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

The Texas Law on Racial Profiling

AN ACT

relating to the prevention of racial profiling by certain peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE
STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy

adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(5) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled during the previous calendar year to the governing

body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the

Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:

Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling; and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

- (1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;
- (2) the registration number of the vehicle involved;
- (3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;

(4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;

(5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;

(6) whether a search of the vehicle was conducted and whether consent for the search was obtained;

(7) the plea, the judgment, and whether bail was forfeited;

(8) [~~7~~] the date of conviction; and

(9) [~~8~~] the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2003, and ending December 31, 2003.

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards and Education shall establish an education and training program on racial profiling as required by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management Institute of Texas shall establish a program on racial profiling as required by Subsection (j), Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years shall complete an education and training program on racial profiling established under Subsection (e), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief before the effective date of this Act shall complete a program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. This Act takes effect September 1, 2001.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

(II) Responding to the Law

Institutional Policy on Racial Profiling

Chapter 65 BIASED BASED PROFILING

The practice of bias based policing by law enforcement personnel undermines legitimate law enforcement efforts and may lead to claims of civil rights violations. It often alienates citizens and may foster distrust of law enforcement within the community.

This directive reaffirms the department's commitment to unbiased policing by identifying specific acts that would be considered bias based policing and outlining procedures to address requirements of Article 2.131-137 of the Code of Criminal Procedure.

This directive does not prohibit police personnel from stopping or detaining individuals if a specific report exists in which an individual's race, national origin, citizenship, religion, ethnicity, age, gender or sexual orientation is an identifying factor in determining the existence of probable cause for taking police action.

POLICY:

Members of the College Station Police Department will not engage in any activities that are discriminatory or indicative of the practice of bias based policing. Personnel will focus on the behavior of an individual and/or specific suspect information in taking police action. Individuals will not be targeted for enforcement action, detention, field contacts, asset seizure and forfeiture, or interdiction solely on the basis of race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group. Appropriate corrective action will be taken, after investigation, against any employee who engages in bias based policing. Such an investigation may result in disciplinary action up to and including termination. [1.2.9\(a\)\(c\)](#)

DEFINITIONS:

1. Bias Based Profiling - The targeting of an individual for enforcement action, detention or interdiction based solely on a trait common to a group of people. This includes, but is not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group. For purpose of this directive the term "racial profiling" is a part of Biased Based Profiling.
2. Race or Ethnicity - heritage of a particular descent, including Caucasian {W}, African {B}, Hispanic {H}, Asian {A}, Native American {NA}, or Other {O} descent.
3. Seizure - any taking of property from an individual without the individual's consent or any restriction of an individual's liberty without the individual's consent. A detention will be considered a seizure, as will an arrest. Seizure also includes any filing of documents with the District Attorney for the purpose of asset forfeiture.

PROCEDURE:**1. Reporting Requirements**

- a. Traffic Stops
- (1) Article 2.132 of the Code of Criminal Procedure requires specific information must be recorded for each traffic stop in which a citation is issued or an arrest results from the traffic stop. The required information includes:
 - (a) The race or ethnicity of the individual detained; and
 - (b) Whether a search was conducted and, if so, whether the person detained consented to the search.
 - (2) Required fields have been incorporated into the citation and arrest forms to accommodate this data collection requirement.
- b. Reports Required for Traffic and Pedestrian Stops
- (1) Article 2.133 of the Code of Criminal Procedure requires the following information be recorded each time a peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense:
 - (a) A physical description of each person detained as a result of the stop to include the person's gender and the person's race or ethnicity as stated by the person, or if not stated, as determined by the officer to the best of the officer's ability. The abbreviations to be use for the following race or ethnicity's are:

(i) Caucasian	W
(ii) African	B
(iii) Hispanic	H
(iv) Asian	A
(v) Native American	NA
(vi) Other	O
 - (b) The traffic law or ordinance alleged to have been violated or the suspected offense;
 - (c) Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
 - (d) Whether any contraband was discovered in the course of the search and the type of contraband discovered;
 - (e) Whether probable cause to search existed and the facts supporting the existence of that probable cause;
 - (f) The street address or approximate location of the stop; and
 - (g) Whether the officer made an arrest as a result of the stop or the search, including a description of the warning or a statement of the violation charged.
 - (2) This reporting requirement only applies to those police vehicles and police motorcycles routinely used to make traffic stops. Members of the department are exempt from the reporting requirements of article 2.133 of the Code of Criminal Procedure as outlined in 1 b. (1) above, provided each traffic and pedestrian stop is recorded by mobile video/audio recording equipment as directed by Chapter 62 of this manual entitled *Mobile Video/Audio Recording*.
 - (3) The law also requires the collection of data for pedestrian stops, defined in the law as “an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest”. It is important for officers to recognize that pedestrian stops will now require a different thought process in order to meet the state law requirements. A “pedestrian stop” in this new law in practice is:

- (a) a pedestrian stop self-initiated (on-view) by the officer based only upon reasonable suspicion, and
 - (b) in which no offense is clearly evident at the time of the stop.
- (4) Pedestrian stop does not apply to:
 - (a) citizens stopped during dispatched calls, or
 - (b) citizen stops initiated by offenses committed in the officer's presence (fights, indecent exposure, etc.).
- c. While not totally inclusive, the following examples are provided to assist officers in understanding when documentation of a pedestrian is required and when it is not:
 - (1) Officer responding to a "burglary in progress" call stops a pedestrian leaving the scene. This is part of the open burglary call and is not considered a "pedestrian stop".
 - (2) One day after a robbery, officers stop a pedestrian in the area matching the suspect description. This is not an open call and is considered a "pedestrian stop".
 - (3) Officer observes a person throwing a rock through a window. Officer stops and arrests the subject. There was an offense clearly evident at the time the officer decided to make the stop. Officer initiates a criminal mischief call and clears as he does currently. This is not a "pedestrian stop".
 - (4) Officer observes two persons walking behind a closed business. No offense is clearly evident. The officer stops the subjects and one subject is arrested for a warrant. The second subject is released at the scene. The officer initiates a call, for warrant arrest. The warrant service call is cleared as currently done. Both subjects are considered "pedestrian stops".
- d. The law does not specifically address passengers in vehicles. The law does include the specific terms "pedestrians" and "pedestrian stop". Therefore, the law does not apply to passengers in vehicles.
- e. Warning, Citation, Arrest, and FIR forms have been modified to comply with new data collection requirements for use by officers to record traffic and pedestrian stops made in the absence of functional mobile video/audio recording equipment.
 - (1) Designated fields will be completed any time mobile video/audio recording equipment is inoperable or unavailable.
 - (2) Records personnel will ensure additional information from these forms is entered into the computer.
- f. A copy of all seizures related to asset forfeiture filed with the District Attorney will be provided to the person that oversees the Asset Forfeiture records and fund.

2. Responsibilities

- a. Patrol Officers
 - (1) Are responsible for ensuring mobile video/audio recording equipment is fully operational throughout their tour of duty. Any equipment failures or repairs needed should be immediately reported to the on duty shift supervisor as soon as possible.
 - (2) Conduct traffic stops in a professional manner as outlined in the chapter of this manual entitled *Traffic Safety*.
 - (3) Are responsible for ensuring all required fields on associated paperwork are completed including those fields required for those occasions when the mobile video/audio recording equipment is not operational or is unavailable.
 - (4) Ensure that all paperwork is turned into their supervisors at the end of their tour of duty.

- b. Patrol Supervisors
 - (1) Traffic enforcement will be accompanied by consistent, ongoing supervisory oversight to ensure officers do not go beyond the parameters of reasonableness in conducting such activities.
 - (2) First line supervisors shall randomly review the mobile video/audio recording tapes of each of their subordinates with the intent to determine compliance with this and other applicable directives. At a minimum, one review per officer per month will be conducted.
 - (3) Summary reports on these reviews will be completed on a quarterly basis and submitted to the Chief through the chain of command. The Chief will then file this report with the Internal Affairs Administrator who will use this report for annual reporting requirements.
- c. Recruiting & Training Lieutenant
 - (1) Will ensure all affected department personnel are trained on racial profiling issues as determined appropriate by the Texas Commission on Officer Standards and Education. [1.2.9\(b\)](#)
- d. Internal Affairs Supervisor
 - (1) The Internal Affairs Administrator is responsible for investigating any complaints of bias based profiling filed against any member of the College Station Police Department as outlined in Chapter 26 Internal Affairs.
 - (2) If a video or audio recording was made of an incident, which is the basis of a complaint, the Internal Affairs Administrator or his designee will provide a copy of the recording to the officer who is the subject of the complaint upon the officer's written request. The request is to be made in memo form, routed through the chain of command to the Chief of Police.
 - (3) Perform a comparative analysis of the data collected for traffic stops and traffic stop arrests (tier 1 reporting) and a separate comparative analysis for any data collected on traffic and pedestrian stops due to non-operational or unavailable audio/video equipment (tier 2 reporting). [1.2.9\(d\)](#)
 - (a) Analysis for each report will be based on a calendar year.
 - (b) Summary reports of the analysis must be submitted to the office of the Chief of Police and the City Council before March 1st of each year.
 - (c) The reports must include:
 - [1] A determination of the prevalence of racial profiling
 - [2] An examination of the disposition of traffic and pedestrian stops, including searches resulting from the stops
 - [3] An examination of quarterly supervisor review summary reports; and
 - [4] Information relating to each complaint filed within the department alleging racial profiling.
 - [5] The report may not include identifying information about an officer or about the person stopped. [1.2.9\(d\)](#)
 - (4) Will annually review and update department brochures, which serve to educate the public about the internal affairs complaint process.
 - (4) May make recommendations to the department training committee, or the recruiting and training division based on findings of summary reports.
- e. Public Information Officer

The Public Information Officer will annually post a statement in the local newspaper outlining the Department's internal affairs complaint process. The statement will specifically include the process by which a member of the public may file a complaint if the individual believes an employee of our department has engaged in bias based profiling with respect to the individual.

f. Department Web page Master

The Department's web page master will maintain a statement on the website outlining the Department's internal affairs complaint process. The statement will specifically include the process by which a member of the public may file a complaint if the individual believes an employee of our department has engaged in racial profiling with respect to the individual.

3. Training Requirements

- a. Officers are responsible for adherence of all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

4. Complaint Investigation

- a. Any and all complaints alleging Biased Based Policing will be readily accepted in accordance to the chapter of this manual, entitled *Complaints/Internal Affairs*.
- b. If practical, any video and/or audiotapes associated with a biased-based policing complaint shall be forwarded through the chain of command with the complaint.

5. Public Education

- a. This department will inform the public of its policy against biased based policing and the complaint process. Methods that may be utilized to inform the public include but are not limited to television, radio, service or civic presentations, brochures, the Internet, as well as governing board meetings.
- b. Additionally, information will be made available as appropriate in languages other than English.

Complaint Process: Informing the Public and Addressing Allegations of Racial Profiling Practices

Informing the Public on the Process of Filing a Racial Profiling Complaint with the College Station Police Department

One of the requirements of the Texas Racial Profiling Law is that police agencies provide information to the public regarding the manner in which to file a racial profiling complaint. In an effort to comply with this particular component, the College Station Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department made available, in the lobby area, web site, and local newspaper (annually), information relevant to filing a complaint on a racial profiling violation by a College Station Police officer. This information is made available in English and Spanish. It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

Racial Profiling Training

Racial Profiling Training

Since 2002, all College Station Police officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the College Station Police Department have completed the TCLEOSE basic training on racial profiling. The main outline used to train the officers of College Station has been included in this report.

It is important to recognize that the Chief of the College Station Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the College Station Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

**Racial Profiling
Course Number 3256
Texas Commission on Law Enforcement
September 2001**

Racial Profiling 3256

Instructor's Note:

You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.

Abstract

This instructor guide is designed to meet the educational requirement for racial profiling established by legislative mandate: 77R-SB1074.

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

Material Requirements: Overhead projector, chalkboard and/or flip charts, video tape player, handouts, practical exercises, and demonstrations

Instructor Qualifications: Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

Evaluation Process and Procedures

An examination should be given. The instructor may decide upon the nature and content of the examination. It must, however, sufficiently demonstrate the mastery of the subject content by the student.

Reference Materials

Reference materials are located at the end of the course. An electronic copy of this instructor guide

may be downloaded from our web site at <http://www.tcleose.state.tx.us>.

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.

1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.

Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

A. Written departmental policies

1. Definition of what constitutes racial profiling
2. Prohibition of racial profiling
3. Complaint process
4. Public education
5. Corrective action
6. Collection of traffic-stop statistics
7. Annual reports

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

E. Copy of complaint-related video evidence to officer in question

F. Vehicle stop report

1. Physical description of detainees: gender, race or ethnicity
2. Alleged violation
3. Consent to search
4. Contraband

5. Facts supporting probable cause
6. Arrest
7. Warning or citation issued

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs
2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074

1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

A. *Whren v. United States*, 517 U.S. 806, 116 S.Ct. 1769 (1996)

1. Motor vehicle search exemption
2. Traffic violation acceptable as pretext for further investigation
3. Selective enforcement can be challenged

B. *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine
2. Stopping and briefly detaining a person
3. Frisk and pat down

C. Other cases

1. *Pennsylvania v. Mimms*, 434 U.S. 106, 98 S.Ct. 330 (1977)
2. *Maryland v. Wilson*, 117 S.Ct. 882 (1997)
3. *Graham v. State*, 119 MdApp 444, 705 A.2d 82 (1998)
4. *Pryor v. State*, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)
5. *Ferris v. State*, 355 Md. 356, 735 A.2d 491 (1999)
6. *New York v. Belton*, 453 U.S. 454 (1981)

2.0 RACIAL PROFILING AND THE COMMUNITY

2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.

A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism

B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole

C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers

D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop

E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
2. The driver and passengers are questioned about things that do not relate to the traffic violation
3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle
5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.

- A. Drug courier profile (adapted from a profile developed by the DEA)
1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
 2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
 3. Vehicle is rented
 4. Driver is a young male, 20-35
 5. No visible luggage, even though driver is traveling
 6. Driver was over-reckless or over-cautious in driving and responding to signals
 7. Use of air fresheners
- B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.

- A. Thinking about the totality of circumstances in a vehicle stop
- B. Vehicle exterior
1. Non-standard repainting (esp. on a new vehicle)
 2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
 3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
 4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)
- C. Pre-stop indicators
1. Not consistent with traffic flow

2. Driver is overly cautious, or driver/passengers repeatedly look at police car
3. Driver begins using a car- or cell-phone when signaled to stop
4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074:

<http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

Report on Complaints

Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/06---12/31/06, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

A check above indicates that the College Station Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/06 ---- 12/31/06.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint No.	Alleged Violation			Disposition of the Case
IA 2006-01	Violation of Racial Profiling Law			Unfounded
IA 2006-07	Violation of Racial Profiling Law			Exonerated
IA 2006-19	Violation of Racial Profiling Law			Exonerated
IA 2006-29	Violation of Racial Profiling Law			Unfounded

Additional Comments:

Tables Illustrating Traffic Contact

Tier 1 Data

(I) Tier 1 Data

Traffic-Related Contact Information (1/1/06—12/31/06)

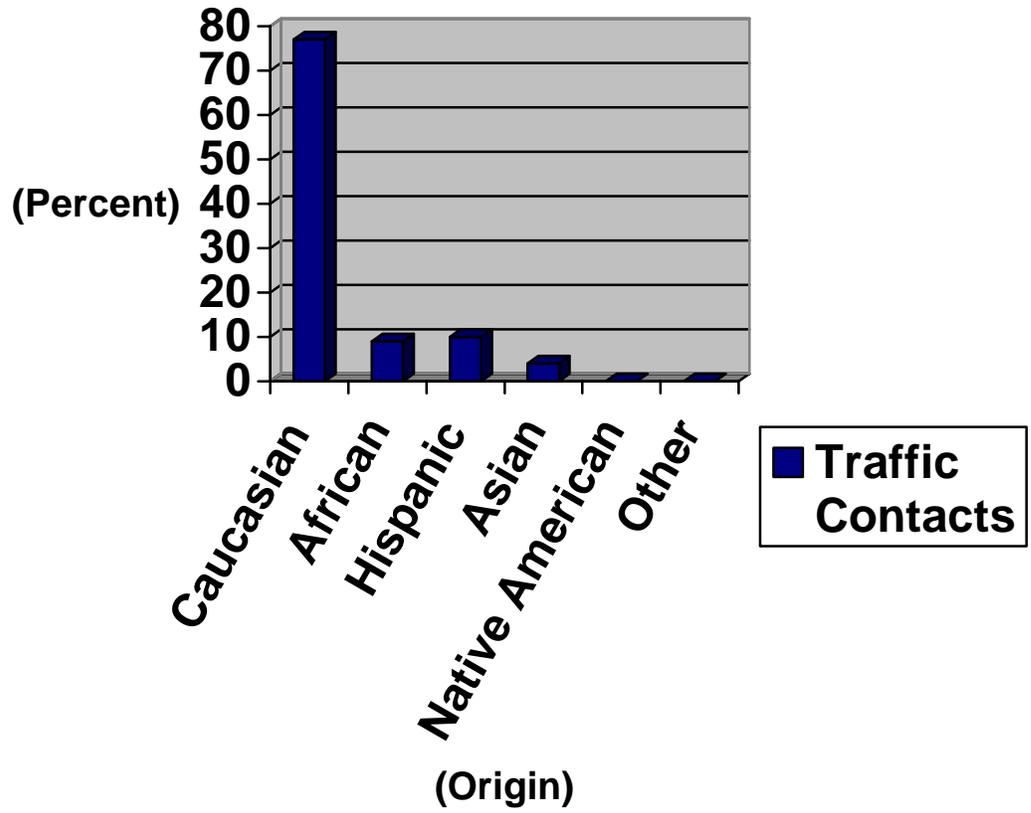
Race/Ethnicity *	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	13,660	77	140	65	74	61	66	69	256	56
African	1,530	9	47	22	31	25	16	17	103	22
Hispanic	1,807	10	27	12	14	12	13	14	96	21
Asian	714	4	3	1	3	2	0	0	3	1
Native American	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
Total	17,711	100	217	100	122	100**	95	100	458	100**

“N” represents “number” of traffic-related contacts

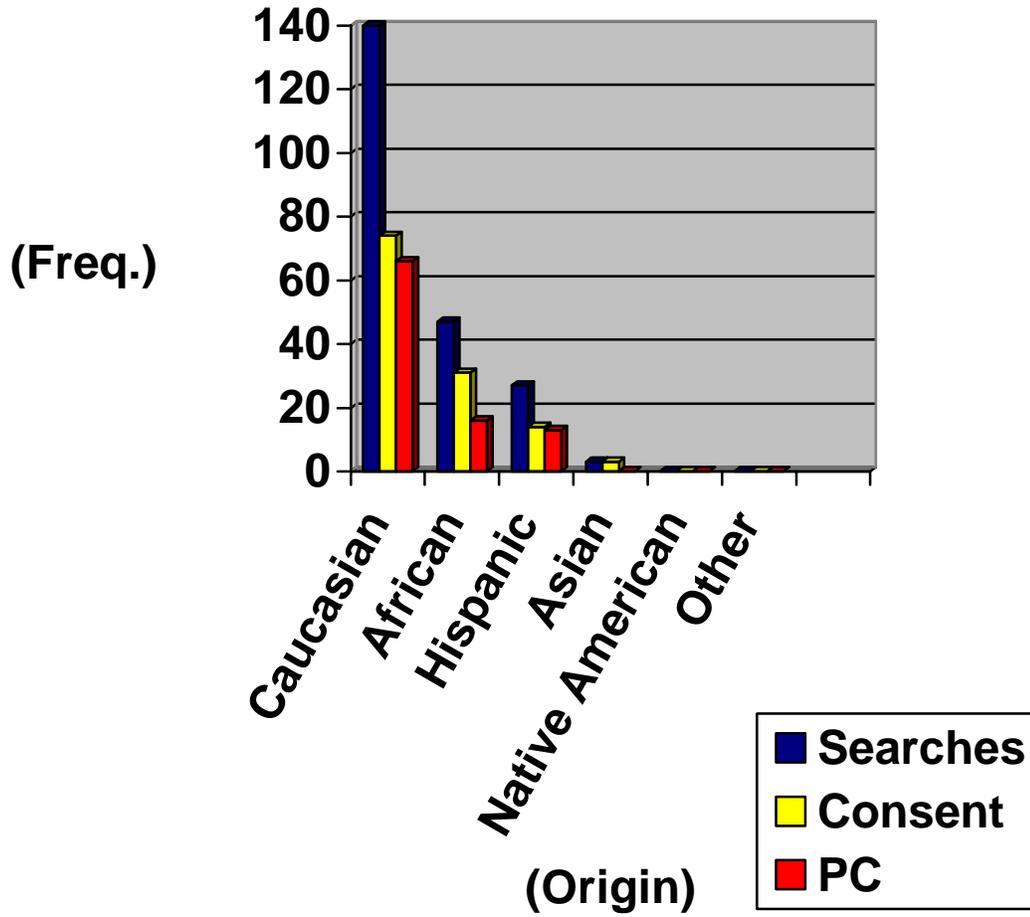
* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

**Figure has been rounded

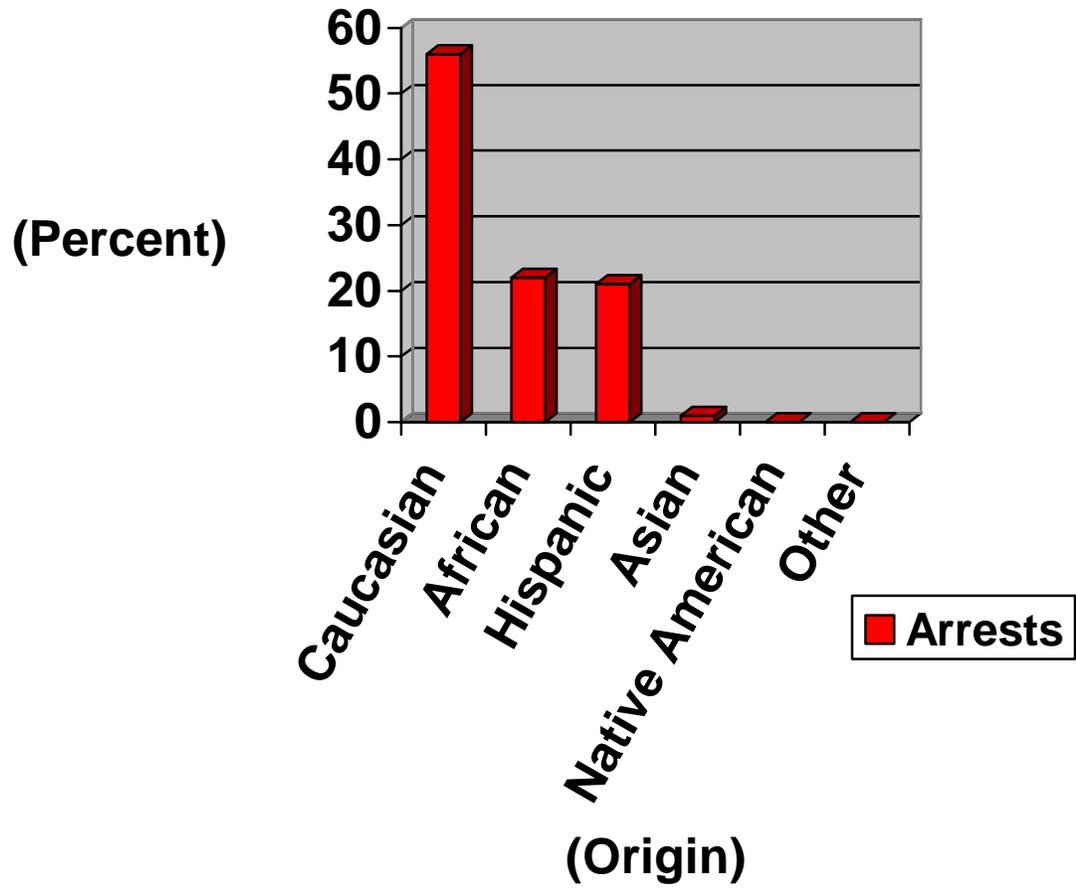
Tier 1 Data (Traffic Contacts)



Tier 1 Data (Searches)



Tier 1 Data (Arrests)



**Tier 1 Baseline Comparison
(Fair Roads Standard)**

(II) Traffic-Contacts and Fair Roads Standard Comparison

Comparison of traffic-related contacts with households in College Station that have vehicle access (in percentages). (1/1/06—12/31/06)

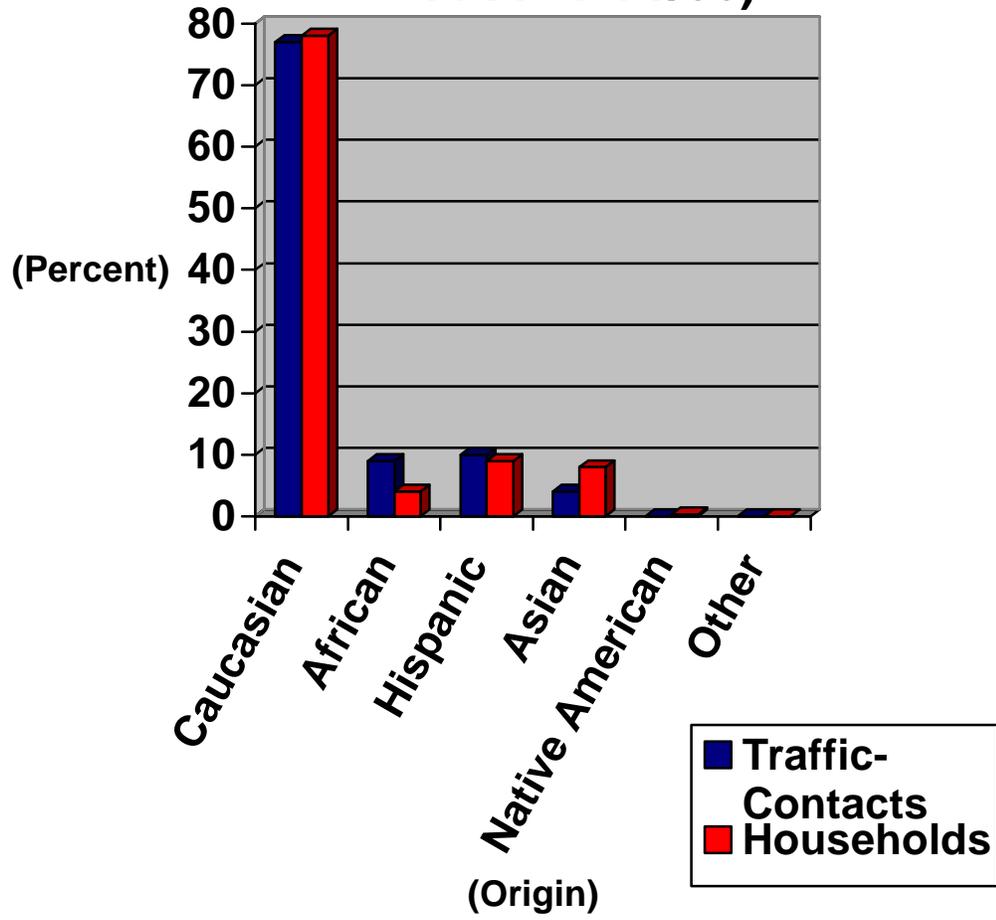
Race/Ethnicity*	Traffic-Contacts (in percentages)	Households with Vehicle Access (in percentages)
Caucasian	77	78
African	9	4
Hispanic	10	9
Asian	4	8
Native American	0	.34
Other	0	N/A
Total	100	99.3***

* Race/Ethnicity are defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

**Represents rounded figure

***Amount does not total 100% since Census data does provide value of “other” category.

Tier 1 (Traffic-Contacts and Households/06)



Tier 1 Data
(Five-Year Comparative Analysis)
(2002—2006)

(III) Five-Year Tier 1 Data Comparison

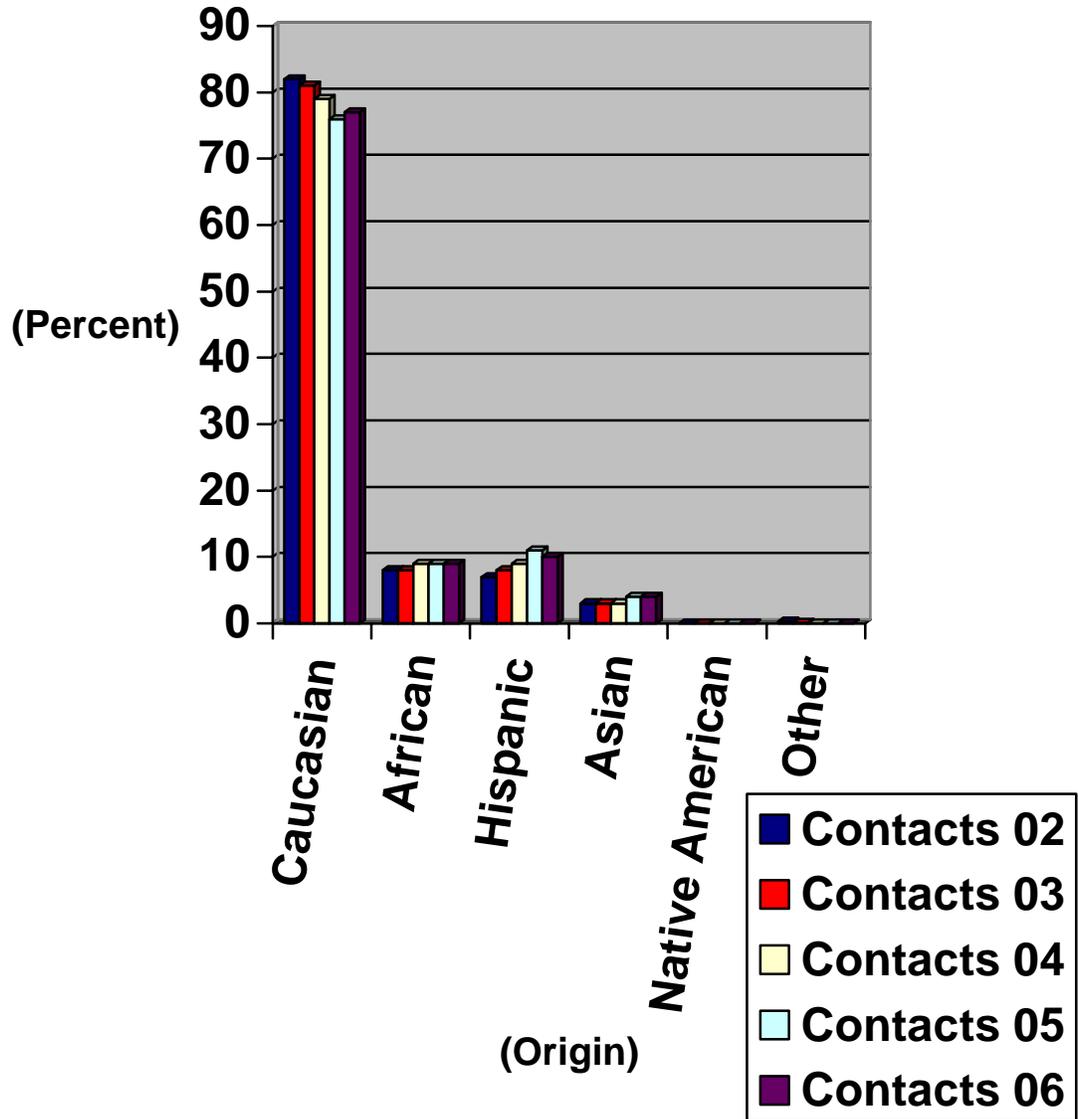
**Comparison of Five-Year Traffic-Related Contact Information
(1/1/02---12/31/06)**

Race/Ethnicity*	Traffic-Related Contacts (in percentages)				
	(02)	(03)	(04)	(05)	(06)
Caucasian	82	81	79	76	77
African	8	8	9	9	9
Hispanic	7	8	9	11	10
Asian	3	3	3	4	4
Native American	.005	0	0	0	0
Other	.3	.1	0	0	0
Total	100**	100**	100**	100**	100

* Race/Ethnicity is defined by Texas Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

** Figure has been rounded.

Tier 1 Data (Traffic-Contacts 02-06)



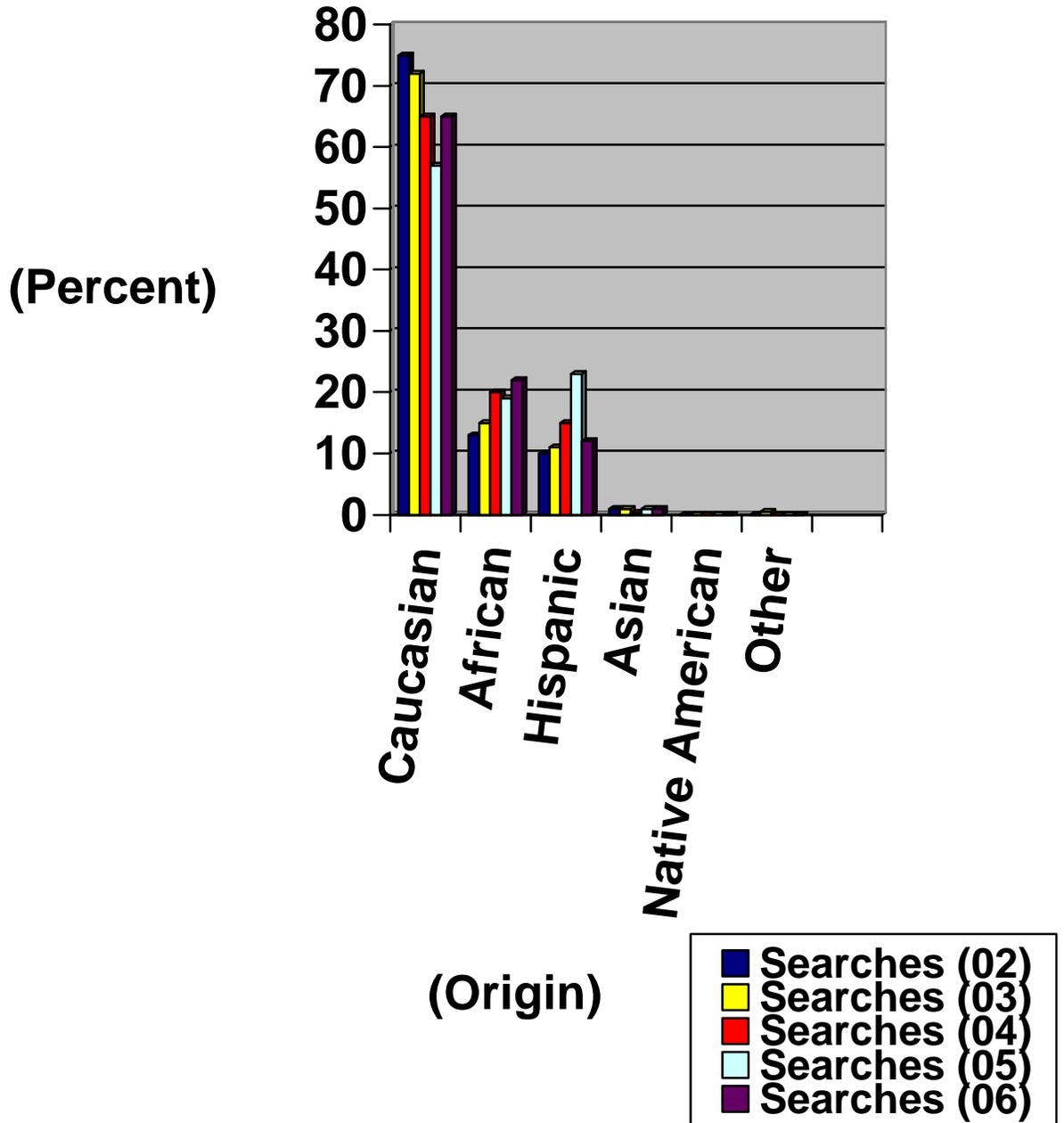
**Comparison of Five-Year Traffic-Related Search Information
(1/1/02---12/31/06)**

Race/Ethnicity*	Traffic-Related Searches (in percentages)				
	(02)	(03)	(04)	(05)	(06)
Caucasian	75	72	65	57	65
African	13	15	20	19	22
Hispanic	10	11	15	23	12
Asian	1	1	.3	1	1
Native American	0	0	0	0	0
Other	0	.5	0	0	0
Total	100**	100**	100**	100	100

* Race/Ethnicity is defined by Texas Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

** Figure has been rounded.

Tier 1 Data (Searches 02-06)



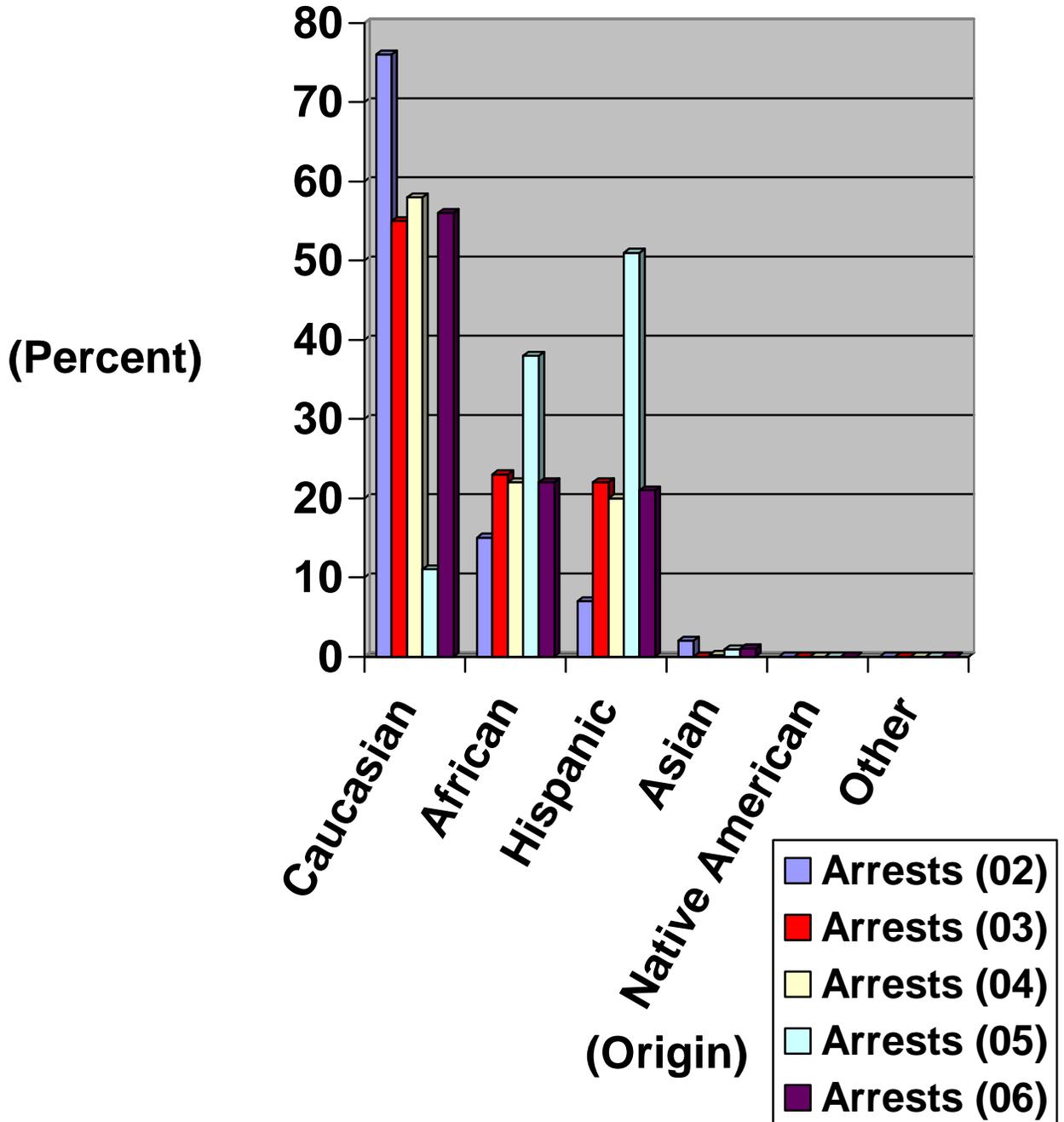
**Comparison of Five-Year Traffic-Related Arrest Information
(1/1/02---12/31/06)**

Race/Ethnicity*	Traffic-Related Arrests (in percentages)				
	(02)	(03)	(04)	(05)	(06)
Caucasian	76	55	58	11	56
African	15	23	22	38	22
Hispanic	7	22	20	51	21
Asian	2	0	.2	.9	1
Native American	0	0	0	0	0
Other	0	0	0	0	0
Total	100	100	100**	100**	100**

* Race/Ethnicity is defined by Texas Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

** Figure has been rounded.

Tier 1 Data (Arrests 02-06)



Analysis and Interpretation of Data

Analysis

In 2001, the Texas Legislature passed Senate Bill 1074 which later became the Texas Racial Profiling Law. This particular law, which became effective January 1, 2002, requires that all police departments in the state collect traffic-related data and report this information to their local governing authority by March 1st of each year. The purpose in collecting and presenting this information is to determine if a police officer is engaging in the practice of profiling minority motorists.

It should be noted that the racial profiling law in Texas requires the interpretation of traffic-related data. Although most researchers would probably agree with the fact that it is within the confines of good practice for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if police departments are engaging in racial profiling, from a review or analysis of aggregate data. That is, it is challenging for any researcher to identify specific “individual” racist behavior from aggregate-level “institutional” data on traffic-related contacts.

The College Station Police Department, in an effort to comply with The Texas Racial Profiling Law (S.B. 1074), commissioned the analysis of its 2006 traffic contact data. Thus, three different types of data analyses were performed. The first of these involved a careful evaluation of the 2006 traffic stop data. This particular analysis measured, as required by S.B. 1074, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, and individuals belonging to the “other” category, that came in contact with the police in the course of a traffic-related stop, and were either issued a citation or arrested. In addition, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or probable cause). Finally, the data analysis included the number and percentage of individuals who, after they came in contact with the police for a traffic-related reason, were arrested.

The second analysis performed was based on a comparison of the 2006 traffic-contact data with a particular baseline. When reviewing this particular analysis, one should keep in mind that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing traffic-related contact information. Of the baseline measures available, the College Station Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2000) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the College Station Police Department in 2006 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a majority of all traffic-related contacts made in a given year.

For the past few years, several civil rights groups in Texas have expressed their desire and made recommendations to the effect that all police departments should use, in their analysis, the Fair Roads Standard. This contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the College Station Police Department made a decision that it would use this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to College Station.

The final analysis was conducted while using the 2002--2006 traffic contact data. Specifically, all traffic-related contacts made in 2006 were compared to similar figures reported in 2002, 2003, 2004 and 2005. Although some researchers may not support the notion that in five years, a “significant” trend can take place, when considering this analysis, it was determined that comparing five years of traffic contact data may highlight possible areas of consistency with regards to traffic-related contacts. That is, the five-year comparison has the potential of revealing indicators that a possible trend of traffic-based contacts with regards to members of a specific minority group, may in fact, develop.

Tier 1 (2006) Traffic-Related Contact Analysis

The Tier 1 data collected in 2006 showed that most traffic-related contacts were made with Caucasian drivers. This was followed by Hispanic and African American drivers. With respect to searches, most of them were performed on Caucasian drivers. This was also followed by African Americans and Hispanics. It is important to note that the arrest data revealed that Caucasian drivers were arrested the most in traffic-related contacts; this was followed by African Americans and Hispanics, in that order. In addition, no arrests were made, in traffic related incidents, of Native American drivers or those belonging to the “other” category.

Fair Roads Standard Analysis

When comparing traffic contacts to the census data relevant to the number of “households” in College Station who indicated, in the 2000 census, that they had access to vehicles, the analysis produced interesting findings. That is, the percentage of individuals of Caucasian, Asian and Native American descent that came in contact with the police was lower than the percentage of Caucasian, Asian and Native American households in College Station that claimed, in the 2000 census, to have access to vehicles. With respect to African American and Hispanic drivers, a higher percentage of contacts were detected. That is, the percentage of African American and Hispanic drivers that came in contact with the police in 2006 was higher than the percentage of African American and Hispanic households in College Station with access to vehicles. It should be noted that the difference in percentage of Hispanic contacts with households that have access to vehicles, was of one percent; thus, deemed by some as not being statistically significant.

Five-Year Comparison

The five-year comparison (02-06) showed remarkable similarities with respect to the traffic-related contacts. As evident in table 3, the percentage of drivers (from different racial/ethnic groups) that came in contact with the College Station Police in 2006 was similar to the percentage of drivers, from the same racial/ethnic groups that came in contact with the College Station Police Department in 2005, 2004, 2003 and 2002. However, a few differences were noted. When comparing 2006 to the previous years, there was an increase in percentage of contacts among Caucasians while a decrease in percentage of contacts was detected among Hispanic drivers.

The search figures for all five years showed, for the most part, similar patterns. An increase in percentage was detected among Caucasians and African Americans while a percentage decrease was noted among Hispanics. When considering the arrests made, the data revealed that the percentage of arrests increased among Caucasians while a decrease in percentage was evident among African Americans and Hispanics.

Summary of Findings

As revealed by the findings, the Fair Roads Standard comparison showed that the College Station Police Department came in contact (in traffic-related incidents) with a smaller percentage of Caucasian, Asian and Native American drivers than the percentage that resided in College Station and had access to vehicles. Further, the data suggested that the percentage of African American and Hispanic drivers that came in contact with the police in 2006 was higher than the percentage of African American and Hispanic College Station households with access to vehicles.

The review of the five-year traffic-related contact data suggested that the College Station Police Department has been, for the most part, consistent in the racial/ethnic composition of motorists it comes in contact with during a given year. The consistency of contacts for the past 5 years is in place despite the fact the city demographics are expected to have changed, thus, increasing the number of subjects likely to come in contact with the police.

It is recommended that the College Station Police Department continue to collect and evaluate additional information on traffic-contact data (i.e., reason for PC searches, contraband detected) which may prove to be useful when determining the nature of the traffic contacts police officers are making with all individuals; particularly with African Americans and Hispanics. Although this additional data may not be required by state law, it is likely to provide insights regarding the nature and outcome of all traffic contacts made with the public. As part of this effort, the College Station Police Department is also encouraged to:

- 1) Perform an independent search analysis on the search data collected in 2006.
- 2) Commission data audits in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported

The information provided in this report serves as evidence that the College Station Police Department has, once again, complied with the Texas Racial Profiling Law.

(III) Summary

Checklist

Checklist

The following requirements **were** met by the College Station Police Department in accordance with The Texas Racial Profiling Law:

- Clearly defined act of actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the College Station Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
 - a) Race and ethnicity of individual detained
 - b) Whether a search was conducted
 - c) If there was a search, whether it was a consent search or a probable cause search
 - d) Whether a custody arrest took place
- Produce an annual report on police contacts (Tier 1) and present this to local governing body by March 1, 2007.
- Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation

Contact Information

Contact Information

For additional questions regarding the information presented in this report, please contact:

Del Carmen Consulting, LLC
3018 St. Amanda Drive
Mansfield, Texas 76063
817.681.7840
www.texasracialprofiling.com

Disclaimer: The author of this report, Alejandro del Carmen/del Carmen Consulting, LLC, is not liable for any omissions or errors committed in the acquisition, analysis, or creation of this report. Further, Dr. del Carmen/del Carmen Consulting is not responsible for the inappropriate use and distribution of information contained in this report. Further, no liability shall be incurred as a result of any harm that may be caused to individuals and/or organizations as a result of the information contained in this report.

March 22, 2007
Consent Agenda
Purchase of Various Padmount Transformers

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Presentation, possible action and discussion on a bid award for the purchase of various padmount transformers maintained in inventory to HD Supply for \$43,050.00 and KBS Electrical for \$16,875.00 for total expenditures of \$59,925.00. Bid #07-57

Recommendation(s): Recommend award to the lowest, responsible bidders meeting specifications as follows with expenditures totaling \$59,925.00.

I.	HD Supply	\$ 43,050.00
II.	KBS Electrical	\$ 16,875.00
	TOTAL	\$59,925.00

Summary: These purchases will be made upon award of this agreement. The transformers are maintained in the electrical inventory and expensed as necessary. These transformers are bought and kept in stock. Typically, our price agreements include firm, fixed pricing for 12 months; however, this industry is unusually volatile at this time, and in order to get the best pricing possible, we will make these purchases immediately upon award and place these transformers in our inventory.

The recommendation is based on a total owning cost, or evaluated cost, which is calculated by using the initial cost of the transformer and cost to operate the transformer over a period of time. This is designed to determine the best overall value to the City over the life of the transformers. A total cost within 3% of the low owning cost is considered. If the initial cost and the owning cost are within 3%, the initial cost low bidder is recommended for award. Factors included in calculating total owning cost includes: transformer load losses, engineer expenses for installation, and exceptions taken to the bid specifications.

Budget & Financial Summary: Three (3) sealed, competitive bids were received and opened on February 20, 2007. Funds are budgeted and available in the Electrical Fund. Various projects may be expensed as supplies are pulled from inventory and issued.

Attachments: Bid Tabulation Summary #07-57

Bid 07-57 Polemount Transformers

ITEM NUMBER: 1

ITEM DESCRIPTION: Pole-mount, Single Phase Overhead, 15KVA, 120/240

Order Quantity: 25

INVENTORY #: 285-086-00006

BIDDER	MANUFACTURER	UNIT PRICE	EXTENDED PRICE	EVALUATED PRICE (ea)	DELIVERY (weeks)
Wesco Distribution	ABB	\$837.00	\$20,925.00	\$1,294.19	75 Days
KBS Electrical Dist.	Cooper	\$817.00	\$20,425.00	\$1,306.56	22-24 Weeks
KBS Electrical Alt.	Cooper	\$675.00	\$16,875.00	\$1,185.00	Stock
HD Supply	GE	\$707.00	\$17,675.00	\$1,171.91	8 Weeks

Lowest Approved Vendor for Award

ITEM NUMBER : 2

ITEM DESCRIPTION: Pole-mount, Single Phase Overhead, 25KVA, 120/240

Order Quantity: 25

INVENTORY #: 285-086-00008

BIDDER	MANUFACTURER	UNIT PRICE	EXTENDED PRICE	EVALUATED PRICE (ea)	DELIVERY (weeks)
Wesco Distribution	ABB	1,154.00	28,850.00	1,783.26	75 Days
KBS Electrical Dist.	Cooper	972.00	24,300.00	1,673.20	22-24 Weeks
KBS Electrical Alt.	Cooper	805.00	20,125.00	1,472.87	Stock
HD Supply	GE	750.00	18,750.00	1,484.80	25-28 Weeks

 Lowest Approved Vendor for Award

ITEM NUMBER : 3

ITEM DESCRIPTION: Pole-mount, Single Phase Overhead, 37.5KVA, 120/240

Order Quantity: 12

INVENTORY #: 285-086-00011

BIDDER	MANUFACTURER	UNIT PRICE	EXTENDED PRICE	EVALUATED PRICE (ea)	DELIVERY (weeks)
Wesco Distribution	ABB	\$1,406.00	\$16,872.00	\$2,364.23	75 Days
KBS Electrical Dist.	Cooper	\$1,310.00	\$15,720.00	\$2,240.55	22-24 Weeks
KBS Electrical Alt.	Cooper	\$955.00	\$11,460.00	\$1,832.30	Stock
HD Supply	GE	\$925.00	\$11,100.00	\$1,862.71	1-2 Weeks

 Lowest Approved Vendor for Award

ITEM NUMBER : 4

ITEM DESCRIPTION: Pole-mount, Single Phase Overhead, 50KVA, 120/240

Order Quantity: 12

INVENTORY #: 285-086-00013

BIDDER	MANUFACTURER	UNIT PRICE	EXTENDED PRICE	EVALUATED PRICE (ea)	DELIVERY (weeks)
Wesco Distribution	ABB	\$2,089.00	\$25,068.00	\$2,990.27	75 Days
KBS Electrical Dist.	Cooper	\$1,664.00	\$19,968.00	\$2,726.42	22-24 Weeks
KBS Electrical Alt.	Cooper	\$1,250.00	\$15,000.00	\$2,375.00	22-24 Weeks
HD Supply	GE	\$1,100.00	\$13,200.00	\$2,274.19	25-28 Weeks

Lowest Approved Vendor for Award

SUMMARY

BIDDER	MANUFACTURER	TOTAL BID PRICE	TOTAL BID AWARD	DELIVERY (weeks)
Wesco Distribution	ABB	\$91,715.00	\$0.00	75 Days
KBS Electrical Dist.	Cooper	\$80,413.00	\$0.00	22-24 Weeks
KBS Electrical Alt.	Cooper	\$63,460.00	\$16,875.00	Stock
HD Supply	GE	\$60,725.00	\$43,050.00	25-28 Weeks

TOTAL AWARD \$59,925.00



Mayor
Ron Silvia
Mayor Pro Tempore
Ben White
City Manager
Glenn Brown

Council Members
John Happ
Ron Gay
Lynn McIlhaney
Chris Scotti
David Ruesink

MINUTES
College Station City Council
Thursday, March 8, 2007 at 3:00 pm
City Hall Council Chambers
College Station, Texas

COUNCILMEMBERS PRESENT: Mayor Silvia, Mayor Pro Tem White, Councilmembers Happ, Gay, McIlhaney, Scotti, Ruesink

STAFF PRESENT: City Manager Brown, Deputy City Manager Childers, Assistant City Manager Merrill, City Attorney Cargill, Jr., City Secretary Hooks, Management Team

Workshop Agenda Item No. 1 -- Presentation, possible action, and discussion on items listed on the consent agenda.

Mayor Silvia called the workshop meeting to order at 3:00 p.m. on March 8, 2007.

Councilmember Ruesink asked staff to clarify the cost associated with annual agreement for purchase of water meters.

Workshop Agenda Item No. 2 -- Presentation, possible action, and discussion regarding the Audit Committee and Audit function; and the revised Stewardship Enhancement Plan.

City Manager Glenn Brown, Chief Financial Officer Jeff Kersten, and Human Resources Director Julie O'Connell presented information about the audit committee and its activity thus far, the function of the Committee and the hiring process for an Internal Auditor. They also described the City of College Station Stewardship Enhancement Plan.

Councilmember Happ made a motion to permit the Audit Committee select the Chairperson. Motion seconded by Councilmember Ruesink. Motion carried unanimously, 7-0.

Councilmember Gay made a motion to accept the updated Stewardship Enhancement Plan as presented and the process for staffing the Internal Auditor function. Mayor Pro Tem White seconded the motion. Motion carried unanimously, 7-0 Council directed staff to provide an executive summary of the Stewardship Plan on the City's website.

Council took a break at 4:00 pm. They returned to continue the workshop meeting at 4:15 pm.

Workshop Agenda Item No. 3 -- Presentation, possible action and discussion of transportation project priorities and funding alternatives.

Director of Public Works Mark Smith presented an overview of transportation project priorities and funding alternatives. Transportation Planner Ken Fogle identified the transportation priorities and criteria for setting the priorities. He reviewed the "projects we need to catch up with our growth" and "projects that will allow us to get ahead of the curve". He addressed timelines designated for each project.

Mr. Smith outlined alternative revenue sources such as: Dedicated sales tax, dedicated property tax, GO Bonds, and Transportation User Fee. He mentioned that a status report will be made to the City Council on a quarterly basis.

No official action was taken.

At 5:30 pm, Mayor Silvia announced that the City Council would convene into executive session pursuant to Sections 551.071 and 551.087 of the open Meetings Act to seek the advice of the city attorney and to consider economic development negotiations.

Consultation with Attorney{Govt Code Section 551.071}

- a. TCEQ Docket No. 2002-1147-UCR, Applications of Brushy Water Supply and College Station (Westside/Highway 60)
- b. TCEQ Docket No. 2003-0544MWD, Application of Nantucket, Ltd.
- c. TXU Lone Star Gas Rate Request.
- d. Cause No. 03-002098-CV-85, Brazos County, College Station v. Wellborn Special Utility District
- e. Civil Action No. H-04-4558, U.S. District Court, Southern District of Texas, Houston Division, College Station v. U.S. Dept. of Agriculture, etc., and Wellborn Special Utility District
- f. Civil Action No. H-04-3876, U.S. District Court, Southern District of Texas, Houston Division, JK Development v. College Station
- g. GUD No. 9530 - Gas Cost Prudence Review, Atmos Energy Corporation
- h. GUD No. 9560 - Gas Reliability Infrastructure Program (GRIP) rate increases, Atmos Energy Corporation
- i. Cause No. GN-502012, Travis County, TMPA v. PUC (College Station filed Intervention 7/6/05)
- j. Cause No. 06-000703-CV-85, Patricia Moore, et al. v. Ross Stores, Inc., City of College Station, et al.
- k. Sewer CCN request.
- l. Legal aspects of Lease Agreements for No. 4 Water Well and possible purchase of or lease of another water site from City of Bryan
- m. Civil Action No. H-04-3876, U.S. District Court, Southern District of Texas, Houston Division, JK Development v. College Station
- n. Cause No. 06-002318-CV-272, 272nd Judicial District Court, Brazos County, Texas, Taylor Kingsley v. City of College Station, Texas, and Does 1 through 10, inclusive.

- o. Cause No. 484-CC, County Court at Law No. 2, Brazos County, Texas, City of College Station v. Canyon Creek Partners, Ltd. and First Ag Credit, FLCA.
- p. Cause No. 485-CC, County Court at Law No. 1, Brazos County, Texas, City of College Station v. David Allen Weber, et al.
- q. Bed and Banks applications for College Station and Bryan

Economic Incentive Negotiations {Gov't Code Section 551.087}

- a. Proposed city convention center and associated privately developed hotel.
- b. Spring Creek Business Park
- c. Game Day

Council recessed from executive session at 6:53 pm. to begin the regular meeting.

The workshop meeting adjourned at the conclusion of the regular meeting.

PASSED AND APPROVED this 22nd day of March, 2007.

APPROVED:

ATTEST:

Mayor Ron Silvia

City Secretary Connie Hooks



Mayor
Ron Silvia
Mayor Pro Tempore
Ben White
City Manager
Glenn Brown

Council Members
John Happ
Ron Gay
Lynn McIlhaney
Chris Scotti
David Ruesink

Minutes
City Council Regular Meeting
Thursday, March 8, 2007 at 7:00 p.m.
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas

COUNCILMEMBERS PRESENT: Mayor Ron Silvia, Mayor Pro Tem White, Councilmembers Gay, Happ, Scotti, Ruesink, McIlhaney

STAFF PRESENT: City Manager Brown, Deputy City Manager Childers, Assistant City Manager Merrill, City Attorney Cargill, Jr., City Secretary Hooks, Management Team

Pledge of Allegiance, Invocation, Consider absence requests

Mayor Silvia called the regular meeting to order at 7:03 p.m. on Thursday March 8, 2007. Mayor Pro Tem White provided the invocation.

Fire Chief R.B. Alley presented recognition awards to Council members Dave Ruesink, Chris Scott, Ron Gay and Deputy City Manager Terry Childers for their service to the community.

Hear Visitors: Jessica Guidry, President of the Northgate Merchants Association announced an upcoming music festival scheduled for the week of March 19-23, "North by Northgate".

Consent Agenda

Presentation, possible action, and discussion of consent agenda items which consists of ministerial or "housekeeping" items required by law. Items may be removed from the consent agenda by majority vote of the Council.

Councilmember Happ made a motion to approve Consent Agenda Items 2a - 2n. Motion seconded by Mayor Pro Tem White. Motion was amended by Councilmember Gay to accept the revision to the regular meeting minutes of February 22nd. The minutes were corrected to state that "Councilmember Scotti made the motion to approve the settlement agreement with Canyon Creek Partners related to condemnation in the amount of \$195,000." Motion seconded by Councilmember Scotti. Original motion as amended carried unanimously, 7-0.

2a. Approved by common consent a real estate contract in the amount of \$260,000 for the purchase of property located in the Northgate area at 306 Spruce Street for use as a neighborhood park.

2b. Approved by common consent the renewal of the annual contract with Elliott Construction Inc. for water and wastewater new service tap installation in the amount of \$362,250.

2c. Approved by common consent **Resolution No. 3-8-2007-2c** determining the public necessity to acquire right-of-way and easement interests for the Rock Prairie Road Widening Design and ROW Project.

2d. Approved by common consent **Ordinance No. 2960** amending Chapter 10, "Traffic Code," of the Code of Ordinances of the City of College Station to allow the City Manager or his designee the ability to temporarily add or remove on-street parking as part of a special event and where safety is a concern.

2e. Approved by common consent **Resolution No. 3-8-2007-2e** awarding a consultant contract to Randall Scott Architects, Inc. for an amount not to exceed \$88,513.00 for the site planning and cost estimating services related to a city center site development plan and a cost estimate for a new city hall.

2f. Approved by common consent an award of bid for annual price agreement for the purchase of electric meters maintained in the electrical inventory. Estimated annual expenditures to Wesco are for \$78,660.00. Bid #07-53.

2g. Approved by common consent an award of bid for the purchase of various street signs and materials maintained in inventory to Osburn Associates, Inc., for \$11,153.40; Custom Products Corp., for \$6,696.00; Nippon Carbide Industries for \$3,598.82 and Vulcan Signs for \$30,142.28 for total annual estimated expenditures of \$51,590.50. Bid #07-56.

2h. Approved by common consent **Resolution No. 3-8-2007-2h** to award engineering design contract 07-152 with Malcolm-Pirnie, Inc. in the amount of \$198,432 for design and construction management services for the Parallel Water Transmission Line phase 3.

2i. Approved by common consent the purchase of materials in the amount of (\$39,311) under State contract and installation contract with Calence, LLC (not to exceed \$6,500), to execute the water well facilities mesh radio network project, at a combined cost not to exceed \$45,811.

2j. Approved by common consent budget transfers for the Public Works Department in the net amount of \$63,768, Parks and Recreation Department in the net amount of \$61,641, and the City Manager's Office in the net amount of (\$125,409).

2k. Approved by common consent the first reading of an ordinance approving a non-exclusive gas and oil gathering franchise agreement with Energy Transfer Corporation.

2L. Approved by common consent the approval of minutes for the February 22, 2007 City Council Workshop and Regular Meeting as corrected. See action taken at the beginning of the Consent Agenda.

2m. Approved by common consent approval of a contract with Meyers & Associates for federal legislative and consulting services in the amount of \$78, 000 plus expenses.

2n. Approved by common consent **Resolution No. 3-8-2007-2n** designating the Construction Manager at Risk as an alternative procurement method for the proposed renovations to the Municipal Court building.

Regular Agenda

Regular Agenda Item No. 1 -- Public hearing, presentation, possible action, and discussion on an ordinance rezoning 16.4 acres at 17339 SH 6 South from A-O (Agricultural Open) to C-2 (Commercial Industrial), generally located on the of the east side of State Highway 6, south of the College Station Business Park.

Lindsey Boyer, Staff Planner presented a staff report about this rezoning application. The Planning and Zoning Commission and staff recommended approval of the rezoning.

Mayor Silvia opened the public hearing. No one spoke. Mayor Silvia closed the public hearing.

Mayor Pro Tem White moved approval of **Ordinance No. 2961** as presented. Motion seconded by Councilmember Gay. Motion carried unanimously, 7-0.

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE," SECTION 4.2, "OFFICIAL ZONING MAP" OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE. THE PROPERTY IS APPROXIMATELY 16 ACRES OF THE ANIMATE HABITAT PROPERTY LOCATED AT 17339 SH 6 SOUTH FROM A-O (AGRICULTURAL OPEN) TO C-2 (COMMERCIAL INDUSTRIAL) GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 6, SOUTH OF THE COLLEGE STATION BUSINESS PARK.

Regular Agenda Item No. 2 -- Public hearing, presentation, possible action, and discussion on an ordinance approving a Conditional Use Permit for a multi-family development with no retail in the Wolf Pen Creek Zoning District located at 1811 George Bush Drive East in the general vicinity of the mid-block of George Bush Drive East between Harvey Road and Holleman Drive East.

Lindsey Boyer, Staff Planner presented an overview of the proposed conditional use permit for Miles subdivision. The Planning and Zoning Commission and staff recommended approval.

Mayor Silvia opened the public hearing. The following citizens addressed the City Council. Davis Watson and Darrell Dugat expressed concerns regarding this site for a multi-family development in WPC Zoning District. The development is planned to be located behind the existing Arbors Apartments.

Jane Kee, IPS Group, 501 University Drive and Bo Miles, developer, requested City Council support of the project.

Mayor Silvia closed the public hearing. Councilmember Happ moved to approve **Ordinance No. 2962** as presented. Councilmember Scotti seconded the motion. Motion carried unanimously, 7-0.

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE", SECTION 3.13, "DEVELOPMENT REVIEW PROCEDURES, CONDITION USE PERMIT", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; DECLARING A PENALTY, AND PROVIDING AN EFFECTIVE DATE. A CONDITIONAL USE PERMIT IS HEREBY GRANTED FOR MULTI-FAMILY WITHOUT FIRST FLOOR RETAIL IN THE WOLF PEN CREEK ZONING DISTRICT. THE PROPERTY IS LOCATED AT 1811 GEORGE BUSH DRIVE EAST.

Regular Agenda Item No. 3 -- Public Hearing, presentation, possible action, and discussion on an ordinance amending the Comprehensive Land Use Plan from Single-Family Medium Density to Office for 3.611 acres in the Castlerock Subdivision located on the north side of William D. Fitch Parkway across from Castlegate Subdivision.

Molly Hitchcock described the proposed ordinance amending the Comprehensive Land Use Plan from Single-Family Medium density to Office for 3.61 acres in the Castlerock subdivision. The Planning and Zoning Commission recommended approval. Staff recommended denial of the request.

Mayor Silvia opened the public hearing. Wallace Phillips, developer and Joe Schultz, local engineer addressed the Council in support of the project and answered questions of the Council.

Mayor Silvia closed the public hearing.

Councilmember Gay moved approval of **Ordinance No. 2963** as presented. Mayor Pro Tem White seconded the motion which carried unanimously, 7-0.

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING THE LAND USE PLAN, FOR THE AREA NORTH OF WILLIAM D. FITCH PARKWAY ACROSS FROM CASTLEGATE PHASE II, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE. THE 3.611 ACRES GENERALLY LOCATED ALONG THE NORTH SIDE OF WILLIAM D. FITCH PARKWAY ACROSS FROM CASTLEGATE PHASE II IS AMENDED FROM SINGLE FAMILY MEDIUM DENSITY TO OFFICE.

Council recessed for a short break at 8:22 pm. They returned to the regular meeting at 8:35 pm.

ADDENDUM TO AGENDA: Presentation, possible action, and discussion approving and authoring the Mayor to sign a letter of support for the proposed Brazos County Hotel/Motel Occupancy Tax of two percent for Brazos County.

County Judge Randy Sims emphasized the importance of this tax to the economic viability of the community. He encouraged City Council to support their request.

Barry Biggar, Executive Director of the Convention and Visitors Bureau, urged City Council to support the resolution.

Councilmember Gay moved approval of the resolution as presented. Mayor Pro Tem White seconded the motion. Motion carried unanimously, 7-0.

Regular Agenda Item No. 4 -- Public hearing, presentation, possible action, and discussion on an ordinance amending Chapter 12, City of College Station Code of Ordinances, Section 3.15 of the Unified Development Ordinance, authorizing administrative adjustments for off-street parking standards.

Lance Simms, Interim Director of Planning and Development Services provided an overview of the proposed ordinance. Planning and Zoning Commission recommended approval.

Mayor Silvia opened the public hearing. No one spoke. Mayor Silvia closed the public hearing.

Mayor Pro Tem White made the motion to approve **Ordinance No. 2964** as presented. Motion seconded by Councilmember McIlhaney. Motion carried unanimously, 7-0.

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE," SECTION 3.15 ADMINISTRATIVE ADJUSTMENTS, OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

"(B) Applicability - The Administrator shall have the authority to authorize adjustments of up to ten percent (10%) from any dimensional standard set forth in Section 5.2 Residential Dimensional Standards, Section 5.4 Non-Residential Dimensional Standards, Section 5.7 Design District Dimensional Standards, and Section 7.23 Off-Street Parking Requirements of the UDO. Any adjustment request greater than ten percent (10%) shall be treated as a variance handled by the Zoning Board of Adjustment subject to the requirements of Section 3.16, Variances."

Regular Agenda Item No. 5 -- Public hearing, presentation, possible action, and discussion regarding an ordinance vacating and abandoning a 996 square foot portion of the Public Utility Easement, in the City of College Station.

Alan Gibbs, Senior Assistant City Engineer described this item. Staff recommended approval of the application for abandonment of the portion of the easement.

Mayor Silvia opened the public hearing. No one spoke. Mayor Silvia closed the public hearing.

Councilmember Gay made the motion to approve **Ordinance No. 2965** as presented. Motion seconded by Councilmember Ruesink. Motion carried unanimously, 7-0.

AN ORDINANCE MAKING CERTAIN AFFIRMATIVE FINDINGS AND VACATING AND ABANDONING A 996 SQUARE FOOT PORTION OF THE FIVE FOOT WIDTH PUBLIC UTILITY EASEMENT, SAID PORTION LYING IN LOTS 1, 2, AND 3, BLOCK 22, OF THE W.C. BOYETT ESTATE PARTITION ACCORDING TO THE PLAT RECORDED IN VOLUME 100, PAGE 440 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS, AND ACCORDING TO THE EASEMENT FOR PUBLIC UTILITIES AS DESCRIBED IN VOLUME 128, PAGE 412 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS.

Regular Agenda Item No. 6 -- Presentation, possible action, and discussion regarding approval of a resolution awarding the consulting services contract (Contract No. 07-155) to RCC Consultants, Inc. in an amount not to exceed \$79,870.98 for analysis, conceptual design and grant preparation of an interoperable multi-jurisdictional radio system.

Olivia Burnside, Chief Information Officer presented this item. Members of the Intergovernmental Subcommittee, James Massey, Kenny Mallard, and Ron Mayworm expressed comments about the project benefits.

Councilmember McIlhaney made a motion to approve **Resolution No. 3-8-2007-6** awarding a consulting contract to RCC Consultants, Inc. in an amount not to exceed \$79,870.98 for the analysis, conceptual design and grant preparation of an interoperable multi-jurisdictional radio system. Motion seconded by Councilmember Scotti. Motion carried unanimously, 7-0.

Regular Agenda Item No. 7 -- Presentation, possible action and discussion on appointment of members to the Outside Agency Funding Review Committee (OAFRC).

Jeff Kersten, Chief Financial Officer gave a brief overview of the committee membership.

Councilmember Gay made a motion to appoint Stephen Sweet and Donald Braune as members of the Outside Agency Funding Review Committee for a three year term. These individuals replaced Roger Reese and Carolyn Berrow who served a one year term. Motion seconded by Mayor Pro Tem White. Motion carried unanimously, 7-0.

Regular Agenda Item No. 8 -- Presentation, possible action, and discussion regarding approval of a memorandum of understanding to sell the Spring Creek Business Park tract.

This item was removed from the agenda and scheduled for a future meeting.

Workshop Agenda Item No. 9 -- Presentation, possible action, and discussion on future agenda items: A Council Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy

may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

Mayor Pro Tem White requested a workshop agenda item to discuss the overall Wolf Pen Creek Master Plan. Motion seconded by Councilmember Happ. Motion carried unanimously, 7-0.

Councilmember Happ requested a future workshop agenda to discuss an update on the Hotel Conference Center project. Motion seconded by Councilmember Gay, which carried 6-1. Councilmember McIlhaney voted against the motion.

Workshop Agenda Item No. 10 -- Discussion, review and possible action regarding the following meetings: Brazos County Health Dept., Brazos Valley Council of Governments, Cemetery Committee, City Center, CSISD/City Joint Meeting, Design Review Board, Fraternal Partnership, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee and School District, Joint Relief Funding Review Committee, Library Committee, Making Cities Livable Conference, Metropolitan Planning Organization, Outside Agency Funding Review, Parks and Recreation Board, Planning and Zoning Commission, Sister City Association, TAMU Student Senate, Research Valley Partnership, Regional Transportation Committee for Council of Governments, Transportation Committee, Wolf Pen Creek Oversight Committee, Wolf Pen Creek TIF Board, Zoning Board of Adjustments, YMCA Coordinating Board(see attached posted notices for subject matters).

Councilmember Ruesink attended the Student Senate Meeting. He expressed gratitude to city staff who made presentations.

Councilmember Scotti attended a legislative hearing in Austin in support of the Technology Emergency Fund.

Councilmember McIlhaney attended the Brazos County Board of Health meeting.

Mayor Silvia reported on his attendance at the recent MPO meeting.

Council Calendars

Council reviewed their upcoming events.

Regular Agenda Item No. 9 -- Executive Session

At 9:34 pm, Mayor Silvia announced that the City Council would convene into executive session pursuant to Section 551.087 of the Open Meetings Act to consider Economic Development negotiations.

Regular Agenda Item No. 10 - Final action on executive session.

Council returned to the Council Chambers at 9:53 pm. No action was taken.

Regular Agenda Item No. 11 -- Hearing no objection, the meeting adjourned at 9:54 pm on Thursday, March 8, 2007.

PASSED AND APPROVED this 22nd day of March, 2007.

ATTEST:

APPROVED:

City Secretary Connie Hooks

Mayor Ron Silvia

**22 March 2007
Regular Agenda
William D. Fitch Parkway Comprehensive Plan Amendment**

To: Glenn Brown, City Manager

From: Lance Simms, Acting Director of Planning & Development Services

Agenda Caption: Public hearing, presentation, possible action, and discussion on an ordinance amending the Comprehensive Land Use Plan for one 5 acre lot from Single Family Residential Medium Density and Floodplains & Streams to Planned Development, located at 1850 William D. Fitch Parkway.

Recommendation(s): The Planning & Zoning Commission heard this item at their regular meeting on 1 March 2007 and recommended denial with a vote of 6 to 1. Staff recommends approval of the request.

Summary: This item is for consideration of an amendment to the Land Use Plan for a vacant tract of land on the north side of William D. Fitch Parkway from Single Family Medium Density to Planned Development. The subject property is bound by Spring Meadows to the north and west and Fire Station No. 5 to the east.

The Planned Development land use classification is an appropriate designation for such an infill tract of land and would allow a variety of residential uses including attached and detached housing as single-family or multi-family at an appropriate density of 9 dwelling units per acre. The proposed area is five acres in size and bound by developed land; therefore, it cannot be integrated with surrounding properties.

The applicant is proposing a mixed residential development of attached and detached housing built to Single Family High Density standards as a suitable alternative. The applicant requested the Planned Development classification as opposed to Residential Attached to eliminate the possibility of a higher density residential development in an area that would not be supported by the City's land use policies. The Planned Development classification offers flexibility in land use in order to be sensitive to surrounding properties.

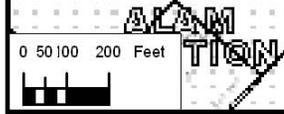
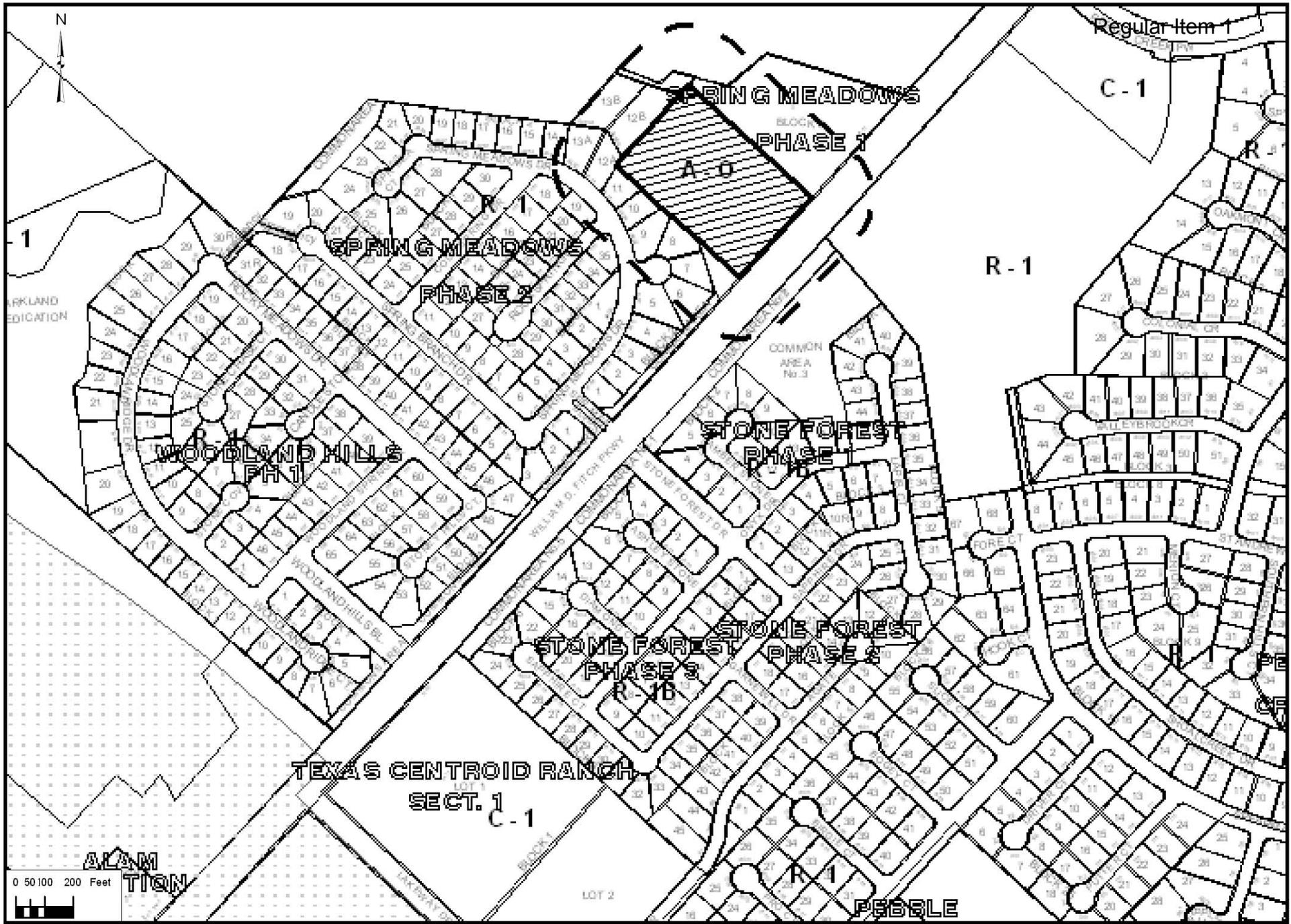
The subject property is located on William D. Fitch Parkway, designated as a Major Arterial on the City's Thoroughfare Plan. A majority of the tract was annexed in 1983 and the remaining portion was annexed in 1995. The tracts were subsequently zoned A-O Agricultural-Open after annexation. The Single Family Residential Medium Density was placed on the property in 1997 with the adoption of the Comprehensive Plan.

Staff has received 145 phone calls and 12 emails in opposition to the request. Staff has also received 3 inquiry phone calls.

Budget & Financial Summary: None.

Attachments:

1. Small Area Map & Aerial Map
2. Application
3. Ordinance




DEVELOPMENT REVIEW

1850 WILLIAM D. FITCH

Case: 07-024

COMP PLAN



Regular Item 1

0 50 100 200 Feet



DEVELOPMENT REVIEW

1850 WILLIAM D. FITCH

Case:
07-024

COMP
PLAN



Regular Item 1
2.20.00
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FOR OFFICE USE ONLY	
Case No. _____	_____
Date Submitted _____	_____

COMPREHENSIVE PLAN AMENDMENT APPLICATION

(Check all applicable) Land Use Plan Amendment

The following items must be submitted by the established deadline dates for consideration:

- Two (2) copies of a fully dimensioned map on 24" X 36" paper showing:
 - a. Land affected;
 - b. Present zoning of property and zoning classification of all abutting properties;
 - c. Current land use plan classification and proposed land use plan changes;
 - d. Current land use classification of all abutting property;
 - e. Current and proposed thoroughfare alignments
- General location and address of property;
- Total acres of property; and
- All applicable Comprehensive Plan Amendment Request form(s) completed in full.

The following information must be completed before an application is accepted for review.

APPLICANT INFORMATION:

Name: Jane Kee, IPS Group on behalf of Angel Cacho-Negrete
Street Address: 511 University Drive, College Station, Texas 77840
Phone Number: 979.846.9259 Fax Number: 979.846.9259
E-mail: jane@ipsgroup.us

DEVELOPER'S INFORMATION:

Name: Angle Cacho-Negrete, KDKC E-mail: kitchen@txcyber.com
Street Address: 201 Wellborn Road, College Station, Texas 77840
Phone Number: 979.219.0568

PROPERTY OWNER'S INFORMATION:

Name: Pittman, Billy Jr. & Sherry
Street Address: 1861 Briarcrest Bryan, Texas 77802

COMPREHENSIVE PLAN AMENDMENT REQUEST FORM

Current Land Use Plan designation: *Medium Density Single-family*

Requested Land Use Plan designation: *Planned Development*

Explain the reason for this Land Use Plan amendment: *To develop a residential product meeting the density for high density single-family, but consisting of attached housing. This is requested rather than changing the land use plan to a multi-family classification which would allow a much higher density and potentially a negative impact on adjacent medium density developments.*

Identify what conditions have changed to warrant a change in the land use plan designation:

All surrounding properties have been developed, leaving this tract as an infill piece. Due to its narrow width and shape, the tract cannot be developed with the typical detached single-family units on individual lots and result in a viable, economically feasible project. The tract is adjacent to a medium density single-family detached subdivision to the west, a developed fire station to the east, the City's Business Park to the north and a major arterial roadway to the south. There is no opportunity for combining this tract with other property to create a more developable piece of land. Infrastructure costs are such that to develop a subdivision with typical single-family lots would price the lots higher than comparable lots in the immediate area and elsewhere in the City, thus resulting in an unmarketable development that would deteriorate over time.

How does the requested land use designation further the goals and objectives of the City of College Station Comprehensive Plan? *The Planned Development land use designation allows flexibility to develop this infill tract in such a way as to produce a viable attached residential development with the same density as one of the single family land use classifications.*

Explain why the requested land use designation is more appropriate than the existing designation. *The existing designation does not provide for any housing type other than detached units on individual lots and the infrastructure costs to develop this product on this particular tract create lots that are not feasible in this market. The proposed designation allows the opportunity to develop this tract with the same density as high density single-family but with a different housing type.*

The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true and correct.


Signature and Title

2-19-07
Date

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING THE LAND USE PLAN, FOR 1850 WILLIAM D. FITCH PARKWAY, GENERALLY LOCATED ON THE NORTH SIDE OF WILLIAM D. FITCH PARKWAY BETWEEN STATE HIGHWAY 6 AND PEBBLE CREEK PARKWAY, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the "Comprehensive Plan of the City of College Station" be amended by amending the "**Land Use Plan**" as set out in Exhibits "A" and "B", for the identified area and made a part of this ordinance for all purposes.

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

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 22nd day of March, 2007.

ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:



City Attorney

EXHIBIT "A"
AMENDED AREA OF
COLLEGE STATION LAND USE MAP

That the "Comprehensive Plan" of the City of College Station, Texas, is hereby amended by amending the College Station Land Use Plan Map as follows:

The 5 acres at 1850 William D. Fitch Parkway, generally located on the north side of William D. Fitch Parkway between State Highway 6 and Pebble Creek Parkway, is amended from Single Family Medium Density to Planned Development, as shown on the attached Exhibit "B".



**22 March 2007
Regular Agenda
1850 William D. Fitch Parkway Rezoning**

To: Glenn Brown, City Manager

From: Lance Simms, Acting Director of Planning & Development Services

Agenda Caption: Public hearing, presentation, possible action, and discussion on an ordinance rezoning one 5-acre lot from A-O (Agricultural Open) to PDD (Planned Development District), located at 1850 William D. Fitch Parkway.

Recommendation(s): The Planning & Zoning Commission heard this item on 1 March 2007 and unanimously voted to deny the request. If the and Use Plan is amended by Council, Staff recommends approval of the request.

Uses Proposed: Residential housing not to exceed 9 dwelling units per acre.

Summary: As stated by the applicant, the proposed Planned Development District is “to provide residential housing that does not exceed the density of the high density single family land use classification, but that provides an alternate type of housing choice within the market.” The PDD District is the only available district that provides for the meritorious modifications of the regulations that allows for the developer to provide a mix of attached and detached residential housing while maintaining a density standard of 9 dwelling units per acre.

The subject property is surrounded by developed single family residential to the north and west, Fire Station No. 5 to the east, and both developed and undeveloped single family residential to the south.

The property is currently designated as Single Family Residential Medium Density on the City’s Comprehensive Land Use Plan although an application for Planned Development is pending. The Thoroughfare Plan identifies William D. Fitch Parkway as a Major Arterial in this area.

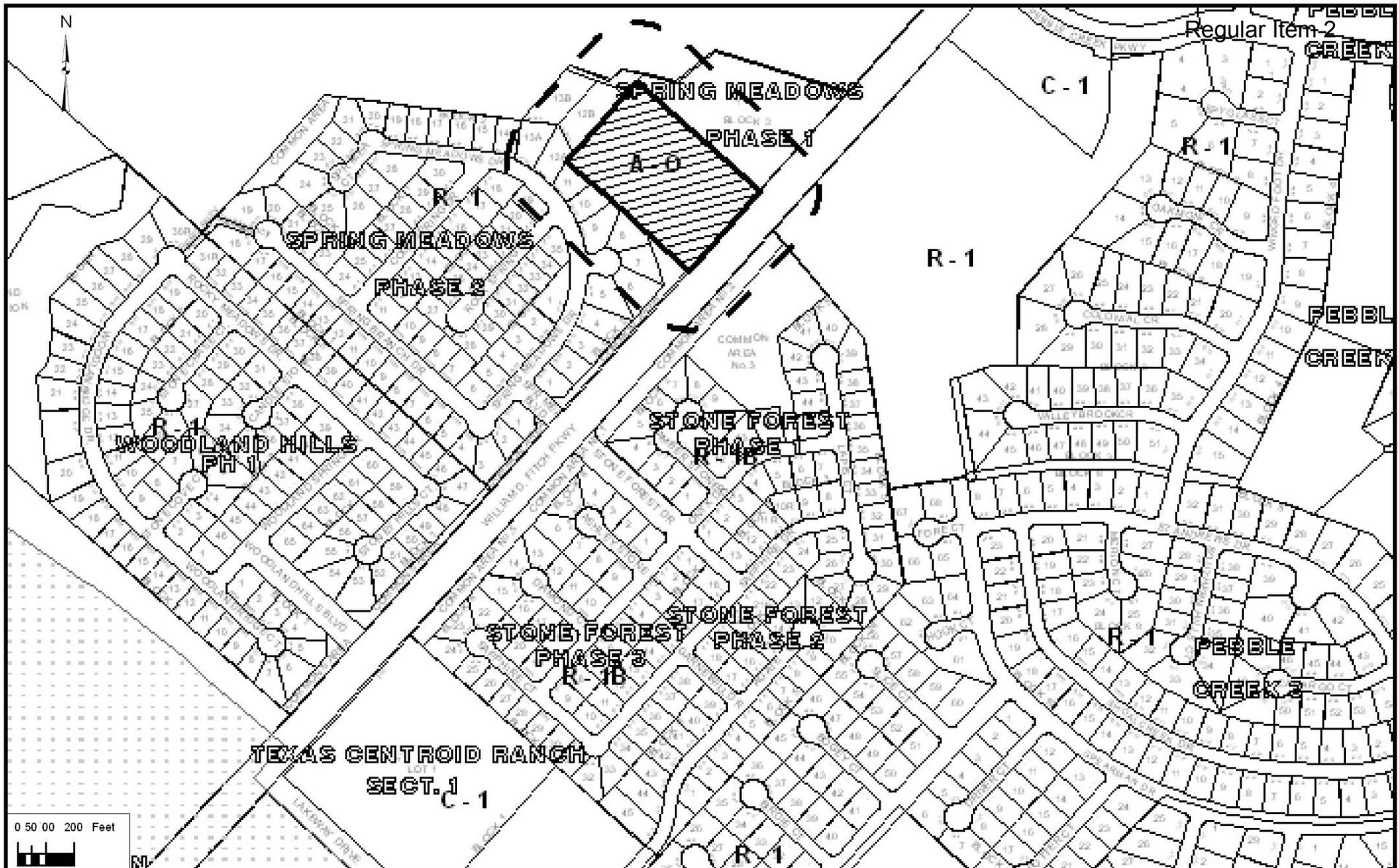
A majority of the tract was annexed in 1983 and the remaining portion was annexed in 1995. The tracts were subsequently zoned A-O Agricultural-Open after annexation. The property is currently unplatted.

Staff has received 145 phone calls and 12 emails in opposition to this request. Staff has also received 3 inquiry phone calls.

Budget & Financial Summary: None.

Attachments:

1. Small Area Map & Aerial Map
2. Infrastructure & Facilities
3. Ordinance

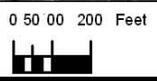


Zoning Districts		R-3	Townhouse	C-3	Light Commercial	WPC	Wolf Pen Creek Dev. Corridor
A-O	Agricultural Open	R-4	Multi-Family	M-1	Light Industrial	NG-1	Core Northgate
A-OR	Rural Residential Subdivision	R-6	High Density Multi-Family	M-2	Heavy Industrial	NG-2	Transitional Northgate
R-1	Single Family Residential	R-7	Manufactured Home Park	C-U	College and University	NG-3	Residential Northgate
R-1B	Single Family Residential	A-P	Administrative/Professional	R & D	Research and Development	OV	Corridor Overlay
R-2	Duplex Residential	C-1	General Commercial	P-MUD	Planned Mixed-Use Development	RDD	Redevelopment District
		C-2	Commercial-Industrial	PDD	Planned Development District	KO	Krenak Tap Overlay


DEVELOPMENT REVIEW

1850 WILLIAM D. FITCH PKWY

Case: **07-025** **REZONING**



Zoning Districts	
A - O	Agricultural Open
A - OR	Rural Residential Subdivision
R - 1	Single Family Residential
R - 1B	Single Family Residential
R - 2	Duplex Residential
R - 3	Townhouse
R - 4	Multi-Family
R - 6	High Density Multi-Family
R - 7	Manufactured Home Park
A - P	Administrative/Professional
C - 1	General Commercial
C - 2	Commercial-Industrial
C - 3	Light Commercial
M - 1	Light Industrial
M - 2	Heavy Industrial
C - U	College and University
R & D	Research and Development
P-MUD	Planned Mixed-Use Development
PDD	Planned Development District
WPC	Wolf Pen Creek Dev. Corridor
NG - 1	Core Northgate
NG - 2	Transitional Northgate
NG - 3	Residential Northgate
OV	Corridor Overlay
RDD	Redevelopment District
KO	Krenek Tap Overlay



DEVELOPMENT REVIEW

1850 WILLIAM D. FITCH PKWY

Case: **07-025** **REZONING**

**WILLIAM D. FITCH REZONING REQUEST
INFRASTRUCTURE AND FACILITIES**

Water: There is an existing water main on the south side of William D Fitch Parkway and a water main near the southeast property corner.

Sewer: There is an existing sewer main along the eastern boundary of the property.

Streets: Access will be from William D Fitch Parkway which is classified as a Major Arterial on the City's Thoroughfare Plan.

Off-site Easements: None known to be required at this time.

Drainage: Drainage is northerly toward Spring Creek.

Flood Plain: A small area of the property is within the FEMA designated floodplain of Spring Creek.

Oversize request: None at this time.

Impact Fees: None at this time.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE," SECTION 4.2, "OFFICIAL ZONING MAP," OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES AS DESCRIBED BELOW; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 22nd day of March, 2007.

APPROVED:

RON SILVIA, Mayor

ATTEST:

Connie Hooks, City Secretary

APPROVED:



City Attorney

ORDINANCE NO. _____

Page 2

EXHIBIT "A"

That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from A-O Agricultural Open to PDD Planned Development District:

**5.00 Acre Tract
Thomas Caruthers League a-9
College Station, Brazos County, Texas**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE THOMAS CARUTHERS LEAGUE, ABSTRACT NO. 9, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING ALL OF A CALLED 5.00 ACRE TRACT AS DESCRIBED BY A DEED TO BILLY PITTMAN, JR. AND SHERRY PITTMAN RECORDED IN VOLUME 2615, PAGE 160 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, AS DESCRIBED BY METES AND BOUNDS AS SHOWN IN EXHIBIT B, AND GRAPHICALLY SHOWN IN EXHIBIT C.

The uses of this planned development will be restricted to the following uses:

- Residential housing not to exceed 9 dwelling units per acre.

EXHIBIT "B"

Regular Item 2

**METES AND BOUNDS DESCRIPTION
OF A
5.00 ACRE TRACT
THOMAS CARUTHERS LEAGUE, A-9
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE THOMAS CARUTHERS LEAGUE, ABSTRACT NO. 9, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING ALL OF A CALLED 5.00 ACRE TRACT AS DESCRIBED BY A DEED TO BILLY PITTMAN, JR. AND SHERRY PITTMAN RECORDED IN VOLUME 2615, PAGE 160 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT AN "X" SET IN CONCRETE IN AN EXISTING CONCRETE DRIVEWAY ON THE NORTHWEST LINE OF WILLIAM D. FITCH PARKWAY (GREENS PRAIRIE ROAD - 135' R.O.W.) MARKING THE SOUTH CORNER OF SAID 5.00 ACRE TRACT AND THE SOUTHEAST CORNER OF SPRING MEADOWS SUBDIVISION, PHASE II, ACCORDING TO THE PLAT RECORDED IN VOLUME 5838, PAGE 177 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: N 48° 08' 16" W ALONG THE COMMON LINE OF SAID 5.00 ACRE TRACT AND SPRING MEADOWS SUBDIVISION, PHASE II, AT 199.82 FEET PASS A 1/2 INCH IRON ROD FOUND, CONTINUE ON FOR A TOTAL DISTANCE OF 580.80 FEET TO A 5/8 INCH IRON ROD SET MARKING THE WEST CORNER OF SAID 5.00 ACRE TRACT;

THENCE: N 41° 52' 04" E CONTINUING ALONG THE COMMON LINE OF SAID 5.00 ACRE TRACT AND SPRING MEADOWS SUBDIVISION, PHASE II, AT 35.66 FEET PASS A 1/2 INCH IRON ROD FOUND, CONTINUE ON FOR A TOTAL DISTANCE OF 374.75 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE NORTH CORNER OF SAID 5.00 ACRE TRACT;

THENCE: S 48° 09' 46" E ALONG THE COMMON LINE OF SAID 5.00 ACRE TRACT AND SPRING MEADOWS SUBDIVISION, PHASE I, ACCORDING TO THE PLAT RECORDED IN VOLUME 5106, PAGE 284 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, FOR A DISTANCE OF 580.77 FEET TO A 5/8 INCH IRON ROD SET ON THE NORTHWEST LINE OF WILLIAM D. FITCH PARKWAY MARKING THE EAST CORNER OF SAID 5.00 ACRE TRACT;

THENCE: S 41° 51' 47" W ALONG THE NORTHWEST LINE OF WILLIAM D. FITCH PARKWAY FOR A DISTANCE OF 375.00 FEET TO THE POINT OF BEGINNING CONTAINING 5.00 ACRES OF LAND, MORE OF LESS, AS SURVEYED ON THE GROUND FEBRUARY, 2007. SEE PLAT PREPARED FEBRUARY, 2007, FOR MORE DESCRIPTIVE INFORMATION. BEARING SYSTEM SHOWN HEREIN IS BASED ON THE PLAT CALL BEARINGS OF SPRING MEADOWS SUBDIVISION, PHASE II, 5838/177.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

D:/WORK/MAB/07-069.MAB

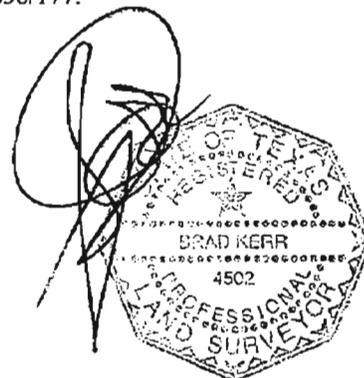
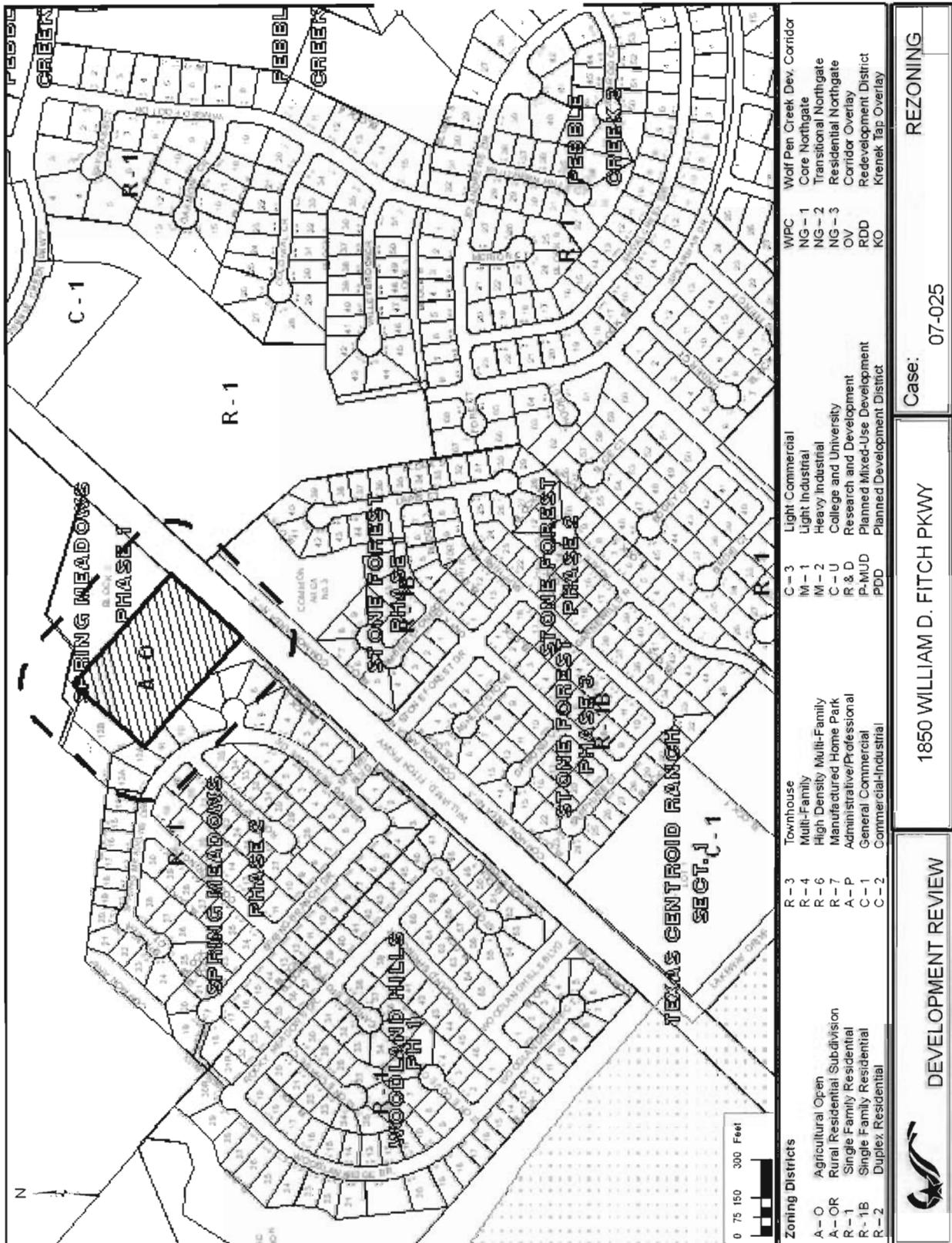


EXHIBIT "C"



Zoning Districts	Townhouse	C-3	Light Commercial	WPC	Wolf Pen Creek Dev. Corridor
A-O	R-3	M-1	M-1	NG-1	Core Northgate
A-OR	R-4	M-2	M-2	NG-2	Transitional Northgate
R-1	R-6	C-U	C-U	NG-3	Residential Northgate
R-1B	R-7	R&D	R&D	OV	Corridor Overlay
R-2	A-P	P-MUD	P-MUD	RDD	Redevelopment District
	C-1	PDD	PDD	KO	Krenek Tap Overlay
	C-2	Commercial-Industrial	Commercial-Industrial		



DEVELOPMENT REVIEW

1850 WILLIAM D. FITCH PKWY

Case: 07-025

REZONING

**22 March 2007
Regular Agenda
Luther Area Comprehensive Plan Amendment**

To: Glenn Brown, City Manager

From: Lance Simms, Acting Director of Planning & Development Services

Agenda Caption: Public hearing, presentation, possible action, and discussion on an ordinance amending the Comprehensive Land Use Plan from Single Family Residential, High Density to a mix of Neighborhood Retail, Residential Attached, and Planned Development for 110 lots on 89.563 acres of the property generally surrounded by FM 2818, Holleman Drive West, Jones Butler Road, and Luther West.

Recommendation(s): The Planning and Zoning Commission will hear this item on 20 March 2007. Their recommendation will be provided at the City Council meeting. Staff is recommending approval.

Summary: The proposed Comprehensive Plan Amendment is to bring the existing development into compliance with the plan. This area has been primarily developed as apartments, duplexes, and townhomes. There is also a small tract with a convenience center (Rattlers) at the intersection of Holleman Drive East and FM 2818). This area does not include the property developed as Walden Pond because it is currently zoned R-4 and reflected as Residential Attached on the Comprehensive Plan.

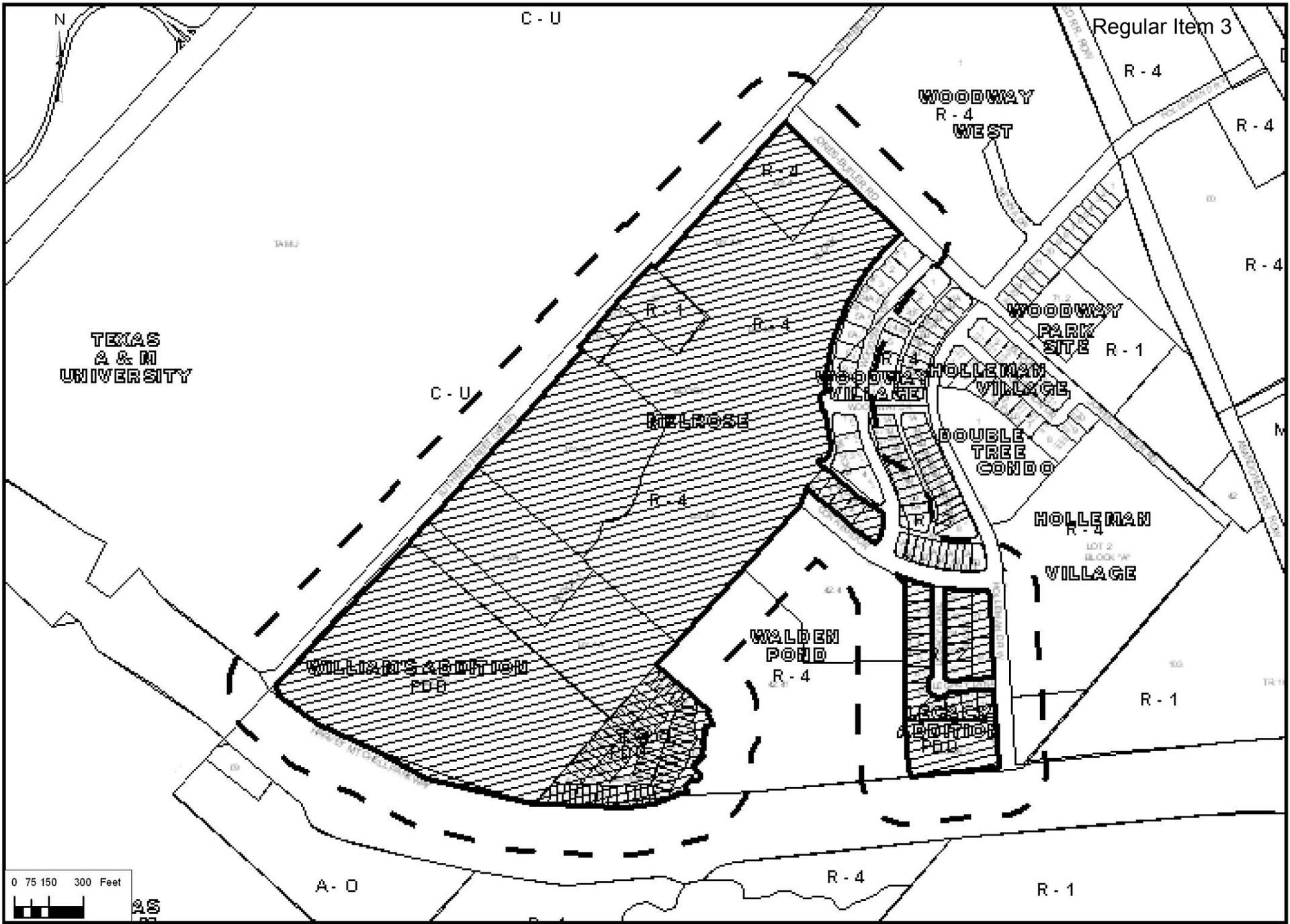
This amendment is in response to the rezoning request for the Crawford Burnett tract which is also on the 22 March Council agenda. A larger area was incorporated with the intent to bring the entire area up to date.

Staff is proposing to reflect the existing PDD zoning districts at the Rattler convenience center and the Canyon Creek Townhome development as Planned Development because of the unique requirements for open space or buffering required in the ordinances that were adopted for these properties. The remaining PDD for the Exchange apartments did not have any unique requirements in the ordinance above anything that is currently required for new multi-family development. Therefore, Staff recommends amending this area to Residential Attached, along with the remainder of the property included in this study except for 2.9 acres at the intersection of Jones Butler and Luther West. Staff is recommending Neighborhood Retail at this location because of its size, and location at the intersection which both meet the policies in the Comprehensive Plan, as well as providing additional opportunity for small scale retail for this area without having to cross Wellborn or FM 2818. However, there is the opportunity to continue multi-family development at this intersection, and Residential Attached would be appropriate for this parcel as well.

Budget & Financial Summary: N/A

Attachments:

1. Small Area Map (SAM) & Aerial
2. Item Background
3. Current and Proposed Land Uses
4. Ordinance



 DEVELOPMENT REVIEW

LUTHER AREA PLAN

Case: 07-021

COMP PLAN



DEVELOPMENT REVIEW

LUTHER AREA PLAN

Case:
07-021

COMP
PLAN

Luther Area Plan

Item Background: The following chart breaks down the existing uses on the properties that were included in the study:

Existing Uses	Acres	Units
Apartments	60.5	801
Commercial	2.1	N/A
Duplexes	16.1	86
Townhomes	6	71
Vacant	4.9	N/A
Total	89.6	958

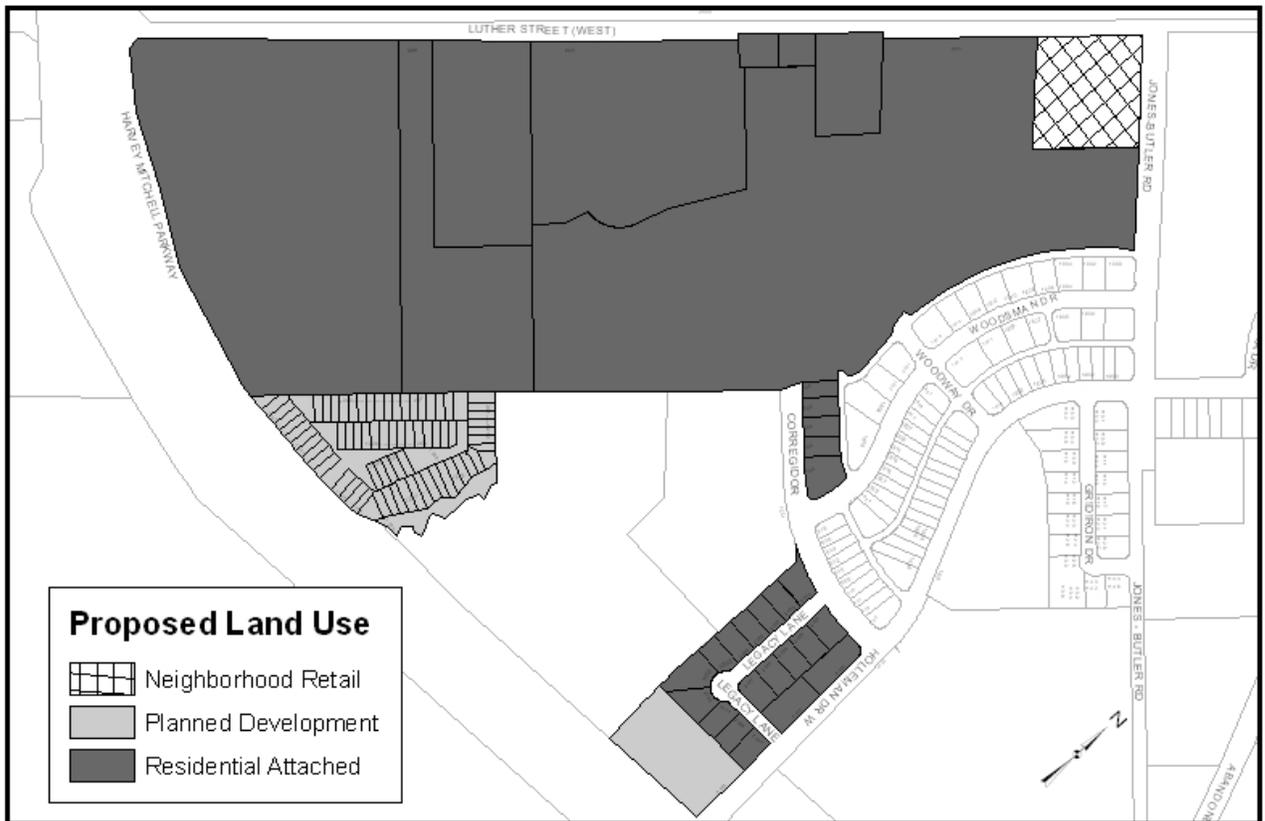
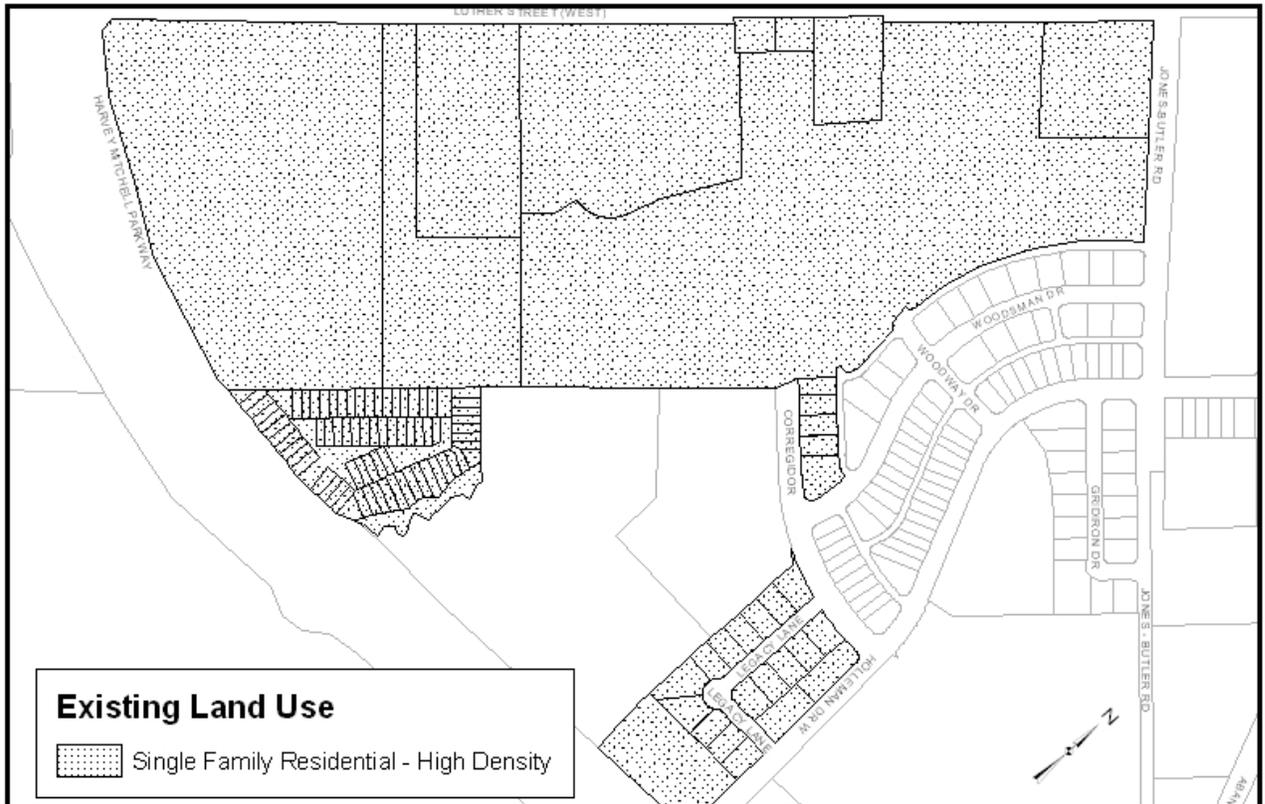
These properties were developed prior to the Comprehensive Plan being adopted as ordinance. Staff recommended approval for a number of multi-family rezonings in this area which resulted in the development of The Exchange, Fox Run Condos, and Melrose Apartments. The properties meet the City's development policies for the location of multi-family due to its proximity to the University and its frontage on Jones Butler, FM 2818, Luther West, and Holleman Drive East, all identified on the City's Thoroughfare Plan, however the Comprehensive Land Use Plan has never been amended to reflect these changes to the development pattern in this area. The following table identifies the existing zoning of the tracts included in the study:

Existing Zoning	Acres
PDD, Planned Development District	28.3
R-1, Single Family Residential	2.0
R-2, Duplex	4.2
R-4, Multi-Family	55.0
Total	89.56

The proposed amendment is for a mix of Residential Attached, Planned Development, and Neighborhood Commercial. The following breaks down the proposed Land Use Plan Designations by acreage:

Land Use	Acres
Neighborhood Retail	2.9
Planned Development	28.3
Residential Attached	58.4
Total	89.6

The proposed amendment to the plan ultimately affects 4.9 vacant acres. 2 acres are zoned R-1 located in the middle of the block along Luther West, and the remaining 2.9 acres are zoned for R-4 located at the intersection of Luther West and Jones Butler. **No existing development will become noncompliant because of the changes.**



ORDINANCE NO. _____

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING THE COMPREHENSIVE LAND USE PLAN, FOR THE AREA GENERALLY SURROUNDED BY FM 2818, HOLLEMAN DRIVE WEST, JONES BUTLER ROAD, AND LUTHER WEST, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the "Comprehensive Plan of the City of College Station" be amended by amending the "Comprehensive Land Use Plan" as set out in Exhibits "A" and "B", for the identified area and made a part of this ordinance for all purposes.

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

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 22nd day of March, 2007.

ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:



City Attorney

ORDINANCE NO. _____

Page 2

EXHIBIT "A"
AMENDED AREA OF
COLLEGE STATION LAND USE MAP

That the "Comprehensive Plan" of the City of College Station, Texas, is hereby amended by amending the College Station Land Use Plan Map as follows:

The 89.563 acres generally surrounded by FM 2818, Holleman Drive West, Jones Butler Road, and Luther West is amended from Single Family Residential – High Density to Residential Attached, Planned Development and Retail Neighborhood, as shown on the attached Exhibit "B".

**22 March 2007
Regular Agenda
Crawford Burnett Rezoning**

To: Glenn Brown, City Manager

From: Lance Simms, Acting Director of Planning & Development Services

Agenda Caption: Public hearing, presentation, possible action, and discussion on an ordinance rezoning .52 acres from R-1 (Single-Family Residential) to R-4 (Multi-Family Residential), located at 701 Luther Street West.

Recommendation(s): The Planning and Zoning Commission will hear this item during a special meeting on 20 March 2007. Their recommendation will be provided at the Council meeting. If the Comprehensive Land Use Plan is amended for this area, Staff recommends approving the rezoning request.

Summary: The applicant desires to use this .52 acre tract for residential development. The existing zoning of R-1, Single Family Residential does not allow direct access from Luther Street West, which is a Major Collector Street. Therefore, the applicant is requesting this zoning change to R-4, which would allow direct access and the development of multi-family units.

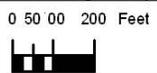
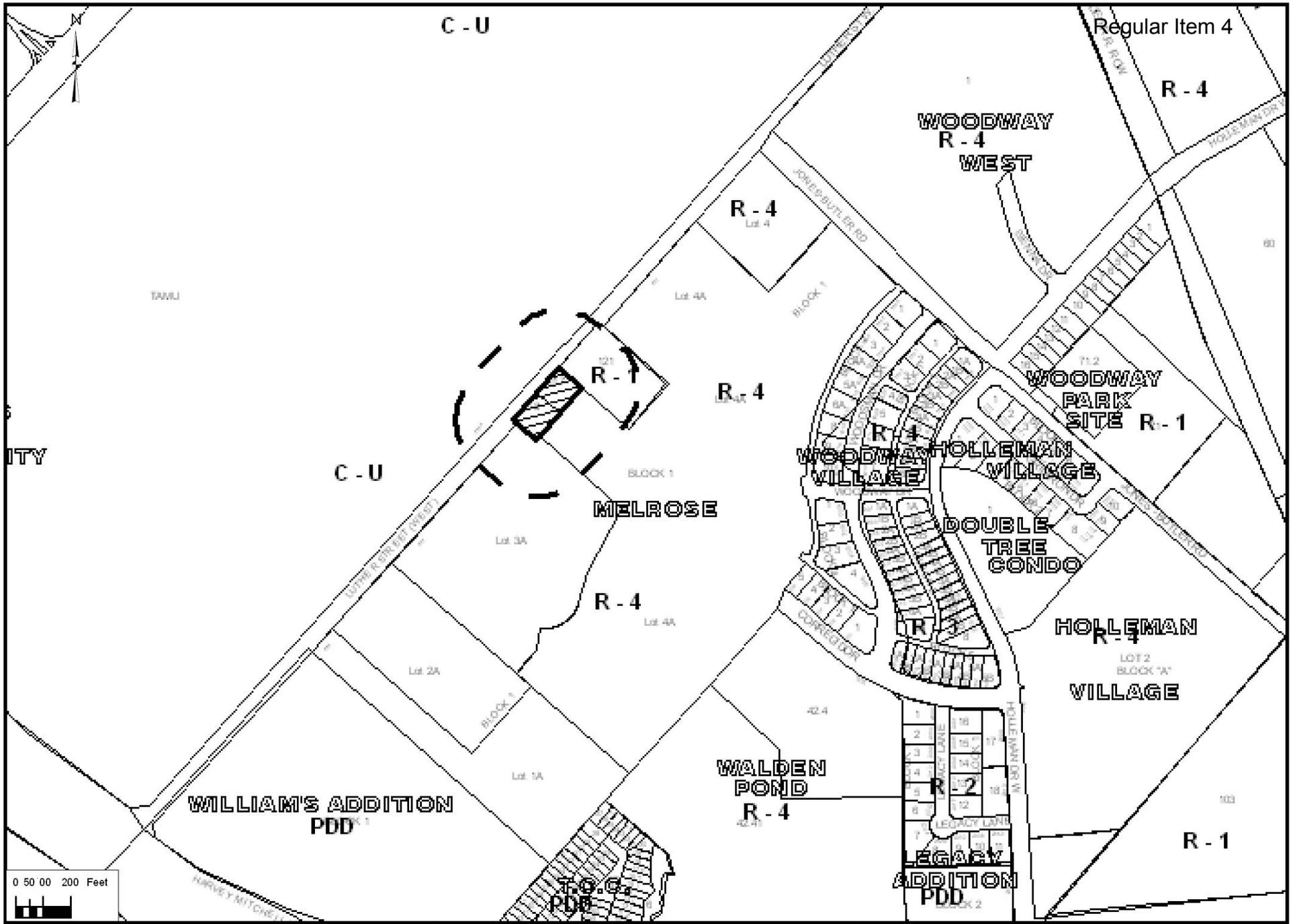
A Comprehensive Plan Amendment will also be heard by the Planning & Zoning Commission of this area on March 20th, requesting a change in the Land Use from Single Family Residential High Density to Residential Attached. The proposed amendment would more accurately correspond to the existing zoning, existing multi-family developments, and the desired land use of the area. With a Comprehensive Plan Amendment to Residential Attached, the rezoning request to R-4 of this property would be in compliance with the Comprehensive Plan.

The subject property was annexed in 1970. The two vacant tracts exist within an area predominantly of multi-family developments on the southeast side of Luther Street West. The property is adjacent to Fox Run Condominiums to the southwest and Melrose Subdivision to the southeast which were developed in 1998. A vacant tract of 1.3 acres zoned R-1 lies to the northwest of the subject property. Texas A & M University owns the land to the northwest across Luther Street West.

Budget & Financial Summary: None

Attachments:

1. Small Area Map (SAM) & Aerial
2. Infrastructure and Facilities
3. Ordinance



	DEVELOPMENT REVIEW	CRAWFORD BURNETT TRACT 121 & 117	Case: 07-005	REZONING
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Regular Item 4

0 50 100 200 Feet



DEVELOPMENT REVIEW

CRAWFORD BURNETT TRACT 121 & 117

Case:

07-005

REZONING

**CRAWFORD BURNETT REZONING
INFRASTRUCTURE AND FACILITIES**

Water: Existing 16" water line along Luther Street West.

Sewer: Existing lines within adjacent multi-family developments to the south and east.

Streets: The subject property is located adjacent to Luther Street West

Off-site Easements: Off-site easements may be required, but have not been identified at this time.

Drainage: Predominantly level topography with no major drainage-ways through the property.

Flood Plain: None

Oversize request: N/A

Impact Fees: N/A

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE," SECTION 4.2, "OFFICIAL ZONING MAP," OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES AS DESCRIBED BELOW; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 22nd day of March, 2007.

APPROVED:

RON SILVIA, Mayor

ATTEST:

Connie Hooks, City Secretary

APPROVED:



City Attorney

ORDINANCE NO. _____

Page 2

EXHIBIT "A"

That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from R-1, Single Family Residential to R-4, Multi-Family:

ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE CRAWFORD BURNETT LEAGUE ABSTRACT NO. 7, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING ALL OF A CALLED 0.26 ACRE TRACT AS DESCRIBED BY A DEED TO JERRY NOVOSAD AND WIFE, SANDRA NOVOSAD, RECORDED IN VOLUME 7597, PAGE 279 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, AND ALL OF A CALLED 0.26 ACRE TRACT AS DESCRIBED BY A DEED TO JERRY C. NOVOSAD, III, AND WIFE, SANDRA NOVOSAD, RECORDED IN VOLUME 7750, PAGE 182 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS IN THE ATTACHED EXHIBIT "B" AND SHOWN GRAPHICALLY IN THE ATTACHED EXHIBIT "C."

ORDINANCE NO. _____

Page 3

EXHIBIT "B"

BEGINNING AT A 1/2 INCH IRON ROD FOUND ON THE SOUTHEAST LINE OF LUTHER STREET MARKING THE NORTH CORNER OF LOT 3A, BLOCK 1, MELROSE SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN VOLUME 3020, PAGE 89 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, SAID IRON ROD FOUND MARKING THE WEST CORNER OF SAID FIRST 0.26 ACRE TRACT;

THENCE: N 43° 59' 20" E ALONG THE APPARENT SOUTHEAST LINE OF LUTHER STREET, AT 123.88 FEET PASS A 5/8 INCH IRON ROD FOUND MARKING THE COMMON CORNER OF SAID 0.26 ACRE TRACTS, CONTINUE OF FOR A TOTAL DISTANCE OF 253.79 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE NORTH CORNER OF SAID SECOND 0.26 ACRE TRACT AND THE WEST CORNER OF THE REMAINDER OF A CALLED 2 ACRE TRACT AS DESCRIBED BY A DEED TO CLEMMIE LA VERN IDLEBIRD AND RUFUS JAMES HORNS RECORDED IN VOLUME 6236, PAGE 94 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: S 45° 47' 12" E ALONG THE COMMON LINE OF SAID SECOND 0.26 ACRE TRACT AND SAID REMAINDER OF 2 ACRE TRACT FOR A DISTANCE OF 87.81 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE EAST CORNER OF SAID SECOND 0.26 ACRE TRACT AND A NORTHERLY CORNER OF LOT 4A, BLOCK 1, MELROSE SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN VOLUME 3020, PAGE 89 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: S 42° 40' 00" W ALONG THE COMMON LINE OF SAID SECOND 0.26 ACRE TRACT AND SAID LOT 4A FOR A DISTANCE OF 126.41 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF SAID SECOND 0.26 ACRE TRACT AND THE EAST CORNER OF SAID FIRST 0.26 ACRE TRACT;

THENCE: S 42° 47' 24" W ALONG THE COMMON LINE OF SAID FIRST 0.26 ACRE TRACT AND SAID LOT 4A FOR A DISTANCE OF 108.49 FEET TO A 1/2 INCH IRON ROD FOUND MARKING A COMMON CORNER OF SAID LOT 4A AND THE AFOREMENTIONED LOT 3A;

THENCE: S 43° 15' 15" W ALONG THE COMMON LINE OF SAID FIRST 0.26 ACRE TRACT AND

ORDINANCE NO. _____

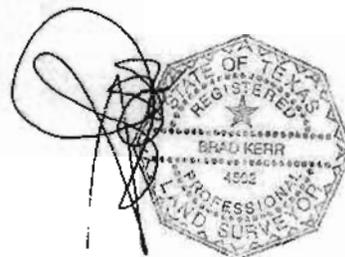
Page 4

SAID LOT 3A FOR A DISTANCE OF 15.32 FEET TO A 1/4 INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF SAID FIRST 0.26 ACRE TRACT;

THENCE: N 48° 01' 25" W ALONG THE COMMON LINE OF SAID FIRST 0.26 ACRE TRACT AND SAID LOT 3A FOR A DISTANCE OF 93.25 FEET TO THE POINT OF BEGINNING CONTAINING 0.52 OF AN ACRE OF LAND, MORE OF LESS. SEE PLAT PREPARED JANUARY, 2007, FOR MORE DESCRIPTIVE INFORMATION. BEARING SYSTEM SHOWN HEREIN IS BASED ON THE PLAT CALL BEARINGS OF MELROSE SUBDIVISION, 3020/89.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

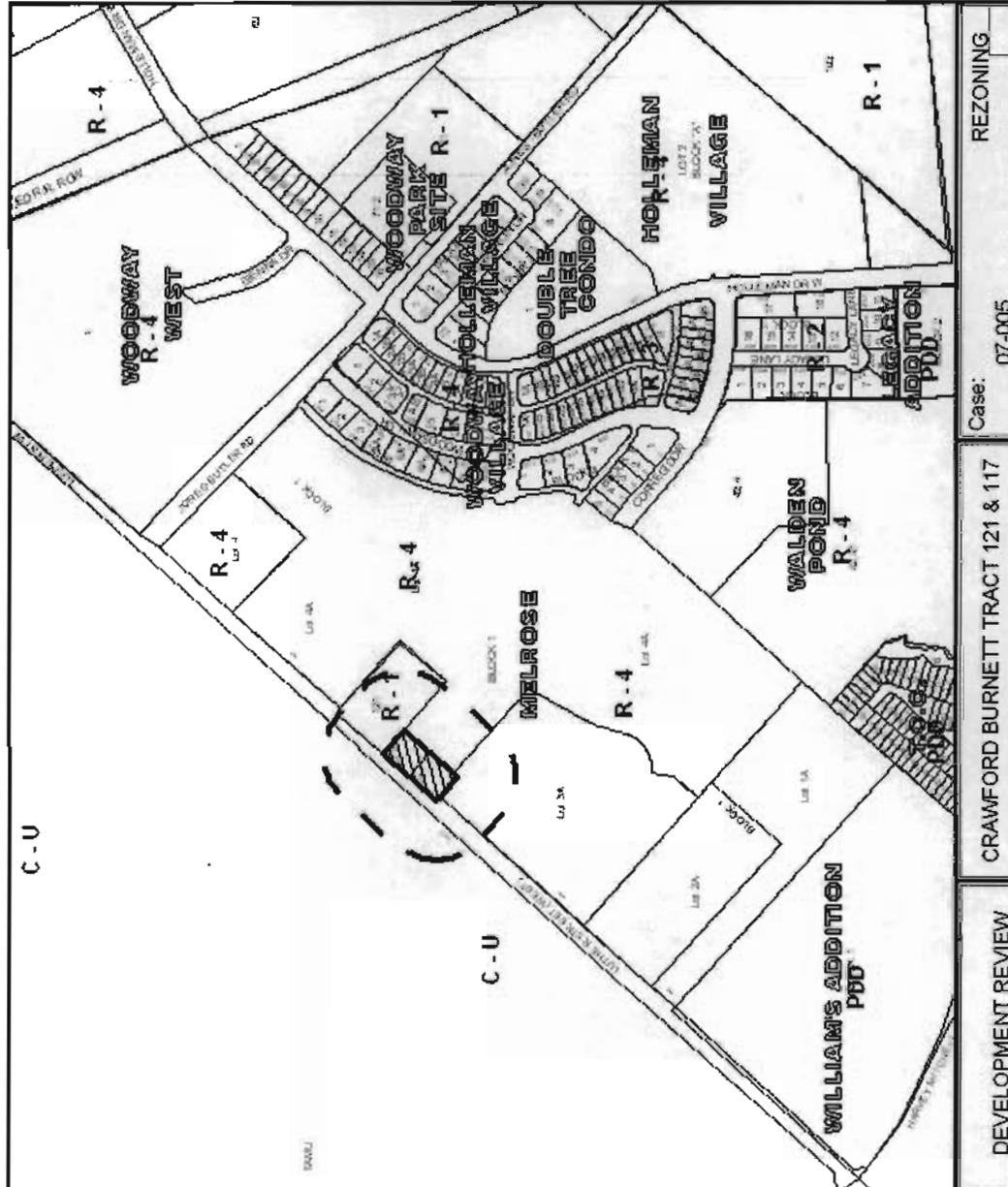
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ORDINANCE NO. _____

Page 5

EXHIBIT "C"



REZONING
Case: 07-005

CRAWFORD BURNETT TRACT 121 & 117

DEVELOPMENT REVIEW

**22 March 2007
Regular Agenda
Gateway Rezoning**

To: Glenn Brown, City Manager

From: Lance Simms, Acting Director of Planning & Development Services

Agenda Caption: Public hearing, presentation, possible action, and discussion on an ordinance rezoning 3.13 acres from C-1 (General Commercial) to R-4 (Multi-Family) and A-O (Agricultural Open) located at 1505 University Drive, just north of Home Depot.

Recommendation(s): The Planning and Zoning Commissions heard this item on 1 March 2007. At that meeting, a motion to recommend denial of the rezoning request failed (3-4). Staff recommends approval of the rezoning request.

Summary: This item is a request to rezone just over three acres in the Gateway Center from C-1 (General Commercial) to a combination of R-4 (Multi-Family) and A-O (Agricultural Open) in order to continue the development of a multi-family project. The Comprehensive Plan designation for the subject property was amended earlier this year by changing the Floodplain & Streams designation to Residential Attached. During the discussion, the City Council expressed concerns about the jurisdictional wetlands portion of the subject property being developed. Therefore, the applicant is proposing to rezone the wetlands portion of the subject property to A-O (Agricultural Open) to prevent development in these areas.

The rezoning request is in compliance with the Comprehensive Plan.

Budget & Financial Summary: N/A

Attachments:

1. Small Area Map (SAM) and Aerial Map
2. Infrastructure and Facilities
3. Comprehensive Plan Consideration
4. Application
5. Ordinance

Regular Item 5



CITY OF BRYAN

COLLEGE STATION CITY LIMITS

R-1
T8 C-1

BLOCK 1
9

10B
BLOCK 1
10A

GATEWAY PH 2

R-4
BLOCK 1

BLOCK 1
C-1
11

STATE HWY 6 - (EARL RUDDER FREEWAY)

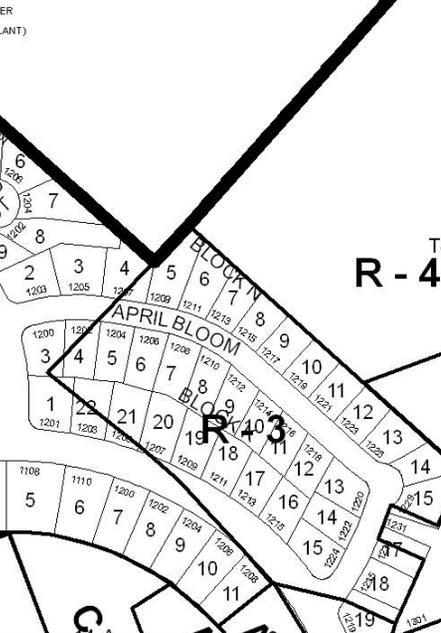
BLOCK 1
1AR-1

C-1
GATEWAY

2RD
2RE
2RB
BLOCK 1
2RC

2RA
C-1
4R

R-4
T8



BLOCK 1
C-1

BLOCK 1

UNIVERSITY DRIVE EAST

C-1

UNIVERSITY DRE

BLOCK 16
A-P

C-1
1



DEVELOPMENT REVIEW

GATEWAY PH 1

Case: 06-500194 REZONING



DEVELOPMENT REVIEW

GATEWAY PH 1

Case:
06-500194

REZONING

**GATEWAY REZONING
INFRASTRUCTURE AND FACILITIES**

Water: There is a 12" water line along the south property line and an 8" water line in the Gateway Villas development to the west

Sewer: Sewer mains exists along all property boundaries.

Streets: Access to this property will be via internal private access easements from either SH 6 (Earl Rudder Freeway) which is classified as a Freeway on the City's Thoroughfare Plan or University Drive East which is a Major Arterial on the Plan.

Off-site Easements: None are known to be necessary at this time.

Drainage: Drainage is to Burton Creek to the north.

Floodplain: The entire parcel is within the Special Flood Hazard Area.

Oversize request: None

Impact Fees: None

**Gateway Rezoning
Comprehensive Plan Considerations**

The Land Use Plan reflects Residential Attached for the subject property. The majority of the property is located in the 100-year floodplain. Jurisdictional wetlands have been identified as well.

To the north of the subject property is the City of Bryan which is also Burton Creek and 100-year floodway. To the east is undeveloped C-1, General Commercial and R-1, Single Family Residential, which are reflected as Floodplains and Streams on the Land Use Plan. To the south is C-1, General Commercial developed as a Home Depot. Between the subject property and Home Depot is a regional detention facility for the Gateway Development, which is reflected as Floodplains and Streams and Retail Regional on the Land Use Plan. To the west is R-4, Multi-Family developed as multi-family and reflected as Residential Attached and Floodplain and Streams on the Land Use Plan. The jurisdictional wetlands are located on both the northeast and northwest corners of the subject property.

The zoning proposal is in compliance with City's Land Use Plan Plan.



FOR OFFICE USE ONLY	
CASE NO.	<u>06-194</u>
DATE SUBMITTED	<u>9-506</u>

9:45
kw

ZONING MAP AMENDMENT (REZONING) APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS

If a petition for rezoning is denied by the City Council, another application for rezoning shall not be filed within a period of 180 days from the date of denial, except with permission of the Planning & Zoning Commission or City Council. The following items must be submitted by an established filing deadline date for consideration:

- Application completed in full.
- \$500.00 application fee
- Two (2) copies of a fully dimensioned map on 24" x 36" paper showing:
 - a. Land affected;
 - b. Legal description of area of proposed change;
 - c. Present zoning;
 - d. Zoning classification of all abutting land; and
 - e. All public and private rights-of-way and easements bounding and intersecting subject land.
- Written legal description of subject property (metes & bounds or lot & block of subdivision, whichever is applicable).
- The Rezoning Supporting Information sheet completed in full. A CAD (dxf/dwg) or GIS (shp) digital file may be required for more complex rezoning requests.

Date of Required Preapplication Conference: _____

APPLICANT'S INFORMATION:

Name Robert W. Todd
 Street Address 2902 Burning Tree
 City Bryan State TX Zip Code 77802
 E-Mail Address Toddre@cox.net
 Phone Number 979-777-3606 Fax Number 979-774-6605

PROPERTY OWNER'S INFORMATION:

Name Frank Mihalopoulos
 Street Address 4645 North Central City Dallas
 State TX Zip Code 75205 E-Mail Address frank@corinthprep.com
 Phone Number 214-219-5600 Fax Number _____

This property was conveyed to owner by deed dated _____ and recorded in Volume 3046,
 Page 118 of the Brazos County Deed Records.

General Location of Property: Behind PetSmart / Linens & Things

Address of Property: _____

Legal Description: Gateway Phase I 3.27 acre Tract, Richard Carter Survey A-B
College Station, Brazos County, Texas

Acreage - Total Property: 3.27 acres

Existing Zoning: C-1 Proposed Zoning: R-4 + A-0

Present Use of Property: VACANT

Proposed Use of Property: Townhomes

REZONING SUPPORTING INFORMATION

1.) List the changed or changing conditions in the area or in the City which make this zone change necessary.

C-1 zoning classification is NOT the highest & best use of the property, due to its location behind the Gateway Shopping Center and the townhomes adjacent to the north west property line.

2.) Indicate whether or not this zone change is in accordance with the Comprehensive Plan. If it is not, explain why the Plan is incorrect.

The zone change should be in accordance with the comprehensive plan. The existing townhomes west of the subject 3.27 acre tract are zoned R-4 and were built after the C-1 zoning classification of the Gateway Shopping Center.

3.) List any other reasons to support this zone change.

The rezoning would allow for an accessway to be constructed from the existing Gateway Phase II, townhomes to the existing Gateway Shopping Center for additional fire access. It would not be conducive to develop the 3.27 acres as commercial due to traffic access. At best it could be used as a self storage facility which would be a conflict and the best desirable use adjacent to the townhomes.

The applicant has prepared this application and supporting information and certifies that the facts stated herein and exhibits attached hereto are true and correct. IF APPLICATION IS FILED BY ANYONE OTHER THAN THE OWNER OF THE PROPERTY, APPLICATION MUST BE ACCOMPANIED BY A POWER OF ATTORNEY STATEMENT FROM THE OWNER.

Robert W. Todd
Signature of owner (or agent) or applicant

9-5-06
Date

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE," SECTION 4.2, "OFFICIAL ZONING MAP," OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES AS DESCRIBED BELOW; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 22 day of MARCH, 2007.

APPROVED:

RON SILVIA, Mayor

ATTEST:

Connie Hooks, City Secretary

APPROVED:



City Attorney

EXHIBIT "A"

That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from C-1 General Commercial to A-O Agricultural Open and R-4 Multi-Family Residential:

ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE RICHARD CARTER SURVEY, ABSTRACT NO. 8, COLLEGE STATION, BRAZOS COUNTY, TEXAS, AND BEING PART OF LOT 9, BLOCK 1 OF GATEWAY – PHASE 1 – REPLAT ACCORDING TO THE PLAT RECORDED IN VOLUME 4998, PAGE 262, OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS, AND SAID 3.13 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS IN THE ATTACHED EXHIBIT "B" AND SHOWN GRAPHICALLY IN THE ATTACHED EXHIBIT "C."

EXHIBIT "B"

Gateway - Phase 1 - Replat
Part Lot 9, Block 1
3.13 Acre Tract
Proposed Zoning: R-4
Richard Carter Survey, A-8
College Station, Brazos County, Texas

Field notes of a 3.13 acre tract or parcel of land, lying and being situated in the Richard Carter Survey, Abstract No. 8, College Station, Brazos County, Texas, and being part of Lot 9, Block 1 of Gateway - Phase 1 - Replat according to the plat recorded in Volume 4998, Page 262, of the Official Records of Brazos County, Texas, and said 3.13 acre tract being more particularly described as follows:

COMMENCING at the 1/2" iron rod found marking the west corner of the beforementioned Lot 9, Block 1, Gateway - Phase 1 - Replat, same being the north corner of Lot 1, Block 1 - The Gateway - Phase 2 (12.27 acres) according to the plat recorded in Volume 5809, Page 70, of the Official Records of Brazos County, Texas, and being in the southeast line of the City of Bryan - called 50 acre tract, Volume 133, Page 807, of the Deed Records of Brazos County, Texas;

THENCE N 41° 40' 11" E along the northwest line of the beforementioned Lot 9, Block 1, same being the southeast line of the beforementioned 50 acre tract, adjacent to a fence, for a distance of 35.10 feet and to the PLACE OF BEGINNING of this description;

THENCE N 41° 40' 11" E along the northwest line of the beforementioned Lot 9, Block 1, Gateway - Phase 1, same being the southeast line of the beforementioned 50 acre tract, adjacent to a fence, for a distance of 346.49 feet to the west corner of a 0.07 acre re-zoning tract;

THENCE through the interior of the beforementioned Lot 9, Block 1, and along the lines of the said 0.07 acre tract, as follows:

S 48° 19' 49" E	for a distance of 13.50 feet,
N 41° 40' 11" E	for a distance of 25.65 feet,
N 85° 05' 42" E	for a distance of 72.67 feet,
S 36° 19' 33" E	for a distance of 209.49 feet,
S 46° 44' 42" W	for a distance of 414.99 feet,
S 33° 31' 15" E	for a distance of 451.80 feet to the southeast line of Lot 9, same being in the northwest line of Lot 1AR-2 (2.82 acres) - Gateway Subdivision - Phase 1 - Replat, according to the plat recorded in Volume 6693, Page 211, of the Official Records of Brazos County, Texas;

THENCE S 35° 18' 20" W along the southeast line of the beforementioned Lot 9, Block 1 - Gateway - Phase 1 - Replat, same being the northwest line of the beforementioned Lot 1AR-2 for a distance of 64.36 feet to a 1/2" iron rod found (with cap) at the south corner of said Lot 9, Block 1, same being an angle point corner of Lot 1AR-2 and being the east corner of the beforementioned Lot 1, Block 1 - The Gateway - Phase 2;

THENCE N 33° 31' 15" W along the southwest line of the beforementioned Lot 9, Block 1, same being the northeast line of the beforementioned Lot 1, Block 1 - The Gateway - Phase 2 for a distance of 618.94 feet to the south corner of a 0.07 acre re-zoning tract;

THENCE through the interior of the beforementioned Lot 9, Block 1 - Gateway - Phase 1 - Replat and along the lines of the beforementioned 0.07 acre re-zoning tract, as follows:

N 56° 28' 45" E	for a distance of 47.00 feet,
N 41° 40' 11" E	for a distance of 6.28 feet,
N 46° 19' 19" W	for a distance of 74.85 feet to the PLACE OF BEGINNING, containing 3.13 acres of land, more or less.



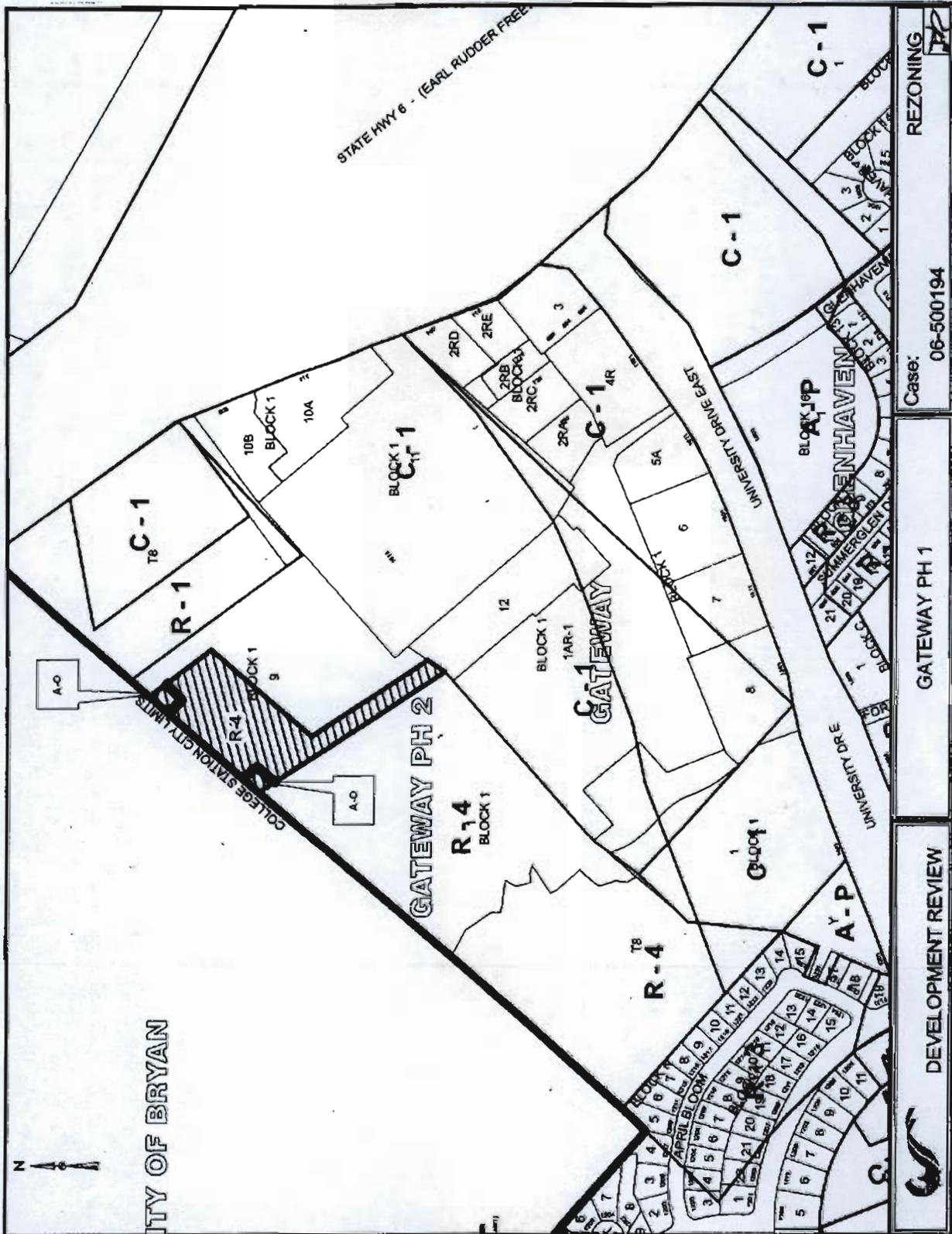
Surveyed February 2007

By: *S.M. Kling*
S. M. Kling
R.P.L.S. No. 2003

Prepared 02/08/07
iss07-dvd\gateway-ph1-replat-3.13ac.wpd

KLING ENGINEERING AND SURVEYING
BRYAN, TEXAS

EXHIBIT "C"



REZONING 

Case: 06-500194

GATEWAY PH 1

DEVELOPMENT REVIEW 

**22 March 2007
Regular Agenda
Freneau Rezoning**

To: Glenn Brown, City Manager

From: Lance Simms, Acting Director of Planning & Development Services

Agenda Caption: Public hearing, presentation, possible action, and discussion on an ordinance rezoning 1.996 acres from A-O (Agricultural Open) to A-OR (Rural Residential), located at 3105 Freneau Drive.

Recommendation(s): The Planning and Zoning Commission heard this item at their meeting on 1 March 2007 and voted unanimously to recommend approval. Staff also recommends approval.

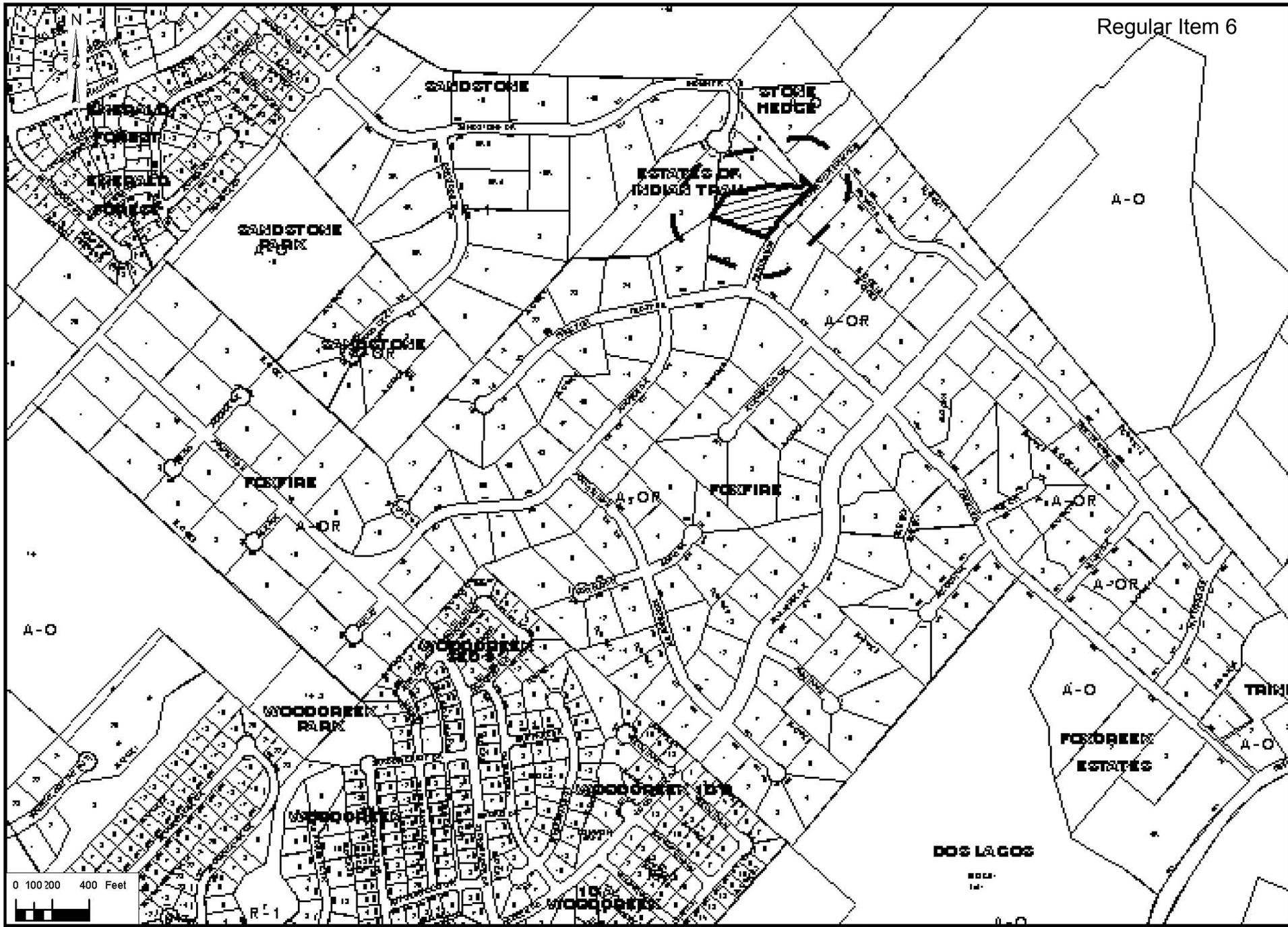
Summary: The subject property is currently undeveloped and zoned A-O (Agricultural Open). The Comprehensive Plan reflects the subject property as Single Family Residential Low Density. The properties to the east, west and south are reflected as Single Family Low Density as well. The majority of the subject property is located within the 100 year floodplain.

The rezoning request is in compliance with the Unified Development Ordinance and the City's Comprehensive Plan.

Budget & Financial: N/A

Attachments:

1. Small Area Map (SAM) and Aerial Map
2. Infrastructure and Facilities
3. Application
4. Ordinance




 DEVELOPMENT REVIEW

3105 FRENEAU DR

Case: 07-010

REZONING



0 100 200 400 Feet



DEVELOPMENT REVIEW

3105 FRENEAU DR

Case:

07-010

REZONING

INFRASTRUCTURE AND FACILITIES

Water: There is an existing 6-in water main which runs along Frost Drive. There is an existing fire hydrant at the corner of Frost Drive and Freneau Drive. The applicant has proposed to extend a 3-in water main down Freneau to provide the property with domestic water.

Sewer: There is an existing 21-in sanitary sewer main which runs along the rear property lines between Fox Fire and Indian Trail Estates. The sanitary sewer main is located in a 20-ft Sanitary Sewer Easement, which is adjacent to a 50-ft Public Drainage and Utility Easement.

Streets: The subject property is located adjacent to Freneau Drive (Residential Street). Freneau Drive is a city street for the first 425-ft from Frost Drive and past that point becomes a private drive.

Off-site Easements: The sanitary sewer main which supports this property is located in a 20-ft Sanitary Sewer Easement, which is adjacent to a 50-ft Public Drainage and Utility Easement.

Drainage: The subject property is located in the Carter's Creek drainage basin.

Flood Plain: The subject property is shown to be encroached by floodplain per a previous adjacent plat and current topographic data gathered by the design engineer.

Oversize request: None known at this time.

Impact Fees: None



FOR OFFICE USE ONLY	
CASE NO.	07-010
DATE SUBMITTED	1-19-07

11:18
gs

ZONING MAP AMENDMENT (REZONING) APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS

If a petition for rezoning is denied by the City Council, another application for rezoning shall not be filed within a period of 180 days from the date of denial, except with permission of the Planning & Zoning Commission or City Council. The following items must be submitted by an established filing deadline date for consideration:

- Application completed in full.
- \$500.00 application fee
- Two (2) copies of a fully dimensioned map on 24" x 36" paper showing:
 - a. Land affected;
 - b. Legal description of area of proposed change;
 - c. Present zoning;
 - d. Zoning classification of all abutting land; and
 - e. All public and private rights-of-way and easements bounding and intersecting subject land.
- Written legal description of subject property (metes & bounds or lot & block of subdivision, whichever is applicable).
- The Rezoning Supporting Information sheet completed in full. A CAD (dxf/dwg) or GIS (shp) digital file may be required for more complex rezoning requests.

Date of Required Preapplication Conference: Oct. 16, 2006

APPLICANT'S INFORMATION:

Name Chris Galindo, Galindo Engineers and Planners
 Street Address 3833 S Texas Ave Ste 213
 City Bryan State TX Zip Code 77802
 E-Mail Address chris@gepine.net
 Phone Number (979) 846-8868 Fax Number same

PROPERTY OWNER'S INFORMATION:

Name Karin Sweetland
 Street Address 4305 Lake Walk Ct. City Missouri City
 State TX Zip Code 77459 E-Mail Address kd.sweetland@yelp.com
 Phone Number _____ Fax Number _____

This property was conveyed to owner by deed dated 6/12/2006 and recorded in Volume 7381, Page 297 of the Brazos County Deed Records.

General Location of Property: Morgan Rector League, A-46

Address of Property: 3105 Freneau Dr.

Legal Description: 1.996 Acres, Morgan Rector League, A-46

Acreage - Total Property: 1.996 Acres

Existing Zoning: A-12 Proposed Zoning: A-OR

Present Use of Property: Vacant

Proposed Use of Property: Residential

REZONING SUPPORTING INFORMATION

1.) List the changed or changing conditions in the area or in the City which make this zone change necessary.

Property owner is attempting to plat property and needs to change zoning from A-0 to A-OR to allow low density Residential use.

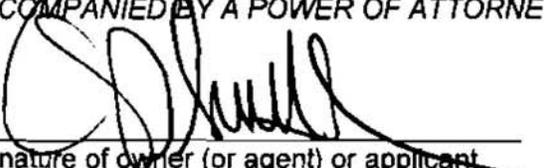
2.) Indicate whether or not this zone change is in accordance with the Comprehensive Plan. If it is not, explain why the Plan is incorrect.

Conforms with Comprehensive Plan.

3.) List any other reasons to support this zone change.

Subject property is almost completely surrounded by platted property zoned either R-1 or A-OR

The applicant has prepared this application and supporting information and certifies that the facts stated herein and exhibits attached hereto are true and correct. IF APPLICATION IS FILED BY ANYONE OTHER THAN THE OWNER OF THE PROPERTY, APPLICATION MUST BE ACCOMPANIED BY A POWER OF ATTORNEY STATEMENT FROM THE OWNER.


Signature of owner (or agent) or applicant

1-16-2007
Date

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE," SECTION 4.2, "OFFICIAL ZONING MAP," OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES AS DESCRIBED BELOW; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A" and Exhibit "B", attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 22 day of MARCH, 2007.

APPROVED:

RON SILVIA, Mayor

ATTEST:

Connie Hooks, City Secretary

APPROVED:

City Attorney *Harry Cangel*

EXHIBIT "A"

That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from A-O Agricultural Open to A-OR Rural Residential:

1.996-ACRES
Morgan Rector Survey, A-46
College Station, Brazos County, Texas

Being a 1.996-acre tract or parcel of land lying and being situated in the Morgan Rector League, A-46, College Station, Brazos County, Texas, and being a part of the Called 219.890 acres conveyed to C. William Hedderman, II, and Robert D. Martell by Tom D. Giesenschlag, according to the deed recorded in Volume 342, Page 751, Deed Records, Brazos County, Texas, and furthermore being a part of the Called 12.601-acre tract of land conveyed to The Cambridge Group by Martell 1983 Gift Trusts, according to the deed recorded in Volume 869, Page 58, Official Records, Brazos County, Texas, and also being the same tract of land conveyed to Kevin Donald Sweetland by The Cambridge Group by deed recorded in Volume 7381, Page 297, Official Records, Brazos County, Texas, and said 1.996-acre tract, being more particularly described as follows:

BEGINNING at a 1/2" iron rod found at the easternmost corner of Lot 38, Block One, Foxfire-Phase I, an addition to the City of College Station, Texas, according to the plat recorded in Volume 351, Page 435, Deed Records, Brazos County, Texas, said rod also being located on the northwestern right of way line of Freneau Drive, a 60'-wide public right of way dedicated by said plat of Foxfire-Phase I;

THENCE N 66°20'30" W, along the northeastern boundary line of said Lot 38, for a distance of 334.87', to a 1/2" iron rod found at the north common corner of Lot 38 and Lot 37, said Foxfire-Phase I, said rod also being located on the southern boundary line of Lot 3, The Estates of Indian Trail, an addition to the City of College Station, Texas, according to the plat recorded in Volume 930, Page 651, Official Records, Brazos County, Texas;

THENCE along the southern boundary of The Estates of Indian Trail, Lots 3, 4, 5, and 6, and along the meanders of a creek for the following calls:

N 40°04'29" E, for a distance of 143.98', to a 1/2" iron rod set;

N 82°36'14" E, for a distance of 278.63';

S 25°35'22" E, for a distance of 8.92';

N 87°32'06" E, for a distance of 68.10';

S 77°10'15" E, for a distance of 70.00';

N 42°39'29" E, for a distance of 19.59';

N 04°10'54" W, for a distance of 39.11';

N 16°56'24" W, for a distance of 9.35' to a 1/2" iron rod set on the southwestern boundary line of a 9.38-acre tract of land conveyed to Randall and Brenda Rogers according to the deed recorded in Volume 3861, Page 237, Official Records, Brazos County, Texas;

Thence S 36°41'33" E, along said Rogers southwestern boundary line, for a distance of 72.50' to a 1/2" iron rod found marking an interior corner of the said 9.38-acre Rogers tract, said rod also being located on the northwestern boundary line of a 60'-wide private right of way dedicated by McHayden Dillard and wife, Barbara Dillard, and described by Dedication of Easement Deed recorded in Volume 915, Page 317, Official Records, Brazos County, Texas;

Thence S 45°11'39" W, along the northwestern boundary line of said 60'-wide private right of way easement, for a distance of 245.75', to a 1/2" iron rod found marking the northernmost corner of the platted Freneau Drive referenced above;

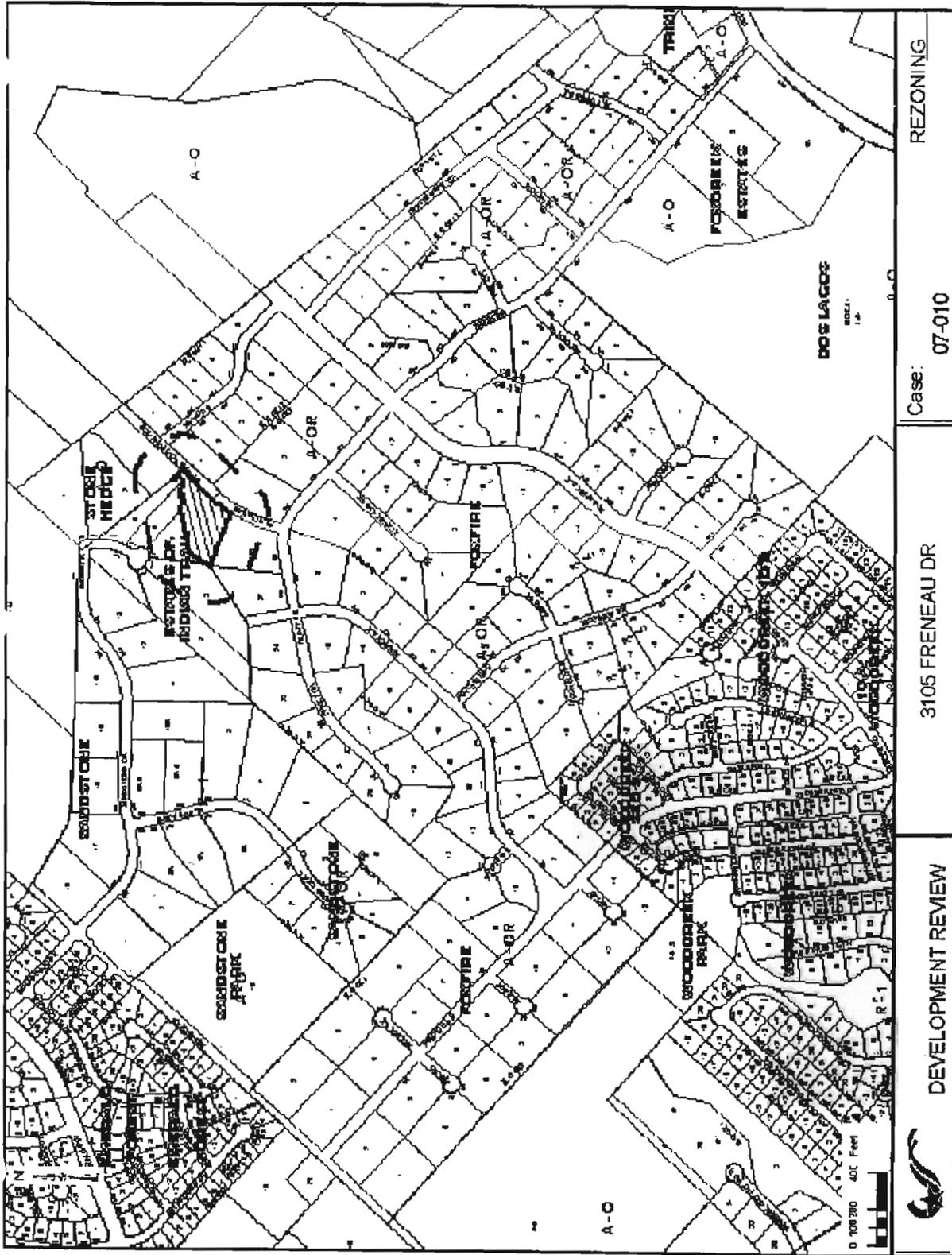
Thence along the northwestern right of way line of the platted Freneau Dr., which is a curve to the left with a central angle 08°38'09", radius of 800.00', chord of 120.46', chord bearing S 40°32'43" W, and a length of 120.58' to the POINT OF BEGINNING, containing 1.996-acres of land, more or less.

NOTE: Bearings were obtained from the plat of Foxfire – Phase I (351/435).



**Christian A. Galindo, P.E. # 53425, R.P.L.S. # 4473
January 17, 2007**

EXHIBIT "B"



REZONING

Case: 07-010

3105 FRENEAU DR

DEVELOPMENT REVIEW

52

**March 22, 2007
Regular Agenda
Spring Creek Business Park**

To: Glenn Brown, City Manager

From: Terry L. Childers, Deputy City Manager

Agenda Caption: Presentation, possible action, and discussion regarding approval of a Memorandum of Understanding to sell Spring Creek Business Park tract.

Recommendation(s): Council consideration of the Memorandum of Understanding as conditions to sell the Spring Creek Business Park tract.

Summary: The City has been approached to consider selling the Spring Creek Business Park tract (net acreage 281) to St Joseph Health System to develop the tract as a medical district related development. City staff has engaged in discussions with St Joseph representatives about the potential sale and have produced the attached Memorandum of Understanding for Council consideration. Upon approval of the MOU by both governing bodies, formal documents will be drawn for final Council approval.

Budget & Financial Summary: None.

Attachments: Memorandum of Understanding forthcoming prior to Council Meeting