

# CITY OF KYLE

## Planning & Zoning Commission



Kyle City Hall  
100 W. Center Street

Notice is hereby given that the governing body of the City of Kyle, Texas will meet at 6:30 PM on October 22, 2013, at Kyle City Hall 100 W Center St for the purpose of discussing the following agenda.

**NOTE:** There may be a quorum of the City Council of Kyle, Texas present at the meeting who may participate in the discussion. No official action will be taken by the City Council members in attendance.

Posted this the 18<sup>th</sup> day of October prior to 6:30 PM.

1. Call Meeting to Order
2. Roll Call
3. Citizen Comments
4. Minutes: Planning and Zoning Commission Meeting -- September 24, 2013
5. Election of Chair and Vice-Chair.
6. Appointing a Planning and Zoning Liaison to the Long Range Planning Committee.
7. CONSENT AGENDA:
  - A. The Villas at Creekside II – Preliminary Plan (PP-13-007)  
5.751 acres; 24 Townhome Lots, 1 Retail Service Lot  
Owner: Greg Lahr c/o Creative Financial Solutions  
Agent: Gary Whited  
  
*(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004, 12.06.04 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue through the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Statutory disapproval in order to meet statutory requirements under these sections shall not bias future consideration of this application by the Planning and Zoning Commission).*
  - B. Bunton Creek Subdivision 613 (FP-13-014)  
14.514 acres; 56 Single Family Lots  
Located off Bunton Lane and Twin Estates Drive  
Owner: Qualico KP, L.L.C.  
Agent: Geoff Guerrero, Carlson, Brigance & Docring, Inc.

*(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004, 12.06.04 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue through the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Statutory disapproval in order to meet statutory requirements under these sections shall not bias future consideration of this application by the Planning and Zoning Commission).*

- C. Kensington Trails Section 3A – Amended Plat of Lots 24-28, Blk C (AFP-13-008)  
1.27 acres; 6 Lots  
Located off of Bebee Road between Kensington Blvd and Bloomsbury Drive  
Owner: Kensington Place Ventures, Ltd.  
Agent: Hugo Elizondo, Jr., P.E., Cuatro Consultants

*(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004, 12.06.04 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue through the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Statutory disapproval in order to meet statutory requirements under these sections shall not bias future consideration of this application by the Planning and Zoning Commission).*

- D. Foster Place Section Three (AFP-13-009)  
3.352 acres; 3 Lots  
Located off of Mathias Road and Foster Place  
Owner: Douglas E. Crumley  
Agent: Bruce King, Prosper Properties

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## **CONSIDER AND ACT ON:**

### **8. VARIANCE REQUEST:**

- A. Consider a request by Texas Cinema for a variance to the maximum parking requirements in Chapter 53, Zoning, Article II, Division 1, and Section 53-33 for proposed entertainment facility to be located at 3200 Kyle Crossing (Kyle Towne Center).
- B. Consider a request by Texas Cinema for a variance Section 53-992. To allow a reduction in required trees for proposed entertainment facility to be located at 3200 Kyle Crossing (Kyle Towne Center).

- C. Consider a request by DDR DB Kyle LP (Kyle Marketplace Family Entertainment Center) for a variance to the maximum parking requirements in Chapter 53, Zoning, Article II, Division 1, and Section 53-33 for an entertainment facility located at 5492 Kyle Center Drive.
- D. Consider a request by the Friends of the Library (Kyle Library Thrift Shop -- 100 Lockhart Street):
- Landscaping - for an exemption from the 15% of total lot area required to be devoted to landscaping.
- E. Consider a request by the Friends of the Library (Kyle Library Thrift Shop -- 100 Lockhart Street):
- Parking - to provide for an alternative parking plan.
- F. Consider a request by the Friends of the Library (Kyle Library Thrift Shop -- 100 Lockhart Street):
- Sidewalk – variance from required construction for a CBD-2 zoned property
9. ZONING:
- A. Consider a request by Ruben & Rachel Guerrero to assign original zoning to approximately 0.485 acres from "AG" Agriculture to "RS" Retail Service on property located at 1101 East FM 150. (Z-13-015)
- *Public Hearing and Recommendation to City Council*
- B. Consider a request by Dale & Lanette Lowden to rezone approximately 4.426 acres from "R-1" Single Family to "W" Warehouse District on property located at 1108 Porter Street. (Z-13-016)
- *Public Hearing and Recommendation to City Council*
- C. Consider a request by Blake & Ramona Brown to rezone approximately 2.378 acres from "R-1" Single Family to "W" Warehouse District on property located at 1108-C Porter Street. (Z-13-017)
- *Public Hearing and Recommendation to City Council*
- D. Consider a request by Kyle Volunteer Fire Department (Hays County ISD#5 – Kyle Fire Department) to rezone approximately 0.075 acres from "R-1" Single Family to "CBD-2" Central Business District on property located at 108 S. Burleson Street. (Z-13-018)
- *Public Hearing and Recommendation to City Council*
10. Staff Report - November & December meeting dates

11. Adjourned

\*Per Texas Attorney General Opinion No. JC-0169; Open Meeting & Agenda Requirements, Dated January 24, 2000: The permissible responses to a general member communication at the meeting are limited by 551.042, as follows: "SEC.551.042. Inquiry Made at Meeting. (a) If, at a meeting of a government body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by the subchapter, the notice provisions of this subchapter, do not apply to:(1) a statement of specific factual information given in response to the inquiry; or (2) a recitation of existing policy in response to the inquiry. (b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

Certificate

I certify that the above notice of the Planning and Zoning Commission Meeting of the City of Kyle, Texas was posted on the bulletin board of the City of Kyle City Hall, 100 W. Center St, Kyle, Texas. This notice was posted on:

Sofia Nelson, Director of Planning 10/18/13  
Sofia Nelson, Director of Planning (Month, Day, Year)

**REGULAR MEETING OF THE  
PLANNING AND ZONING COMMISSION**

The Planning and Zoning Commission of the City of Kyle, Texas met in regular session September 24, 2013 at 6:30 p.m. at Kyle City Hall, with the following persons present:

|                                    |                   |                 |                    |          |
|------------------------------------|-------------------|-----------------|--------------------|----------|
| Commissioner Cicely Kay            | Lila Knight       | John Aultman    | Annette Diver      | M. Shore |
| Commissioner Alfred Zambrano       | Lou Obdyke        | Kelly Telavera  | Gene Harris        |          |
| Commissioner Mike Fulton           | Calbert Marcantel | Paula Hamilton  | Wade Todd          |          |
| Chairman Dan Ryan                  | Breann Canady     | Greg Bennett    | Hayden Cross       |          |
| Vice-Chair Pat Fernandez           | Nell Moore        | Michael Watkins | Jennifer Cross     |          |
| Commissioner Mike Rubsam           | Charles Thompson  | Abby Hurst      | Capt. Hernandez    |          |
| Commissioner Michele Christie      | Andrew Rivers     | Robert Dorr     | Brian Van De Walle |          |
| Director of Planning, Sofia Nelson | Bridgett Tait     | Eric Beal       | Hugo Elizondo, Jr. |          |

***CALL MEETING TO ORDER***

Chairman Ryan called the meeting to order at 6:30 p.m.

***ROLL CALL OF BOARD***

Chairman Ryan called for roll call. Commissioners' Kay, Zambrano, Fulton, Ryan, Fernandez, Rubsam and Christie were present. No one was absent.

***CITIZENS COMMENTS***

Chairman Ryan opened the citizens comment period at 6:30 pm and called for comments on items not on the agenda or posted for public hearing. There were no comments. Chairman Ryan closed the citizens comment period at 6:31 pm.

***CONSENT AGENDA:***

**KYLE 150/I-35 SUBD REPLAT OF LOTS 2-6 TO ESTABLISH LOTS 2A, 3A, 4A, 5A, 6A, 7A, 8A & 9A, 43.341 ACRES; 7 COMMERCIAL LOTS LOCATED FM 150 EAST AND IH-35 NORTHBOUND FRONTAGE.**

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**KYLE 47 SUBDIVISION – CONCEPT PLAN 42.53 ACRES; 130 LOTS LOCATED OFF OF REBEL DRIVE JUST NORTH OF SILVERADO SUBDIVISION.**

*(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004, 12.06.04 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue through the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Statutory disapproval in order to meet statutory requirements under these sections shall not bias future consideration of this application by the City Council).*

**KYLE MARKETPLACE SECTION AMENDED PLAT OF REPLAT OF LOTS 1-4, BLOCK F 7.9 ACRES; 6 LOTS LOCATED NEAR THE SOUTHEAST CORNER OF PHYSICIANS WAY AND KYLE CENTER DRIVE.**

*(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004, 12.06.04 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue through the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Statutory disapproval in order to meet statutory requirements under these sections shall not bias future consideration of this application by the City Council).*

Commissioner Fulton moved to approve the consent agenda. Commissioner Christie seconds the motion. All votes aye. Motion carried.

**CONSIDER AND ACT ON:**

**CONCEPT PLAN:**

**CREEKSIDE AT BUNTON CREEK, 98.104 ACRES; 320 LOTS LOCATED OFF OF BUNTON LANE JUST EAST OF TWIN COVE.**

Commissioner Fulton moved to approve the concept plan contingent that the rezone is approved by City Council. Commissioner Rubsam seconds the motion. All votes aye. Motion carried.

**CONDITIONAL USE PERMIT/CONDITIONAL USE OVERLAY:**

**CONSIDER A REQUEST BY DDR DB KYLE LP (KYLE MARKETPLACE FAMILY ENTERTAINMENT CENTER) FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A 74,714 SQUARE FOOT BUILDING LOCATED WITHIN THE IH-35 OVERLAY DISTRICT.**

Chairman Ryan opened the public hearing at 6:37 p.m. and called for comments for or against the request by DDR DB Kyle LP (Kyle Marketplace Family Entertainment Center). There were no comments. Chairman Ryan closed the public hearing at 6:37 p.m.

**ZONING:**

**CONSIDER A REQUEST BY KARLYN ELLIS TO REZONE APPROXIMATELY 3.254 ACRES FROM 'R-1' SINGLE FAMILY TO 'RS' RETAIL SERVICE ON PROPERTY LOCATED AT 705, 709 & 711 N. OLD HIGHWAY 81. (Z-13-010)**

Chairman Ryan opened the public hearing at 6:43 p.m. and called for comments for or against the request by Karlyn Ellis. There were no comments. Chairman Ryan closed the public hearing at 6:44 p.m.

Commissioner Fulton moved to approve the request by Karlyn Ellis to rezone the property located at 705 & 709 N. Old Hwy 81 to 'RS' Retail Service and rezone property located at 711 N. Old Hwy 81 to 'CC' Community Commercial. Commissioner Christie seconds the motion. All votes aye. Motion carried.

**CONSIDER A REQUEST BY TY AND MONICA DAVIDSON TO REZONE APPROXIMATELY .2479 ACRES FROM 'R-1' SINGLE FAMILY TO 'R-1-A' SINGLE FAMILY ATTACHED ON PROPERTY LOCATED AT 400 S. BURLESON ST. (Z-13-011)**

Chairman Ryan opened the public hearing at 6:40 p.m. and called for comments for or against the request by Ty and Monica Davidson. There were no comments. Chairman Ryan closed the public hearing at 6:49 p.m.

Commissioner Fulton moved to approve the request by Ty and Monica Davidson to rezone the property located at 400 S. Burlison St. Commissioner Kay seconds the motion. All votes aye. Motion carried.

**CONSIDER A REQUEST BY BEAR RIVER LIMITED, LLP. TO REZONE APPROXIMATELY 35.761 FROM 'R-1-2' SINGLE FAMILY RESIDENTIAL 2 TO 'R-1-A' SINGLE FAMILY ATTACHED ON PROPERTY LOCATED OFF OF BUNTON LANE JUST WEST OF TWIN COVE. (Z-13-012)**

Chairman Ryan opened the public hearing at 6:52 p.m. and called for comments for or against the request by Bear River Limited, LLP. There were no comments. Chairman Ryan closed the public hearing at 6:52 p.m.

Commissioner Fulton moved to approve the request by Bear River Limited, LLP to rezone the property located off of Bunton Lane just east of Twin Cove. Commissioner Rubsam seconds the motion. All votes aye. Motion carried.

**CONSIDER A REQUEST BY ALAN AND SHARON LOWDEN TO REZONE APPROXIMATELY 3.67 ACRES FROM 'R-1' SINGLE FAMILY TO 'R-1-T' RESIDENTIAL TOWNHOME ON PROPERTY LOCATED AT THE NORTHWEST CORNER OF PORTER AND COCKERHAM. (Z-13-011)**

Chairman Ryan opened the public hearing at 6:59 p.m. and called for comments for or against the request by Alan and Sharon Lowden. There were no comments. Commissioner Ryan closed the public hearing at 6:59 p.m.

Commissioner Rubsam moved to approve the request by Alan and Sharon Lowden to rezone the property located at the northwest corner of Porter and Cockerham. Commissioner Christie seconds the motion. All votes aye. Motion carried.

**CONSIDER A REQUEST BY FISERV ISS FBO GREGORY LAHR TO REZONE APPROXIMATELY 3.24 ACRES FROM 'RS' RETAIL SERVICE DISTRICT TO 'R-1-T' RESIDENTIAL TOWNHOME ON PROPERTY LOCATED AT 101 CREEKSIDE TRAIL. (Z-13-014)**

Chairman Ryan opened the public hearing at 7:02 p.m. and called for comments for or against the request by FISERV ISS FBO GREGORY LAHR. There were no comments. Commissioner Ryan closed the public hearing at 7:02 p.m.

Vice-Chair Fernandez moved to approve the request to rezone the property located at 101 Creekside Trail. Commissioner Christie seconds the motion. Motion carried.

**CONSIDER A REQUEST BY PGI, INVESTMENT, LLC TO REZONE APPROXIMATELY 47.74 ACRES FROM AGRICULTURE 'AG' TO A PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT 'PUD' WITH A BASE ZONING DESIGNATION OR RETAIL SERVICES 'RS' AND MULTI-FAMILY RESIDENTIAL 'R-3-3' ON PROPERTY LOCATED AT 24800 S. IH-35 (THE PROPERTY IS BOUNDED BY YARRINGTON ROAD ON THE SOUTH, I-35 ACCESS ROAD ON THE EAST AND POST ROAD ON THE WEST).**

Chairman Ryan opened the public hearing at 7:19 p.m. and called for comments for or against the request by PGI Investment, LLC. The following people spoke in opposition to the proposed rezone request: Lou Obdyke, Calbert Marcantel, Breann Canady, Nell Moore, Charles Thompson, Andrew Rivers, Bridget Tait, M. Shore, John Aultman, Kelly Telavera, Lila Knight, Paula Hamilton, Greg Bennett, Michael Watkins, Abby Hurst, Robert Doerr, Eric Beal, and Annette Diver. Gene Harris spoke in favor of the PUD request. Commissioner Ryan closed the public hearing at 8:00 p.m.

Commissioner Fulton moved to approve the request by PGI Investment, LLC with the condition that they remove the parking variance from R-3-3 and remove the signs. Commissioner Rubsam seconds the motion. Roll Call Vote: Commissioner's Kay and Zambrano vote nay. Commissioner's Fulton, Ryan, Fernandez, Rubsam and Christie vote aye. Motion carried.

### *ADJOURN*

With no further business to discuss, Commissioner Fulton moved to adjourn. Commissioner Christie seconds the motion. All votes aye. Motion carried.

The Planning & Zoning Meeting adjourned at 8:47 p.m.

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Amelia Sanchez, City Secretary

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Dan Ryan, Chairman





## MEMO

To: Planning and Zoning Commission

From: Sofia Nelson, Director of Planning

Date: October 18, 2013

Re: Request to allow a variance to maximum allowed parking on a site – Texas Cinema (Items 8A and 8B)

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### Background

The subject property is approximately 12 acres in size and is located east of Kyle Crossing (aka Dry Hole Road) and west of IH-35 and north of Kohlers Crossing. The applicant is proposing the development of a 73,700 square foot Family Entertainment Center. The applicant is seeking the following two variances:

- A reduction in the required amount of trees from 266 to 177
- A variance to the maximum amount of parking for a site to allow to allow a maximum parking of 753 parking spaces rather than the maximum allowed of 442 spaces

### Staff Analysis

#### Parking

The property is zoned Retail Services and is a portion of a platted lot. Due to the size of the lot the property is exempt from platting. The city code parking ordinance identifies a minimum parking requirement that is based off of the zoning of the subject property. The retail services zoning district requires 1 space for each 250 square feet of gross floor area, with a maximum number of parking spaces for a general retail, commercial, office or industrial use area shall not exceed 150 percent of the parking required.

In attached application the applicant has identified reasons for the required variance.

The following are reasons why parking maximums are established:

- Increase tax revenue through redevelopment of parking lots

- Improve pedestrian safety, or
- Reduce stormwater runoff and heat island impacts of a parking lot

The code identifies the Planning and Zoning Commission as the final authority for site plan parking variances. Additionally the parking ordinance identifies off-street and on-street parking shall be adequate to meet the anticipated needs of the development and shall be determined using standards outlined for special exceptions and with a view towards providing adequate parking and carrying out the general scheme of the parking requirements. The special exception provisions are as follows:

*Authorize a variance from the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, and where the topography or unusual shape of the lot and regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.*

### **Landscaping**

As stated above the applicant is requesting a reduction in the required amount of trees from 266 to 177. The landscape ordinance allows for exceptions to the ordinance to require a lesser amount of landscaping if the aesthetic, buffering and environmental intent of this chapter is met, and the reduction of the landscape area results in the preservation of natural features having comparable value to the reduced landscape requirements. The proposed landscape plan does identify an increase in the number of shrubs and total landscape area from the required 79,947 square feet of landscaping to 117,896 square feet of landscaping and an increase in shrubs from the required 532 shrubs to 730 provided.

### **Staff Findings**

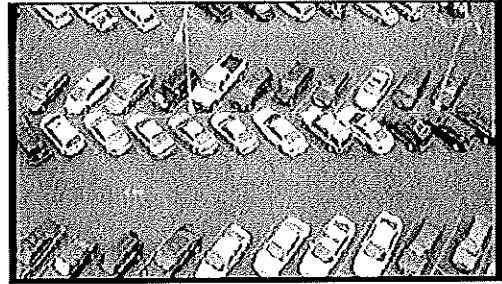
Staff has reviewed the request and has made the following findings:

- The current parking ordinance does not differentiate between different uses within the Retail Services zoning district for the exception of cafes, restaurants, taverns, night clubs, and similar uses.
- While the property is not subject to the I-35 Overlay development standards the overlay ordinance does recommend against large parking lots by breaking up the parking lots into "rooms of parking". There appears to be adequate space for additional landscaping to break up the parking lot while also providing for an adequate amount of parking.
- There does not appear to be topography or the shape of lot would impose an unreasonable hardship upon the use of the lot.
- Staff believes that additional work can be done to improve the parking lot layout to allow for an increased number of parking spaces while promoting the intent of the landscaping ordinance and the stated goals of the urban design plan of creating an enhanced destination through improved landscaping.
- While the applicant has provided for additional landscaping in some areas of the site it appears, based on the information provided, that additional site work is needed to analyze

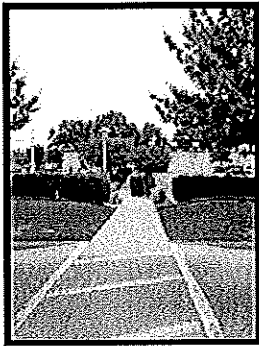
opportunities within the parking lot to provide for additional landscaping. Below is the guidance provided within the I-35 Overlay Development Requirements. While staff cannot require full compliance with the overlay development standards, if the applicant is seeking a variance it is reasonable to request the applicant to take steps towards compliance.

**(h) Parking lots**

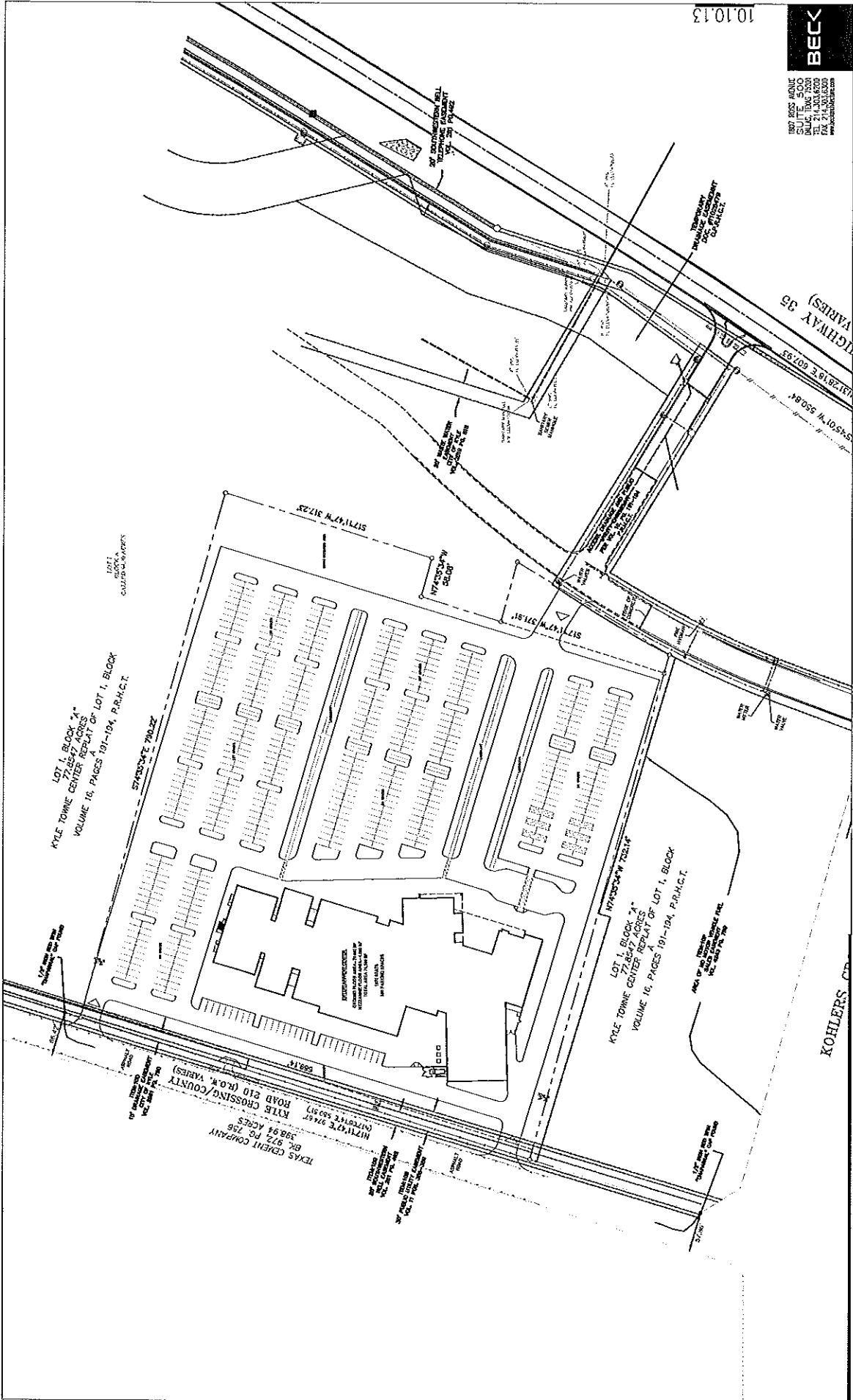
(1) Large parking lots must be visually and functionally segmented into smaller lots with no more than 250 parking spaces per parking area. For every parking area a minimum of a 15 foot landscape median/divider shall be installed to help break up "rooms" of large parking fields. These medians shall contain pedestrian walkways to offer safe, marked routes between parking spaces and building entries.



Not this



Do this



10.10.13

**BECK**  
 1807 BOSS ABLINE  
 SUITE 500  
 DALLAS, TEXAS 75201  
 TEL: 214.303.3300  
 FAX: 214.303.3300  
 www.beckinc.com

SCALE: 1/128"=1'-0"

KYLE, TEXAS

KYLE EVO ENTERTAINMENT

LOT 1, BLOCK 2,  
 KYLE TOWNE CENTER REPLAT OF LOT 1, BLOCK  
 VOLUME 16, PAGES 191-194, P.R.H.C.T.  
 100%  
 IMPROVEMENTS  
 COMPLETE

LOT 16, BLOCK 2,  
 KYLE TOWNE CENTER REPLAT OF LOT 1, BLOCK  
 VOLUME 16, PAGES 191-194, P.R.H.C.T.  
 100%  
 IMPROVEMENTS  
 COMPLETE

TEXAS GEM COMPANY  
 DR. 972, P.O. 758  
 388.91 ACRES  
 (INT'Y' 0247)  
 KYLE CROSSING/COUNTY  
 ROAD 210 (R.O.M. VARIES)

KOHLERS CD

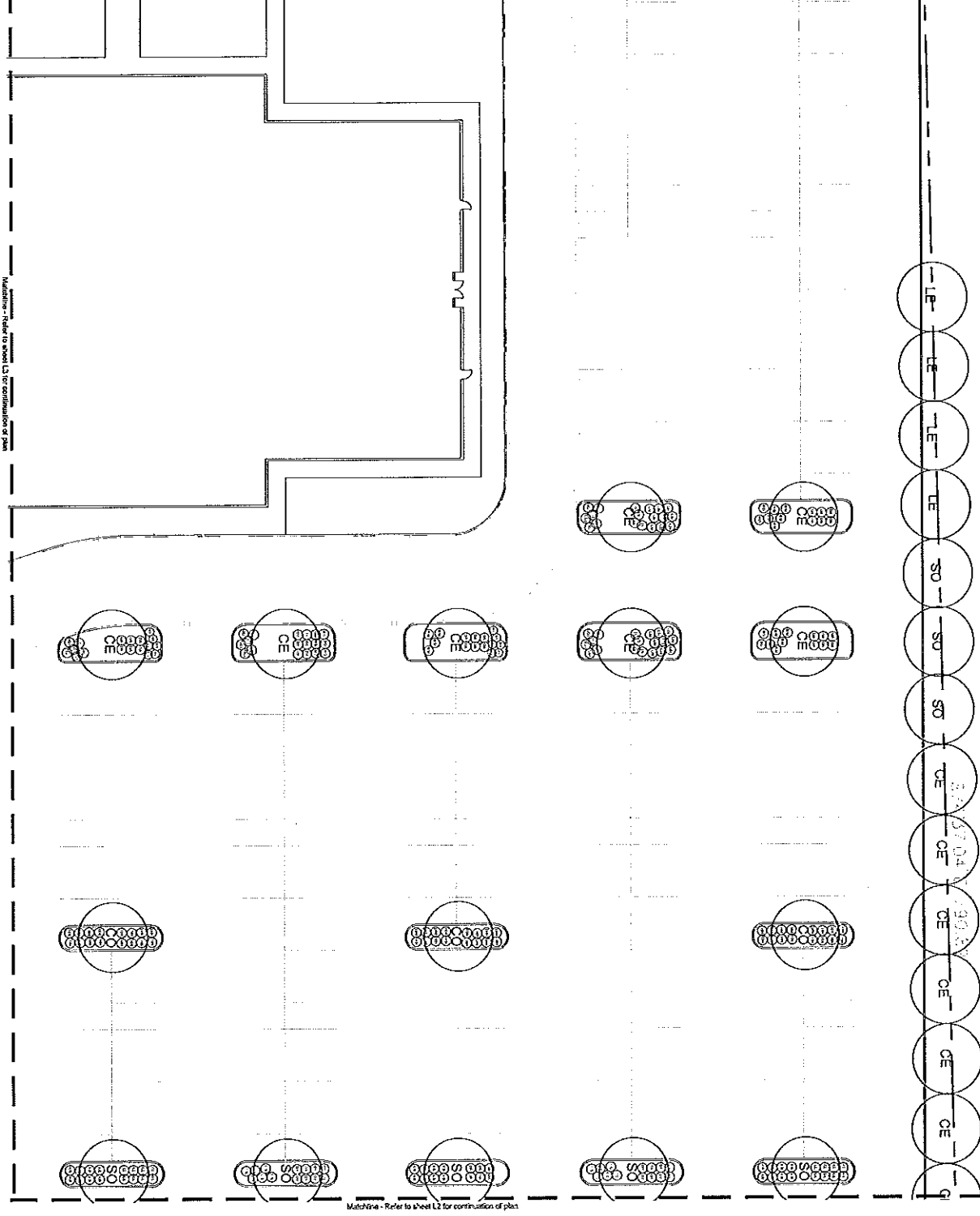
**integration studio**  
 John F. Murphy, ASLA  
 1201 S. ...  
 ...  
 ...



**SHOWBIZ**  
**TEXAS CINEMA**  
 KYLE CROSSING & I-35  
 KYLE, TX

**LANDSCAPE PLAN**

|          |          |
|----------|----------|
| DESIGNER | JFM      |
| CHECKED  | JFM      |
| DATE     | 10/20/17 |
| PROJECT  | SHOWBIZ  |
| SHEET    | L-1      |



**SHRUB LEGEND**

|    |                 |    |                    |
|----|-----------------|----|--------------------|
| RF | Red Yucca       | MD | Madison Daley Sage |
| DT | Cherry Yucca    | DL | Claret Yucca       |
| YR | Yellow Yucca    | IS | Island Sage Oak    |
| DB | Dark Blue Yucca | DH | Cherry Hill Yucca  |
| BY | Blue Yucca      | RO | Rosemary           |
| HT | Heavenly Yucca  | CO | Cherry Oak         |
| NO | North Yucca     | SO | Shrimp Yucca       |
| PK | Pink Yucca      | KS | Kentucky Yucca     |
| PK | Pink Yucca      | DM | Dark Yucca         |

**Ornamental Trees**

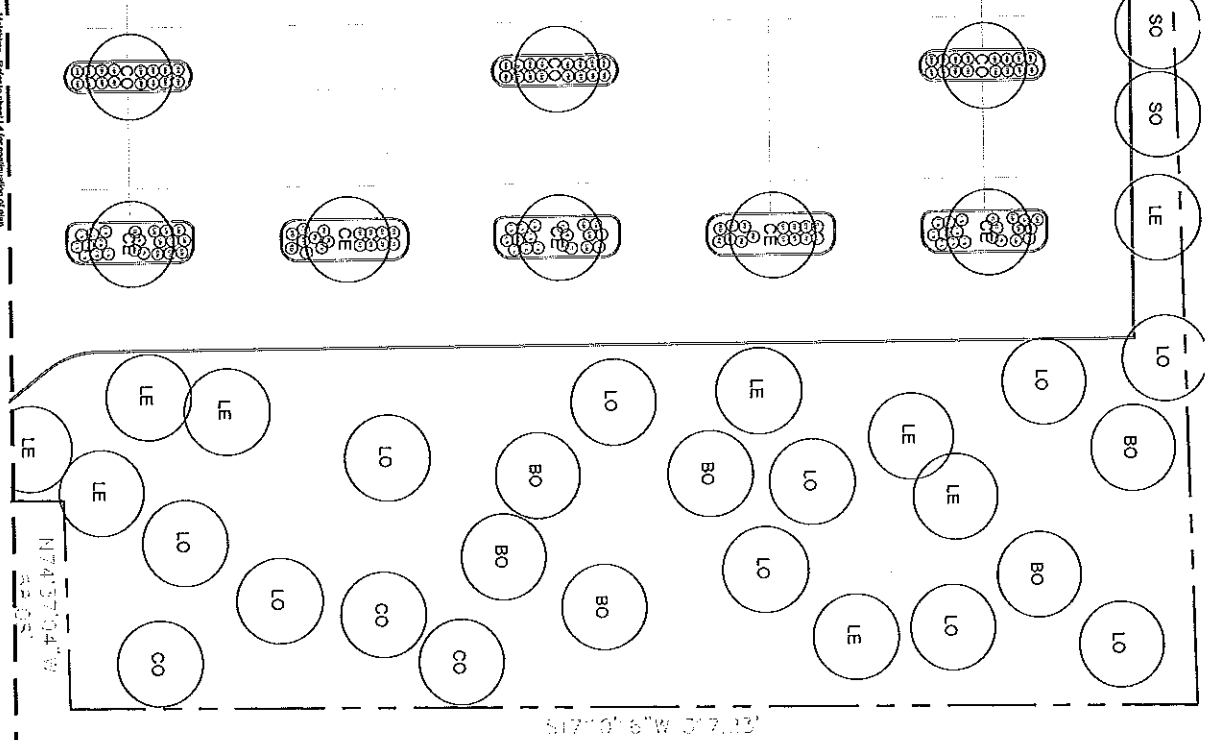
|    |            |    |      |    |         |
|----|------------|----|------|----|---------|
| CO | Cherry Oak | TR | Tree | CR | Cypress |
| SO | Shrimp Oak |    |      |    |         |
| LE | Leaves     |    |      |    |         |

**LANDSCAPE NOTES**

1. Plant materials shall be installed as specified by all IT listed quantities. Plants to be installed shall be in a well established nursery and shall be of a size and quality to meet the requirements of the project. The contractor shall be responsible for the selection and procurement of all plant materials. The contractor shall be responsible for the selection and procurement of all plant materials. The contractor shall be responsible for the selection and procurement of all plant materials.
2. Install a layer of shredded hardwood mulch to all planting beds.
3. Install a layer of shredded hardwood mulch to all planting beds.
4. The Contractor shall provide a 2" layer of mulch to all planting beds. The Contractor shall be responsible for the selection and procurement of all plant materials. The contractor shall be responsible for the selection and procurement of all plant materials. The contractor shall be responsible for the selection and procurement of all plant materials.

Matchline - Refer to sheet L2 for continuation of plan

Matchline - Refer to sheet L2 for continuation of plan



**TREE LEGEND**

- Canopy Trees**
- LO Umbrella
  - CE Cedar Elm
  - MO Magnolia Elm
  - BO Bur Oak
  - CO Overcup Oak
  - SO Shreve Oak
  - LE Lambert Elm
- Ornamental Trees**
- TV Tree Vase
  - OR Overcup

**SHRUB LEGEND**

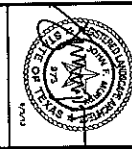
- NY Yucca
  - CC Cactus
  - WM Deer Vase Wyle
  - DM Dog Mallow
  - OH Out Hanger
  - NEL New York Nettle
  - PS Pink Shrub
  - MB Maiden Bush Bop
  - DA Deer Antler
  - IS Island Sea Olive
  - DH Deer Horn Handcuffs
  - CO Coney
  - CR Crabapple
  - PV Pavoise
  - HR Horseshoe Rose
  - OH Old Glory
- Note: Refer to sheet L-1 for Plant List, Planting Details, Calculations, and Notes.*

**LANDSCAPE NOTES**

1. Site is proposed with an irrigation system controlled by an ET based controller. Plants to be irrigated. Irrigation to be rotary and spray nozzle. Flow method, master valve and emitters/sensors will be installed.
2. Install a 1" layer of crushed hardwood mulch to all planting beds.
3. Install a 1" layer of bedding between all shrub beds and grass areas and between dispersed grasses and tree areas.
4. The Client, landscaper and/or plant supplier, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained for a period and comply with the following: The shall include, but not be limited to, watering, fertilizing, pruning, weeding, and other maintenance. All plant materials shall be maintained in a healthy and growing condition as appropriate for the season of the year. Plant materials shall be replaced with a like or better plant material if any plant material dies or becomes dormant within 90 days of the date of installation. The landscaper shall be responsible for the maintenance of all landscaping for a period of 18 months from the date of installation. The landscaper shall be responsible for the maintenance of all landscaping for a period of 18 months from the date of installation. The landscaper shall be responsible for the maintenance of all landscaping for a period of 18 months from the date of installation.

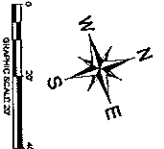
**integration studio**  
 John F. Murphy, ASLA  
 2024 E. 12th Street, Suite 100  
 Dallas, TX 75202  
 214.742.1234  
 www.integrationstudio.com

**CLAY MOORE ENGINEERING**  
 1302 DRESS BARNES RD SUITE 100  
 COLLEGE PARK, TX 77568  
 PHONE 281.291.8100  
 FAX 281.291.8101  
 www.claymoore.com

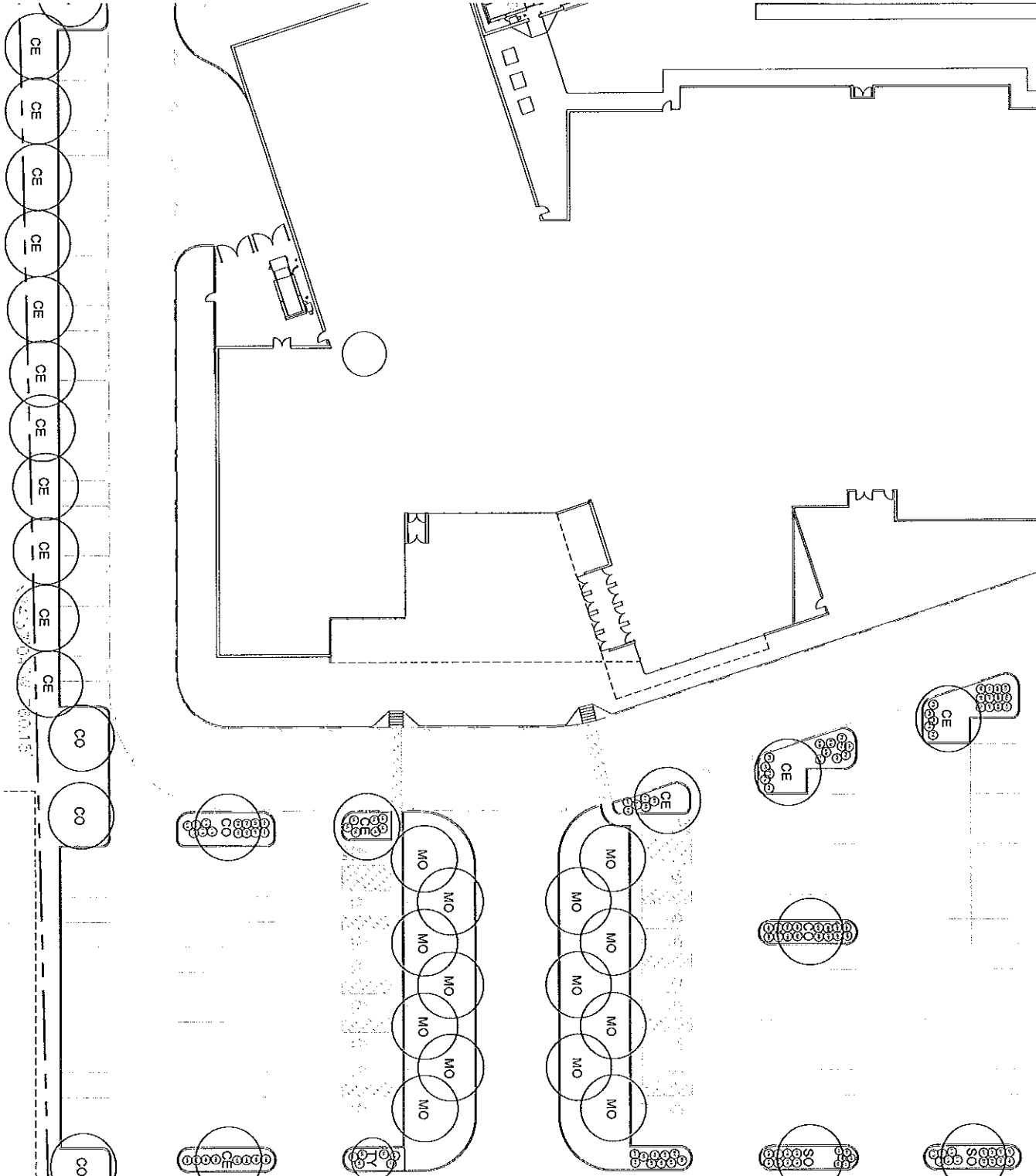


**SHOWBIZ TEXAS CINEMA**  
 KYLE CROSSING & I-35  
 KYLE, TX

**LANDSCAPE PLAN**



|             |      |
|-------------|------|
| DESIGNED BY | DATE |
| CHECKED BY  | DATE |
| DRAWN BY    | DATE |
| SCALE       |      |
| SHEET       | L-2  |



**Integration studio**  
 Landscape Architecture • Architecture • Interiors • Product Development  
 John F. Murphy, ASLA  
 2005 S. Lamar Blvd., Suite 110  
 Austin, TX 78745  
 512.476.1111  
 www.integrationstudio.com

**TREE LEGEND**

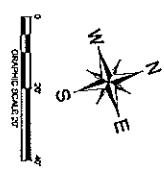
|              |                 |               |            |
|--------------|-----------------|---------------|------------|
| Canopy Trees | CO              | Chickadee Oak |            |
| LO           | Live Oak        | SC            | Burnt Oak  |
| CE           | Cedar Elm       | LE            | Linden Elm |
| MO           | Mockingbird Oak |               |            |
| BO           | Bur Oak         |               |            |

**SHRUB LEGEND**

|     |                |    |                   |
|-----|----------------|----|-------------------|
| NY  | Yucca          | MD | Mexican Blue Sage |
| CE  | Center         | DA | Dwarf Anemone     |
| YAK | Yucca          | BA | Burnt Anemone     |
| CO  | Chickadee Oak  | DR | Dwarf Redbud      |
| DO  | Dwarf Oak      | CP | Cornflower        |
| DL  | Dwarf Lavender | PA | Parrotia          |
| OL  | Old Lady       | PC | Peonies           |
| NOL | New Lady       | RF | Red Flower        |
| PL  | Peace Lily     | DM | Dwarf Mistletoe   |

**LANDSCAPE NOTES**

- Site to be irrigated with automatic system controlled by an in-ground timer. Irrigation system to be installed by a qualified contractor. Irrigation system to be installed by a qualified contractor. Irrigation system to be installed by a qualified contractor.
- Install a layer of amended topsoil (6 inches) to all planting beds.
- Install a layer of amended topsoil (6 inches) to all planting beds.
- The Owner, landscaper and other staff shall be responsible for the maintenance of all landscaping. All required landscaping shall be maintained until the plants are established. All required landscaping shall be maintained until the plants are established. All required landscaping shall be maintained until the plants are established.



**LANDSCAPE PLAN**

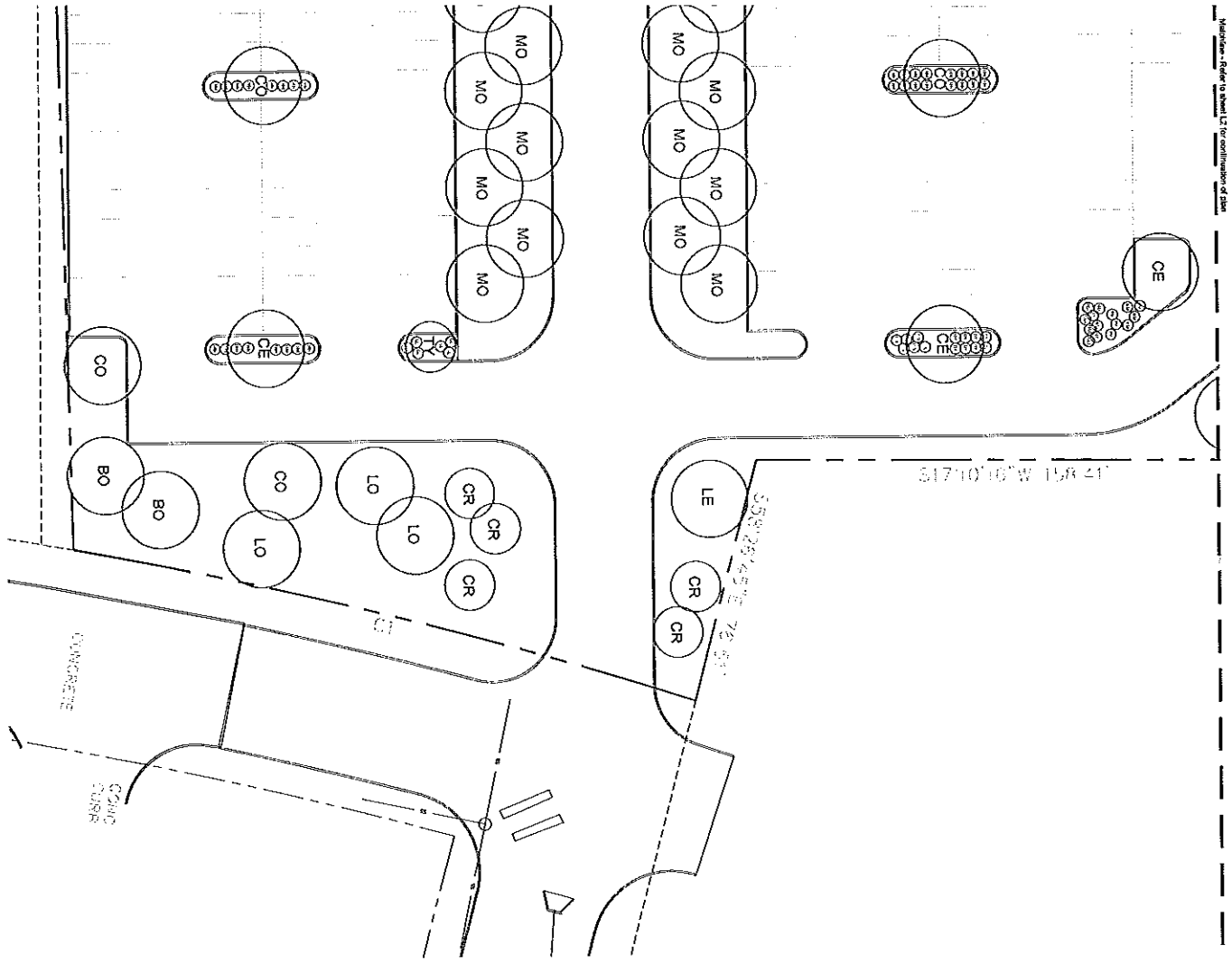
**SHOWBIZ TEXAS CINEMA**  
 KYLE CROSSING & 1-35  
 KYLE, TX

SCALE: 1" = 20'

DATE: 11/15/11

SHEET: L-3

Continuation - Refer to sheet L2 for continuation of data



**TREE LEGEND**

|                         |                |                  |
|-------------------------|----------------|------------------|
| <b>Canopy Trees</b>     | LO Live Oak    | CO Cottonwood    |
| CE Cedar Elm            | SO Spanish Oak | LE Loblolly Pine |
| MO Mossy Oak            | BO Bur Oak     |                  |
| <b>Ornamental Trees</b> | TY Texas Yucca | CR Crape Myrtle  |

**SHRUB LEGEND**

|                         |                   |
|-------------------------|-------------------|
| RY Red Yucca            | MO Mossy Oak      |
| CV Dwarf Veitch         | DA Dwarf Nolina   |
| CC Camellia             | DA Dwarf Nolina   |
| VM Dwarf Yucca          | DA Dwarf Nolina   |
| TM Dwarf Yucca          | DA Dwarf Nolina   |
| HY Hydrangea            | CB Cherry Begonia |
| QU Quilnertia           | PV Pencil Pine    |
| NOL New Orleans Jasmine | NK Nandina        |
| PN Pink Dogwood         | ON Onychium       |

Note: Refer to sheet L3 for Plant List, Planting Details, Specifications, and Notes.

**LANDSCAPE NOTES**

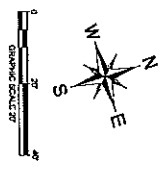
1. Site to include with automatic system controlled by an ET based controller. Irrigate to 2" depth minimum. Perimeter to be watered and spray zones proper amount. Irrigate every 2nd and 4th days.
2. Install 4" steel edging between all shrub beds and grass areas and between disconnected granite and bed areas.
3. The Owner, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be installed by the end of the project. Irrigation, weeding, watering, and other maintenance shall be the responsibility of the tenant. All plant material shall be delivered to the site in good condition and shall be installed in accordance with the manufacturer's planting instructions. All plant material shall be installed within 10 days of the end of the project. The contractor shall be responsible for the maintenance of the landscaping until the end of the project. The contractor shall be responsible for the maintenance of the landscaping until the end of the project.

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 Landscape Architecture - Architecture, Planning, Interior Architecture, Design  
 John F. Murphy, ASLA  
 2024 L.L. - Licensed  
 2024 L.L. - Licensed  
 2024 L.L. - Licensed  
 2024 L.L. - Licensed

**Clay Moore Engineering**  
 1800 West Loop West, Suite 1000, Houston, TX 77056  
 Phone: 713.261.1000  
 Fax: 713.261.1001  
 www.claymoore.com

SHOWBIZ  
TEXAS CINEMA  
KYLE CROSSING & I-35  
KYLE, TX

LANDSCAPE PLAN



|             |            |
|-------------|------------|
| DESIGNED BY | JFM        |
| DRAWN BY    | JFM        |
| CHECKED BY  | JFM        |
| DATE        | 08/20/2013 |
| SHEET       |            |
| L4          |            |



# City of Kyle, Texas LANDSCAPE CALCULATIONS

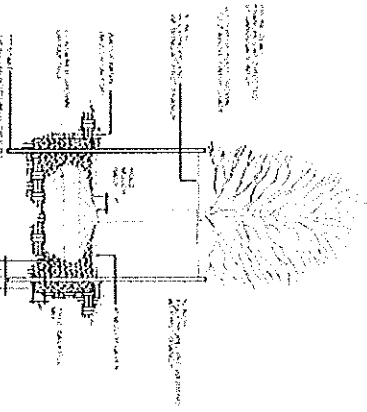
| TOURIST AREA           | 500, 150 SF   | REQUIRE   | PROVIDED                   |
|------------------------|---------------|-----------|----------------------------|
| LANDSCAPE AREA         | 150m Squaring | 70,000 SF | 177,000 SF (256%)          |
| ONE TREES AND SHRUBS   |               | 200 TREES | 2 PER 100 SF               |
| 10% REQUIRED           |               | 200 TREES | 177 TREES                  |
| PROVIDED AREA          |               | 200 TREES | 177 TREES (88.5%)          |
| PLANTING COST ESTIMATE |               |           | PLANTING ALONG WITH DESIGN |

## MAINTENANCE NOTE

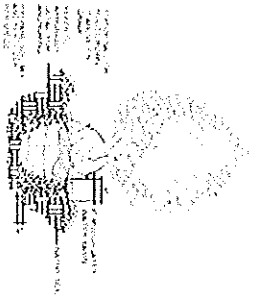
The jurisdiction and subsequent ownership of the landscaped property, or the maintenance of the same, shall be the responsibility of the maintenance of the landscaped areas. Said areas shall be maintained so as to prevent a hazard to, and the orderly appreciation of, all times and shall be kept free of weeds and debris. All planted areas shall be provided with a method of irrigation water supply and watering as indicated by the irrigation contractor. Healthy growth and development. Maintenance shall include the requirements of Chapter 41, concerning the maintenance regulations.

## PLANT LIST

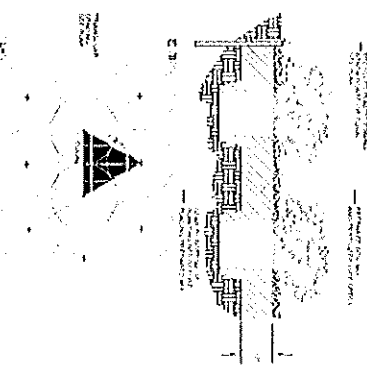
| COMMON NAME       | SCIENTIFIC NAME | HEIGHT | SPREAD |
|-------------------|-----------------|--------|--------|
| 1. BURNING BUSH   | Eurotia acida   | 12-18' | 12-18' |
| 2. BURNING BUSH   | Eurotia acida   | 12-18' | 12-18' |
| 3. BURNING BUSH   | Eurotia acida   | 12-18' | 12-18' |
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| 100. BURNING BUSH | Eurotia acida   | 12-18' | 12-18' |



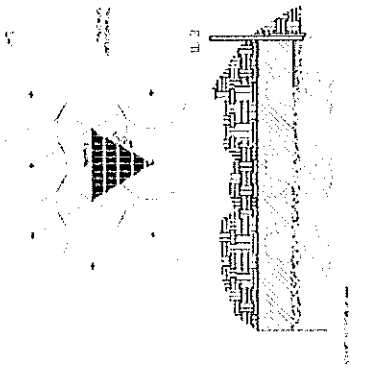
1 CANOPY TREE PLANTING



2 MULTI-TRUNK PLANTING



3 SHRUB PLANTING



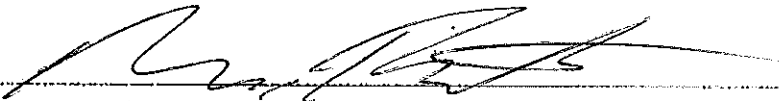
4 GROUNDCOVER PLANTING

3. Agent Information:

If an agent is representing the owner of the property, please complete the following information:

Agent's Name: Matt Moore  
Agent's address: 1105 Cheek-Sparger Rd. Suite 1  
Colleyville, TX 76034  
Agent's Phone Number: 817-281-0572  
Agent's Fax Number: \_\_\_\_\_  
Agent's Mobile Number: 817-201-6982  
Agent's Email Address: Matt@claymooreng.com

I hereby authorize the person named above to act as my agent in processing this application before the Board of Adjustment of the City of Kyle:

Owner's Signature:   
Date: Oct. 11, 2013

4. The Board of Adjustment must determine the existence of, sufficiency of and weight of evidence supporting the findings below. Therefore, you must complete each applicable Findings Statement as part of your application. Failure to do so may result in your application being rejected as incomplete:

(A) Reasonable Use:

The zoning regulations applicable to the property do not allow for a reasonable use because:

\_\_\_ The 1 space per 250 square feet calculation does not account for the volume of traffic encountered \_\_\_\_\_  
\_\_\_ by theater occupancies at peak hours. \_\_\_\_\_

(B) Hardship:

(1) The hardship for which the variance is requested is unique to the property in that:

\_\_\_ Theaters are a unique type of retail space that require additional parking \_\_\_\_\_  
\_\_\_ resources for the volume of patrons they bring to a piece of property. \_\_\_\_\_

(2) The hardship is not general to the area in which the property is located because:

\_\_\_ There are typically very few buildings within city limits that are classified as theater assembly \_\_\_\_\_  
\_\_\_ occupancies, where there may be numerous retail occupancies. \_\_\_\_\_

**(C) Area Character:**

The variance will not alter the character of the area adjacent to the property, will not impair the use adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

..... The parking area must still comply with the development requirements of the I-35 overlay district .....  
\_\_\_ along with all other buildings in this area and adjacent to this property. The variance is simply .....  
requesting a recognition of the volume of traffic inherent in this type of use.

*Note: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.*

I hereby certify that the above information provided to the City of Kyle is true and accurate and that I am the owner of the above described property.

Owner's Signature



10/11/13  
Date

*Do Not Write Below This Line -- Staff Will Complete*

Hearing Date Before Board of Adjustment: \_\_\_\_\_

Action: \_\_\_\_\_

## Sofia Nelson

---

**From:** matt@claymooreeng.com  
**Sent:** Thursday, October 17, 2013 4:45 PM  
**To:** Sofia Nelson  
**Cc:** Mitchell Roberts; droberts@texascinema.com  
**Subject:** RE: Texas Cinemas  
**Attachments:** 9-5-13\_KyleCinema\_L5.pdf; 9-5-13\_KyleCinema\_L1.pdf; 9-5-13\_KyleCinema\_L2.pdf; 9-5-13\_KyleCinema\_L3.pdf; 9-5-13\_KyleCinema\_L4.pdf

Sofia -

See the attached landscape plans. Per the calculations shown on L-5, I don't believe we are short on LA area. However, in the staff comments, there is discussion of additional area being required. I'm confused....we have over 15% of the site area as LA. Is there more in addition to that?

Also, for the purpose of landscape variance, we would be requesting a variance for the shortage of trees. We have a requirement of 266 trees and we have provided 177 trees. As you will note on the attached plans, we have worked to place trees everywhere possible.

We will work on updating the LA plan to match the new parking lot layout for the meeting on Tuesday.

Please feel free to call me at any time at 817-201-6982 to discuss any questions you might have.

Thanks.  
Matt

-----Original Message-----

**From:** Sofia Nelson [<mailto:snelson@cityofkyle.com>]  
**Sent:** Thursday, October 17, 2013 4:11 PM  
**To:** [matt@claymooreeng.com](mailto:matt@claymooreeng.com)  
**Subject:** RE: Texas Cinemas

Matt- Thank you for the phone call. I need specifics about your variance request for your landscaping plan. Is it just # of trees or is it landscape area as well. I also need some reasoning for your request, even if it is letter format via email. I need to some backing to support your request and right now I just don't have that. Please help me be able to support your request and give the commission some support information so that they do go into the meeting without the important details of the request.

Let me know if you have any questions.

Sofia Nelson  
--  
Sofia Nelson, CNU-A  
Planning Director  
City of Kyle  
office- 512.262.3925  
cell- 512.644.5432

-----Original Message-----

From: [matt@claymooreeng.com](mailto:matt@claymooreeng.com) [mailto:[matt@claymooreeng.com](mailto:matt@claymooreeng.com)]  
Sent: Friday, September 06, 2013 2:57 PM  
To: [snelson@cityofkyle.com](mailto:snelson@cityofkyle.com)  
Cc: Mitchell Roberts  
Subject: Texas Cinemas

See attached for our project description letter that I believe was inadvertently omitted from the package that was submitted earlier.

Matt Moore, PE (TX, OK)  
Claymoore Engineering, Inc.  
1105 Cheek Sparger Rd.  
Suite #1  
Colleyville, Texas 76034  
P - 817-281-0572  
Cell - 817-201-6982  
[matt@claymooreeng.com](mailto:matt@claymooreeng.com)

*Provided by applicant*

## CITY OF AUSTIN

|   |  |            |
|---|--|------------|
| Electronic prototype assembly   | 1 space for each 275 sq. ft.   | Schedule C |
| Electronic testing  | 1 space per 300 sq. ft.  | Schedule G |
| Equipment repair services<br>Equipment sales  | Schedule A   | Schedule C |
| Exterminating services  | 1 space for each 1,000 sq. ft.   | Schedule C |
| Financial services<br>Building<br>Drive-in service<br>ATM (drive-up)<br>ATM (walk-up)   | 1 space for each 275 sq. ft.<br>8 queue spaces for each service lane<br>2 queue spaces for each service lane<br>None       | Schedule C |
| Food preparation  | Schedule A   | Schedule C |
| Food sales  | 1 space for each 275 sq. ft.   | Schedule C |
| Funeral services  | 1 space for each 5 persons capacity  | Schedule B |
| Furniture or carpet store   | 1 space for each 500 sq. ft.   | Schedule C |
| General retail sales and services<br>(convenience or general)   | 1 space for each 275 sq. ft.   | Schedule C |
| Hotel-motel<br>Other uses within<br>hotel-motel   | 1.1 spaces for each room<br>If not an accessory use, 80% of the<br>parking otherwise required by this<br>table for the use | Schedule C |
| Indoor entertainment<br>Meeting hall<br>Dance halls with liquor sales<br>[REDACTED]<br>[REDACTED]   | 1 space for each 50 sq. ft.<br>See cocktail lounge<br>[REDACTED]<br>[REDACTED]   | Schedule C |
| Indoor sports and recreation<br>(except billiard parlor or bowling<br>alley)<br>Billiard Parlor<br>Bowling Alley                                    | 1 space for each 500 sq. ft.<br><br>1 space for each 100 sq. ft.<br>1 space for each 275 sq. ft.                           | Schedule B |
| Kennels   | 1 space for each 1,000 sq. ft.   | Schedule B |
| Laundry services  | Schedule A   | Schedule C |
| Liquor sales  | 1 space for each 275 sq. ft.   | Schedule C |
| Marina  | 0.7 spaces for each boat slip  | None       |
| Medical offices<br>Free-standing medical<br>clinic or office or a limited<br>hospital facility<br>Within a shopping center or<br>mixed use building | 1 space for each 200 sq. ft.<br><br>1 space for each 275 sq. ft.   | Schedule C |
| Monument retail sales   | Schedule A   | Schedule C |

|           | permitted Use   | Minimum Vehicle Spaces                                    | Maximum Vehicle Spaces                                    |
|-----------|---|---|---|
| AMUSEMENT | LASER HIDE & SEEK GAMES - indoors   | 1 per 6 seats or 1 per 30 sf of GFA if no permanent seats | 1 per 4 seats or 1 per 50 sf of GFA if no permanent seats |
| AMUSEMENT | LASER HIDE & SEEK GAMES - outdoors permitted  | 1 per 6 seats or 1 per 30 sf of GFA if no permanent seats | 1 per 4 seats or 1 per 50 sf of GFA if no permanent seats |
| AMUSEMENT | RACING - auto or truck track  | 1 per 6 seats or 1 per 30 sf GFA if no permanent seats    | 1 per 4 seats or 1 per 50 sf of GFA                       |
| AMUSEMENT | THEATER - indoor with 2 or less screens and/or stages                                   | 1 per 6 seats   | 1 per 4 seats   |
| AMUSEMENT | THEATER - outdoor including drive-in & amphitheaters                                    | 1 per 6 seats or 1 per 30 sf GFA if no permanent seats    | 1 per 4 seats or 1 per 50 sf of GFA                       |
| AMUSEMENT | VIDEO GAMES - coin or token operated  | 1 per device  | N/A   |
| ANIMAL    | ANIMAL - equestrian center and riding trails  | 1 per 1,500 sf GFA  | 1 per 300 sf GFA  |
| ANIMAL    | ANIMAL - pound or shelter   | 1 per employee  | N/A   |
| ANIMAL    | BREEDER - small animal only   | 1 per 1,500 sf GFA  | 1 per 300 sf GFA  |
| ANIMAL    | CEMETERY - pets (limited to small animals)  | N/A   | N/A   |
| ANIMAL    | DOG TRAINING - indoor   | 1 per 1,500 sf GFA  | 1 per 300 sf GFA  |
| ANIMAL    | DOG TRAINING - outdoor permitted  | 1 per 1,500 sf GFA  | 1 per 300 sf GFA  |
| ANIMAL    | KENNEL - boarding & breeding (see health & environmental)                               | 1 per 1,500 sf GFA  | 1 per 300 sf GFA  |
| ANIMAL    | PET GROOMING - small animals only   | 1 per 300 sf GFA  | 1 per 200 sf GFA  |
| ANIMAL    | SMALL ANIMAL CLINIC - no outside runs   | 1 per employee  | N/A   |
| ANIMAL    | SMALL ANIMAL HOSPITAL - outside runs are permitted                                      | 1 per employee  | N/A   |
| ANIMAL    | STOCKYARD   | 1 per 1,500 sf GFA  | 1 per 300 sf GFA  |
| ANIMAL    | VETERINARY HOSPITAL - large & small animal (outside runs, pens & paddocks permitted)    | 1 per employee  | N/A   |
| ANIMAL    | VETERINARY HOSPITAL - large & small animal (no outside runs, pens & paddocks permitted) | 1 per employee  | N/A   |
| ANIMAL    | VETERINARY HOSPITAL - small animal (outside runs, pens & paddocks permitted)            | 1 per employee  | N/A   |
| ANIMAL    | VETERINARY HOSPITAL - small animals (no outside runs, pens & paddocks permitted)        | 1 per employee  | N/A   |
| AUTO      | TRUCK & HEAVY EQUIPMENT - auction   | 1 per 500 sf GFA of sales and service building            | 1 per 375 sf GFA of sales and service building            |

|   |   |                |
|---|---|----------------|
| Eating Establishments                                   | 1 per 100 Gross Floor Area including outdoor seating and waiting areas plus 6 queuing spaces before the Order Box                 | See Table 7.10 |
| Entertainment, Indoor                                   | 1 per 250 Gross Floor Area; plus 1 per 500 Gross Floor Area up to 50,000 sq ft and 1 per 1,000 Gross Floor Area over 50,000 sq ft | See Table 7.9  |
| Entertainment, Outdoor                                  | 1 per 250 Gross Floor Area; plus 1 per 3 seats  | See Table 7.9  |
|   |   | See Table 7.10 |
| Office, Bank  | 1 per 250 Gross Floor Area plus 4 queuing spaces per Bank Teller or Automated Teller  | See Table 7.10 |
| Office, Medical   | 1 per 150 Gross Floor Area  | See Table 7.10 |
| Office, Veterinary                                      | 1 per 200 Gross Floor Area  | See Table 7.10 |
| Office, Other   | 1 per 250 Gross Floor Area  | See Table 7.10 |
| Overnight Accommodations, Bed and Breakfast             | 1 per bedroom plus 2 per 3 employees plus 1 per fleet vehicle   | See Table 7.10 |
| Overnight Accommodations, Camping                       | 1.5 per Campsite (1 space must be at the campsite)  | See Table 7.10 |
| Overnight Accommodations, Other                         | 1.2 per Bedroom   | See Table 7.10 |
| Research Facilities                                     | 1 per 275 Gross Floor Area  | See Table 7.9  |
| Sales, Convenience Store                                | 1 per 275 Gross Floor Area plus 1 per pump and 0.5 queuing space per pump   | See Table 7.10 |
| Sales, Equipment sales and leasing                      | 1 per 250 Gross Floor Area; plus 1 per 500 Gross Floor Area up to 50,000 sq ft and 1 per 1,000 Gross Floor Area over 50,000 sq ft | See Table 7.9  |
| Sales, Shopping Centers Larger than 100,000 square feet | 1 per 225 Gross Floor Area  | See Table 7.9  |
| Sales, Other Retail Sales and Service                   | 1 per 250 Gross Floor Area  | See Table 7.9  |
| <b>Industrial Uses</b>                                  |   |                |
| Assembly  | 1 per 500 Gross Floor Area of Indoor Facility except Indoor Storage   | See Table 7.9  |
| Freight   | 1 per 500 Gross Floor Area of Indoor Facility except Indoor Storage   | See Table 7.9  |
| Light Industrial Service                                | 1 per 500 Gross Floor Area of Indoor Facility except Indoor Storage   | See Table 7.9  |
| Manufacturing   | 1 per 500 Gross Floor Area of Indoor Facility except Indoor Storage   | See Table 7.9  |
| Mineral Extraction                                      | 1 per 300 Gross Floor Area of Indoor Facility except Indoor Storage   | See Table 7.9  |





## MEMO

To: Planning and Zoning Commission

From: Sofia Nelson, Director of Planning

Date: October 18, 2013

**Re: Request to allow a variance to maximum allowed parking on a site**

---

### Background

The subject property is approximately 7.9 acres in size and is located between City Lights Drive and Physicians Way and west of Kyle Center Drive and east of Marketplace Drive. The applicant is proposing the development of a 67,882 square foot Family Entertainment Center with additional future expansion of 6,832 square feet for a total of 74,714 square feet.

### Staff Analysis

The property is zoned Retail Services and a conditional use permit for the development has been approved by the Planning and Zoning Commission. For the exception of the requested variance the site is consistent with all zoning and site requirements. The city code parking ordinance identifies a minimum parking requirement that is based off of the zoning of the subject property. The retail services zoning district requires 1 space for each 250 square feet of gross floor area, with a maximum number of parking spaces for a general retail, commercial, office or industrial use area shall not exceed 150 percent of the parking required.

Based on the parking requirements the proposed development would allow a maximum of 448 parking spaces. In order to meet the needs of the high number of customers the applicant anticipates will be utilizing the venue the applicant is requesting approval to exceed the maximum of parking spaces and provide 567 parking spaces.

The following are reasons why parking maximums are established:

- Increase tax revenue through redevelopment of parking lots
- Improve pedestrian safety, or

- Reduce stormwater runoff and heat island impacts of a parking lot

The code identifies the Planning and Zoning Commission as the final authority for site plan parking variances. Additionally the parking ordinance identifies off-street and on-street parking shall be adequate to meet the anticipated needs of the development and shall be determined using standards outlined for special exceptions and with a view towards providing adequate parking and carrying out the general scheme of the parking requirements. The special exception provisions are as follows:

*Authorize a variance from the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, and where the topography or unusual shape of the lot and regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.*

### **Staff Findings**

Staff has reviewed the request and has made the following findings:

- The current parking ordinance does not differentiate between different uses within the Retail Services zoning district for the exception of cafes, restaurants, taverns, night clubs, and similar uses.
- While the property is not subject to the I-35 Overlay development standards the overlay ordinance does recommend against large parking lots by breaking up the parking lots into "rooms of parking"
- The site has met all landscaping requirements of the code and the parking is located in the front of the building, sides, and rear of the building.
- There does not appear to be topography or the shape of lot would impose an unreasonable hardship upon the use of the lot.



427 Saint George Street, Suite 200  
Gonzales, TX 78629  
Office: 830.672.1205  
Fax: 830.672.1203

DoucetandAssociates.com

August 15, 2013

CITY OF KYLE

Ms. Debbie Guerra  
City of Kyle  
100 W. Center Street  
Kyle, Texas 78640

AUG 19 2013

PLANNING DEPARTMENT

RE: Parking Variance Request – Kyle Family Entertainment Center – 5492 Kyle Center Drive

Dear Ms. Guerra,

This letter is to formally request a variance to the maximum parking requirements for the referenced site. The current maximum parking requirement according to the Code of Ordinances, chapter 53, zoning, article II, zoning districts and regulations, division 1, generally, states "the maximum number of parking spaces for a general retail, commercial, office or industrial use area shall not exceed 150 percent of the parking required pursuant to chart 4". Chart 4 lists that the RS zoning district requires one space for each 250 square feet of gross floor area. The planned building with future expansion will have 74,714 square feet of gross floor area. This sets the maximum parking allowed according to ordinances at 448 parking spaces.

Based on the current site plan, the development will construct 567 parking spaces. This site plan was incorporated into a development agreement between Schulman Entertainment, LLC and the City of Kyle, and is the basis of the improvements defined in the agreement, and is the plan anticipated by the developer to be constructed to accommodate the anticipated number of users for the facility. In order to develop the property in accordance to the spirit of the development agreement, and to provide adequate parking for the facility, we are requesting a variance to allow the project to exceed the current maximum number of parking spaces and be allow to construct up to 567 parking spaces as proposed in the site plan.

Sincerely,

Keith Schauer  
Vice President  
Doucet & Associates, Inc.  
TBPE Firm #3937

COMMITMENT YOU EXPECT.  
EXPERIENCE YOU NEED.  
PEOPLE YOU TRUST.



## MEMO

To: Planning and Zoning Commission

From: Sofia Nelson, Director of Planning

Date: October 18, 2013

Re: **Site Plan Variance Request for Friends of the Library-Kyle Library Thrift Store- 100 Lockhart Street (Items 8D,8E, and 8F)**

---

### Background

The subject property is located at the corner of Lockhart Street and Front Street and is approximately .3228 acres and it part of the Original Town of Kyle Subdivision Plat. The site is zoned Central Business 2 (CBD-2) and is currently being used as a thrift store and the applicant is seeking to add on to the existing building and add approximately 2,282 square feet.

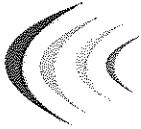
**Parking:** The subject property currently has 19 parking spaces to serve the existing store, with the proposed increase in square footage the total required spaces would be 38. The parking ordinance allows for a waiver of all or part of these parking space requirements for buildings within the original town. Additionally, if located on Center, Main or Front Streets, parking requirements will be decided on case-by-case basis.

**Landscaping:** The Central Business District 2 (CBD-2) requires 15% of the total lot area be devoted to landscaping. Exceptions to these provisions may be granted by the planning and zoning commission to require a lesser amount of landscaping if the aesthetic, buffering and environmental intent of this chapter is met, and the reduction of the landscape area results in the preservation of natural features having comparable value to the reduced landscape requirements.

**Sidewalk:** Development within the CBD-2 zoning district is required to provide sidewalks (pedestrian walkways) constructed of brick, pavers, or concrete with an exposed broom finish, and connect to the adjacent property having a common frontage.

### Staff Findings

- The physical location of the property is located within the I-35 Overlay District, however due to its location west of the union pacific railroad and proximity to the City's central business district the property is less reflective of the I-35 corridor and more reflect of the city's old town and center street overlay district.
- Due to the amount of existing impervious cover on the site and due to the intent of the CBD-2 district of creating development consistent with that of the original town of Kyle landscaping above and beyond street trees and window planting boxes is very difficult. Staff would recommend the use of street trees clustered or spaced 30' on center be included into the site improvements.
- Due to the location of parking both on the street and off the street it appears that there is adequate parking for the proposed expansion.



GAP STRATEGIES  
PO Box 602  
BUDA, TEXAS 78610

CITY OF KYLE

SEP 04 2013

Sept. 4, 2013

PLANNING DEPARTMENT

Sofia Nelson  
Director of Planning, the City of Kyle  
100 W Center Street  
Kyle, Texas 78640

Ms. Nelson:

Attached you will find a submittal package for a proposed addition to the existing Kyle Library Thrift Shop, owned and operated by the Friends of the Kyle Library. This packet includes:

- 6 copies of plans, produced by designer Tim Boatright; and,
- 6 copies of a submittal document prepared by Gap Strategies, to address additional detail not found in the plan sheet, and addressing, also, the spirit of the City's two applicable overlay ordinances: CBD and I-35.

Gap Strategies is acting as agent for the Friends of the Library. Please feel free to contact me, or the president of the Friends of the Kyle Library board, Ms. Wynette Barton, with any questions you may have.

We have not included a check or other payment to cover submittal fees because our client thought this might be waived by the City in light of the fact that all proceeds from the Thrift Shop go directly to the City library. I realize there are several options the City may wish to consider in how to account on its books for what is, in essence, a zero-sum proposition - whether to have the Friends pay the City and donate less, or waive the Friends application fee but then see less fee revenue for the City. The Friends would prefer not to pay the fee, so that volunteers and donors can see more directly how their money goes to the City and the library they support, but they have asked me to express their willingness to pay if the City deems fit.

Thank you for your patience and flexibility in working with us on this project for the good of the City. If you need changes or additions to the detail and styling on the plans, please just let us know and we will pass this on to the designer and our client. Meanwhile, we tried to give you a better flavor of what's intended by addressing in writing how these building plans would meet City ordinances and guidelines.

As I believe I noted to you earlier, Kara Buffington and I are providing planning assistance *pro bono*, but were not involved in the original design and plan set. We are trying to do our part to make sure Thrift Shop funds stay focused on benefiting the library. We look forward to your comments.

Sincerely,

Jeff Barton  
Principal, Gap Strategies  
[jeff@gapstrategies.com](mailto:jeff@gapstrategies.com)  
(512) 964-0918

# Kyle Library Thrift Shop Addition

## Applicants [ Section 32-45 (1) A ]

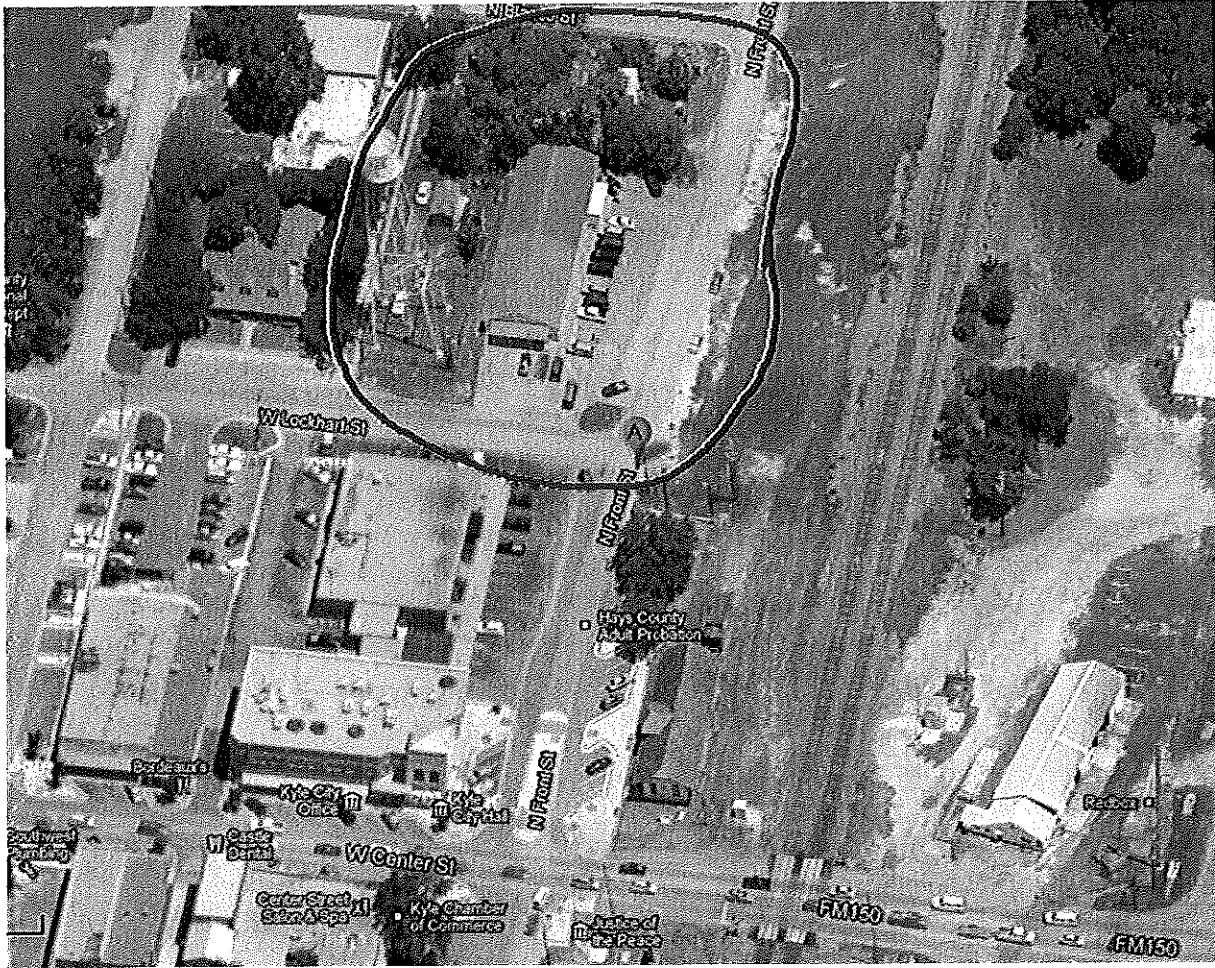
|  |  |  |
|--|--|--|
| Friends of the Kyle Library<br>100 Lockhart Street<br>Kyle, Texas 78640<br>Wynette Barton, President<br>(512) 262-1110 | Tim Boatright<br>Designer<br>107 Council Road<br>Georgetown, Texas 78633<br>(512) 930-1168 | Gap Strategies<br>Agent<br>PO Box 602<br>Kyle, Texas 78640<br>Jeff Barton (512-964-0918) |
|--|--|--|

## Proposed Name of the Project [ Section 32-45 (1) B ]

The Kyle Library Thrift Shop Addition

## Location Map [ Section 32-45 (1) C ]





**Adjoining Property Owners [ Section 32-45 (1) D ]**

|  |  |  |  |
|--|--|--|--|
| <p>R33508<br/> W BLANCO ST<br/> KYLE, TX 78640<br/> OWNER:<br/> TOVAR, ROGELIO<br/> PO BOX 1533<br/> KYLE, TX 78640-1533</p> | <p>R33507<br/> 103 BLANCO ST<br/> KYLE, TX 78640<br/> OWNER:<br/> TYLER, ERNEST JOE<br/> PO BOX 855<br/> KYLE, TX 78640-0855</p> | <p>R33509<br/> 108 E LOCKHART ST<br/> KYLE, TX 78640<br/> OWNER:<br/> HAYS COUNTY OF<br/> AUDITORS OFFICE<br/> 102 N LBJ DR<br/> SAN MARCOS, TX<br/> 78666</p> | <p>R60603<br/> LOCKHART ST<br/> KYLE, TX 78640<br/> OWNER:<br/> KYLE CITY OF<br/> FINANCE DEPT<br/> PO BOX 40<br/> KYLE, TX 78640-0040</p> |
|--|--|--|--|

**Total Acreage [ Section 32-45 (1) F ]**

The property consists of 0.3228 acres of block two of the original City of Kyle.



**Current Zoning [ Section 32-45 (1) G ]**

The property lies within the Central Business District Overlay District, Central Business District II, and the I35 Overlay District.

**Existing Conditions Plan [ Section 32-45 (2) A-J ]**

Existing conditions are shown on the site plan. The site is currently being used as the Thrift Store for the Friends of the Kyle Library. No change in use is proposed. No additional impervious cover is proposed. No substantial change in drainage patterns, the number of parking spaces, nor traffic patterns is proposed. The addition would simply provide about 2,282 square feet of additional space for this charitable purpose that provides affordable clothing to Kyle residents while supporting the city's library. The store is governed by volunteers and staffed by a combination of paid staff and volunteers. All "profits" go to the Kyle Library.

**Erosion and Sedimentation Control Plan [ Section 32-45 (3) A-F ]**

No changes to erosion or sedimentation features are proposed in the addition.

**Site Plan [ Section 32-45 (4) A-C ]**

A draft Site Plan is attached, prepared by professional designer Tim Boatright.

**Grading and Drainage Plan [ Section 32-45 (5) A-H ]**

Because this project proposes no change to the existing volume or location of impervious cover on site, we are asking to be exempted from requirements for a separate grading and drainage plan. The project contemplates converting a portion of the existing impervious cover (a paved parking lot into usable building space by constructing an addition to the east side of the existing Friends of the Library Thrift Shop. The parking area on the east side of the Thrift Shop is unnecessarily deep and, after the addition, will be restriped to provide three-to-four additional parking spaces. (The site plan prepared by the Designer shows four, but one may need to be sacrificed to house a dumpster.)

While there will be some minor grading adjustments on the site to level the parking area with the building footprint, we believe this can be best accounted for with construction plans in the field and without a separate, engineered grading plan, since neither the grade of the overall site, nor site drainage, are being substantially altered, as would be the case with new "Greenfield" development. We anticipate no change whatsoever in the percentage of impervious cover on site, and insignificant change in drainage patterns: rainfall from the roof will continue to sheet flow from the roof, as it does now, and will not be concentrated; the eastern roof slope, the only portion of the roof to be changed, will

continue to sheet flow on to the eastern parking lot and should continue to sheet flow from that parking area, in the same way it does today, directly into public drainage and street easements along Front Street.

No City utilities, or public utilities of any kind, will be laid or moved underneath the parking area, nor in adjoining rights-of-way.

In light of the developed nature of the existing site, the nature of the project as an “add-on” submitted by a local charitable organization, and the de minimis influence on neighborhood drainage and City resources, we respectfully request the City to waive the requirement in this case for a separate grading and drainage plan – requirements that would add cost to the project without substantial public benefit.

#### **Utility Plan [ Section 32-45 (6) A-G ]**

The existing building on site is fully served by both wet and dry utilities. No new restrooms and no significant increase in utility load will accompany the addition. Therefore, no utility planning was indicated and no utility plan is included in this application.

#### **Landscape Plan [ Section 32-45 (7) ]**

The entire project involves replacing existing impervious cover with new impervious cover – reducing the excessive depth of current parking areas with shallower parking stalls and using the “savings” to add building coverage on the site.

No landscape plan is attached because no substantive landscaping is contemplated for the project. We believe this to be in keeping with 1) the nature of the existing site and its impervious cover; 2) the urban nature of the project, and its character as an “add on” and/or redevelopment of an excessive parking field; and, 3) the historic nature of the downtown Central Business District, as identified in the CBD Overlay.

#### **Construction Details [ Section 32-45 (6) A-G ]**

Construction details listed within the ordinance are shown on the site plan as applicable.

## **ZONING AND OVERLAY DISTRICT REQUIREMENTS**

*City ordinance stipulates that zoning and overlay standards are not required to be shown on the cover sheet, but these issues should be met in the plans as applicable. Below is a brief summary of how the applicant intends to address issues from the City's applicable Overlay ordinances.*

### **CENTRAL BUSINESS DISTRICT II OVERLAY**

#### **General Conditions and Limitations [ Section 53-444 (1-6) ]**

The proposed addition does not change the intended land use, business plan, or essential nature of the Library Thrift Store. .

#### **Site Plan Regulations [ Section 53-545 ]**

The proposed addition will have sidewalks adjacent to the building for internal use but, in keeping with current conditions, no perimeter sidewalks are contemplated.

#### **Building Facade Requirements [ Section 53-546 ]**

The proposed addition will maintain the architectural style of buildings found within the neighborhood and Central Business District. The new facade on the east-side addition to the building will be constructed to complement the surrounding built environment, including nearby Kyle City Hall, with a palette that includes red brick, stone, and hardy plank.

#### **Parking Requirements [ Section 53-447 ]**

Section 53-33 states that one space must be provided for every 200 square feet of floor space for properties located in CBD II not on Center, Main, or Front Streets. A strict construction for this project, then, could require 38 parking spaces, with the added space, since the main entrance of the Thrift Store technically fronts Lockhart Street (though the building also includes frontage and an entrance on Front Street).

The current site has 19 parking spaces, and the proposed site plan would increase that to 23 parking spaces (or 22, if one space at the southeast corner is rededicated to dumpster placement – see site plan). We believe the parking in the proposed plan is adequate for the following reasons:

1. While the Thrift Store technically fronts Lockhart Street, it is at the corner of Lockhart and Front, and the greater linear footage of the lot actually faces Front Street, where the CBD Overlay stipulates that no minimum parking is required.

2. Limited parking on-site parking is in keeping with the spirit of the Central Business District and the Overlay, especially where adequate on-street parking and/or pedestrian access is available.
3. Additional on-street parking and City-owned lots are within easy access nearby. City-owned lots are used heavily Monday-Thursday and/or Monday-Friday, but can provide overflow parking on weekends, especially Saturdays when the Thrift Store is heavily frequented. Additional parking is available on adjacent streets.
4. The Thrift Store relies in part on pedestrian traffic from nearby neighborhoods.
5. Part of the building, including the addition, is dedicated not to retail traffic but to storage area, which would indicate less parking demand.
6. Recent planning research, exemplified by the works of Donald Shoup ("The High Cost of Free Parking," Planners Press, 2011) and others illustrate how excessive parking requirements, especially in downtown cores, can frustrate otherwise beneficial projects and needlessly raise costs.
7. This project will increase (slightly: from 19 to 22 or 23) the number of parking spaces.
8. This is not a typical commercial enterprise but is a non-profit, with all proceeds directed to support the Kyle City Library.

Finally, we wish to point out that while this plan still incorporates on-site parking – even increasing the number of on-site parking spaces – it will also make use of City right of way for access into the parking lot (i.e., pulling in and out of spaces).

#### **Glare [ Section 53-448 ]**

The proposed addition will not create any glare that will detract from the property or neighboring properties.

#### **Conditional Use Permit [ Section 53-893 ]**

The proposed addition will result in a less than 50 percent increase in the total gross area of the building, therefore a conditional use permit is not required.

#### **I-35 OVERLAY DISTRICT OVERLAY**

The I-35 Overlay Development Standards do not appear to be legally applicable to this project, since under "Applicability.... (2) Exemptions," the ordinance states that "These standards do not apply to .... Change in use of an existing structure *or expansion of an existing use that is lawfully permitted by the underlying zoning district*" [italics added]. Even so, we have made an effort to address the principal concepts of the Overlay District, and the comments below are intended to give the City insight as to how the applicant intends to address each item.

**Sidewalks [ Section 53-899 (E) 1 ]**

This project does not change access to the perimeter streets and does not include City or private sidewalks on the property perimeter. This is not typical "new construction" but only an addition to an existing structure. An internal sidewalk along the east frontage of the building, to provide improved pedestrian access from the parking area to the main entrance, is contemplated.

**Screening [ Section 53-899 (E) 2 ]**

While the Thrift Store addition will include a door on the east side that will be used for informal "loading," there is no commercial loading dock of the type contemplated in the Overlay Ordinance. Thus, we believe the Thrift Store meets the City's screening requirement. To elaborate:

1. There is an existing entrance/exist on the east side of the building, unscreened, that is already used for the same purpose.
2. The purpose of this entrance or "loading area" is not to receive commercial loads for re-sale but to facilitate the orderly reception of donations from the public. These donations are typically clothing or other small articles.
3. The addition will help the Thrift Store and Friends of the Library more easily receive and store goods inside at all hours on the eastern front, improving existing aesthetics.
4. This receiving area will not include any type of raised dock and is not designed to receive (nor does the Thrift Store expect to receive on any regular basis) the type of sound-generating trucks that the screen in the Overlay Ordinance is designed to protect neighbors against.
5. The door on this loading area will not face any residences, nor other commercial establishments, nor any heavily trafficked street or "gateway," but rather will face railroad tracks and railroad right of way.
6. The owners are open to the idea of creating a screen if requested by the City but it does not seem feasible to create one that does not interfere with egress and is contained on the owner's property.

**Utilities [ Section 53-899 (E) 3 ]**

The owners do not expect to move the existing utility box, which is not affected by this construction.

**Utility Equipment Screening [ Section 53-899 (E) 4 ]**

The owners anticipate continuing to use the exiting utility box and equipment, located on the west side of the building. No screening should be necessary as no utility box or substantial utility equipment is expected as part of the new construction.

### **Blank Walls [ Section 53-899 (F) 1 ]**

The project includes windows and other architectural features to break blank walls. The project is designed in keeping with the architectural flavor of the existing building combined with palettes evident in the historic part of Old Town. The wall to be added is in keeping with an appropriate size and scale of the project and surrounding buildings. The existing east wall, facing Front Street, does not have windows, so the new construction will be an improvement and bring the building closer to the goals of the I-35 Overlay.

### **Orientation to Streets [ Section 53-899 (F) 2 ]**

The primary entrance is oriented to a public street (Lockhart), and that will not change.

### **Orientation to Walkways [ Section 53-899 (F) 3 ]**

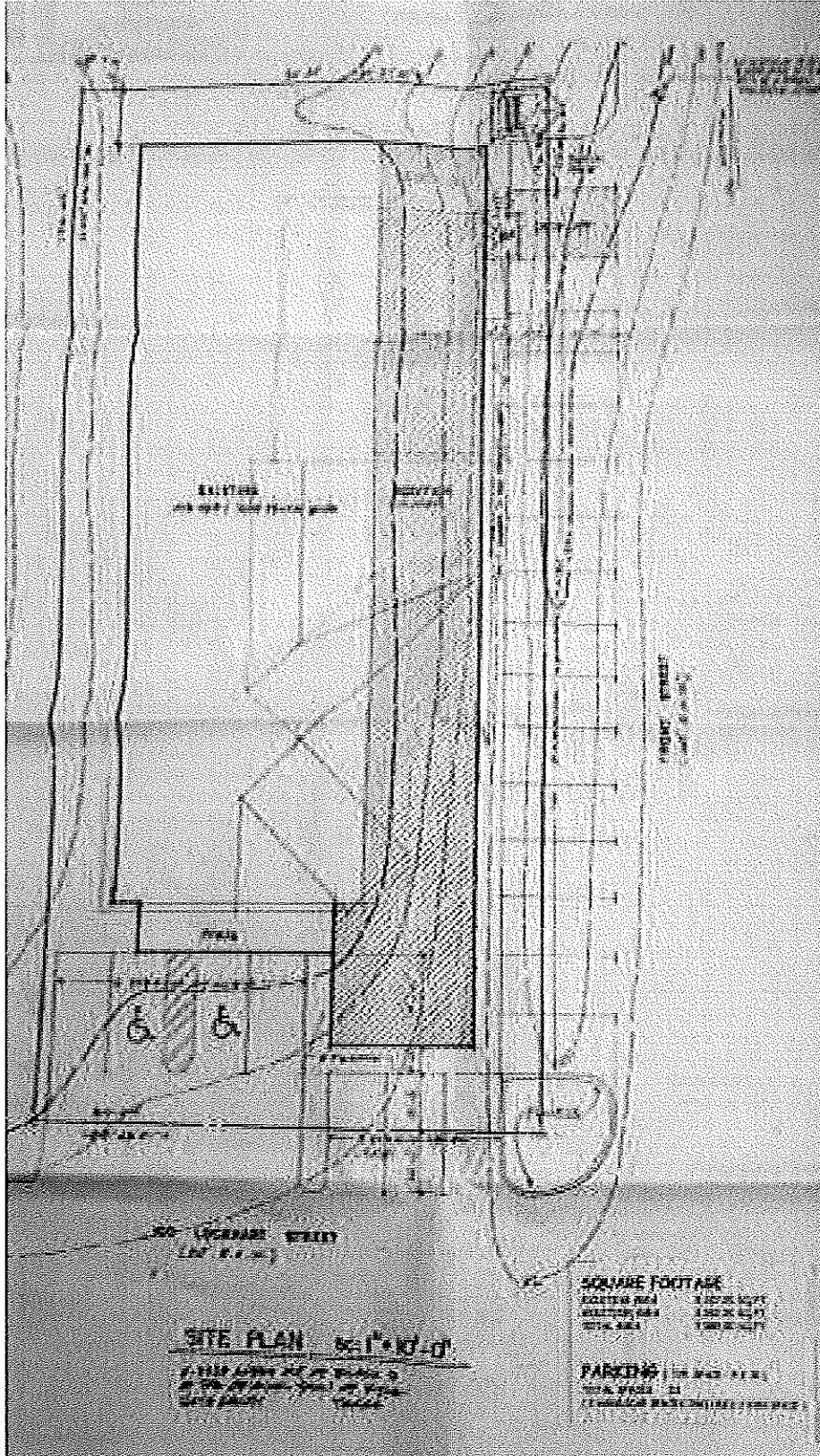
As noted elsewhere, there are no existing perimeter sidewalks on the site. These are rare in this immediate neighborhood. The existing building includes a landing/sidewalk on the front, and the addition will include a sidewalk/walkway to serve internal pedestrian traffic – i.e., to make it easier for people parking on the Front Street side (the east side) to access the main entrance (facing Lockhart Street).

### **Circulation [ Section 53-899 (F) 4 ]**

This project does not alter the primary public entrance to the building. Thus, no new sidewalk connection to the property perimeter is contemplated. The project does add a three-foot wide sidewalk along the east side of the building to improve internal circulation, making it easier for visitors who have parked cars along the east side of the building to access the primary public entrance on the south side.

### **Conflict Points [ Section 53-899 (F) 5 ]**

Because of the limited size and scope of the project – and the entire lot – confusion and conflict points are not major issues. As stated under "Circulation" above, new pedestrian access to the perimeter streets are not part of this project; however, the project would improve internal circulation and decrease auto-pedestrian conflicts by adding a three-foot raised sidewalk for internal circulation along the east side of the building, and part of the south side, connecting to the primary public entrance.



**A  
B  
D**

**TIM BOATRIGHT  
DESIGNER**

**KYLE LIBRARY THRIFT SHOP ADDITION**

EXISTING  
100' x 100' (approx)

FRONT STREET  
(approx. 10' wide)

♿ ♿

NO PARKING ZONE  
(10' x 10')

**SITE PLAN 1/8" = 1'-0"**

1. THIS PLAN IS THE PROPERTY OF THE ARCHITECT AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT HIS WRITTEN PERMISSION.

**SQUARE FOOTAGE**

|                 |             |
|-----------------|-------------|
| EXISTING AREA   | 1,000 SQ FT |
| ADDITIONAL AREA | 1,000 SQ FT |
| TOTAL AREA      | 2,000 SQ FT |

**PARKING** 10 SPACES (10' x 20')

|             |               |
|-------------|---------------|
| DATE        | 1/15/20       |
| PROJECT NO. | 1000          |
| CLIENT      | KYLE LIBRARY  |
| SCALE       | 1/8" = 1'-0"  |
| BY          | TIM BOATRIGHT |
| CHECKED BY  |               |
| DATE        |               |

|                              |                                       |
|------------------------------|---------------------------------------|
| October 22, 2013             | <b>Planning and Zoning Commission</b> |
| Zoning                       |                                       |
| <b>Case Number: Z-13-015</b> |                                       |

**OWNER/APPLICANT:** Ruben and Rachel Guerrero **AGENT:** April Gurrero

**LOCATION:** 1101 East FM 150 Kyle, Texas

**COUNTY:** Hays County

**AREA:** 3.254 acres

**PROPOSED CITY COUNCIL HEARINGS:** First Reading: November 5, 2013  
Second Reading: November 19, 2013

**EXISTING ZONING:** Ag-Agriculture

**PROPOSED ZONING:** Retail Services

**SITE INFORMATION:** The subject property fronts on east FM 150.

**Surrounding Zoning:**

- o North: M-3(Manufactured Home Park)
- o South: E.RR 150 (across the street the property is located outside the city limits)
- o East :Agriculture
- o West: Agriculture

**Future Land Use Designation:** Local Node

**PUBLIC INPUT:** Notice of the proposed change was sent to property owners within 200' of the subject property. Under the new notification requirements a sign was also posted on the sign.

**STAFF ANALYSIS:**

**Background**

The subject property is located along E. RR 150, east of Creekside Trail and west of Harvest Moon Pkwy. In the past the property has been used as a single family residence however the applicant would like to rezone the property in order to allow for a chiropractors office.

**Comprehensive Plan Guidance**

The comprehensive master plan identifies that some local nodes occur at existing intersections, where a greater intensity of use should be fostered, while other local nodes are located at points where new corridors will create significant local intersections in the future. Local Nodes are called to have the lowest level of non-residential development intensity.

**RS Zoning District**

This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard to neighboring areas. The conditions and limitations on uses in the RS district are as follows:



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## Planning and Zoning Commission

Zoning

**Case Number: Z-13-015**

- (1) The use be conducted wholly within an enclosed building, except for delivery, catering, gasoline sales, nurseries and garden centers.
- (2) Required yards and outdoor areas not be used for display, sale vehicles, equipment, containers or waste material, save and except for screened dumpster collection areas.
- (3) All merchandise to be sold on the premises, except for delivery and catering.
- (4) The use is not objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that, excluding that caused customer and employee vehicles, such odors, smoke, dust, noise or vibration be generally contained within the property.
- (5) Establishments located on property that is within 300 feet of any property zoned for a residential use when the commercial use is first established may not to be open to the general public before 6:00 a.m. and must be closed to the general public by 10:00 p.m.

### *Findings and Recommendation*

In reviewing the requested rezoning application staff has made the following findings:

- The subject property is located along a roadway that is shifting from a rural residential corridor to a corridor that connects residential subdivisions with good and services.
- In reviewing the comprehensive master plan the plan calls for the local node to be comprised of neighborhood –scale retail uses, small public gathering spaces, and some higher intensity residential opportunities. Additionally it calls for the lowest level of non-residential development intensity.
- The retail services zoning designation is the most intense commercial zoning designation allowed within the current zoning ordinance.
- **In an effort to balance the location of the property on a major arterial roadway and the goal of the future land use district staff is making an alternative recommendation of Community Commercial for the subject property.**
  - The purpose of the community commercial district [CC] is to provide for slightly more intense commercial uses than allowed in the neighborhood commercial zoning district. The district is established to provide areas for quality retail establishments and service facilities. This district should generally consist of retail nodes located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes.

# Exhibit B



|                                       |  |
|---------------------------------------|--|
| <p>October 22, 2013</p> <p>Zoning</p> | <p><i>Planning and Zoning Commission</i></p> |
| <p><b>Case Number: Z-13-016</b></p>   |  |

**OWNER/APPLICANT:** Dale and Lanette Lowden

**LOCATION:** 1108 Porter Road

**COUNTY:** Hays County

**AREA:** 4.826

**PROPOSED CITY COUNCIL HEARINGS:** First Reading: November 5, 2013  
Second Reading: November 19, 2013

**EXISTING ZONING:** R-1 (zoning category from previous zoning ordinance)

**PROPOSED ZONING:** Warehouse "W"

**SITE INFORMATION:** The subject property fronts on Porter Street and is currently developed with a gravel parking area, metal storage building, and outdoor storage yard.

***Surrounding Zoning:***

- o *North: R-1(zoning designation allowed under previous zoning ordinance; this designation is no longer part of the current zoning ordinance )*
- o *South: R-1 and Agriculture*
- o *East : R-1 and Townhomes*
- o *West: currently R-1; the property owner is seeking a rezoning to Warehouse concurrently with this zoning request.*

***Future Land Use Designation: Historic Core Area and Midtown***

**PUBLIC INPUT:** Notice of the proposed change was sent to property owners within 200' of the subject property. Under the new notification requirements a sign was also posted on the sign.

**STAFF ANALYSIS:**

***Background***

As identified above the property is currently developed and used as an outdoor storage facility, office, and indoor warehouse. The property owner would like to make improvements to the property that includes both site improvements and building improvements. Because the property is considered a legal non-conforming if the property owner would like to exceed the scope of the below non-conforming requirements the property must first come into conformance with the zoning requirements and then development requirements.

Sec. 53-1139. **Nonconforming** structures. Where a lawful structure exists on the effective date of the adoption or amendment of the ordinance from which this chapter is derived, that could not be built under the terms of this article by reason of restrictions on permitted use, area, lot coverage, height, years, its locations on the lot, or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

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## Planning and Zoning Commission

Zoning

**Case Number: Z-13-016**

(1) No such **nonconforming** structure may be enlarged or altered in a way which increases its structural nonconformity, but any structure or portion thereof may be altered to decrease its structural nonconformity.

(2) Should such **nonconforming** structure or **nonconforming** portions of a structure be damaged by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with this chapter.

(3) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

Sec. 53-1140. **Nonconforming** uses.

(a) A **nonconforming** use may be continued as long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a **nonconforming** use shall be enlarged, extended, constructed or reconstructed.

(2) The use of the structure shall only be changed to a use permitted in the district in which it is located.

(3) A **nonconforming** use that has been discontinued may be resumed only if there has been no other use of the premises or structure since the **nonconforming** use was discontinued, and such use was not discontinued for a period of 90 days or more; provided that if a use is discontinued temporarily for remodeling of a building and a building permit for the remodeling is taken out within 60 days from the date the use is discontinued the period shall be 180 days from the from the date the use is discontinued.

(4) Any **nonconforming** use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to any land outside such building.

(5) Removal or destruction of a structure containing a **nonconforming** use shall eliminate the **nonconforming** use status. The term "destruction" means, for the purpose of this subsection, damage equal to more than 50 percent of the replacement cost of the structure.

(6) A **nonconforming** use shall not terminate upon any sale or conveyance of the property so long as the **nonconforming** use continues through any sale or conveyance.

(b) *Repairs and maintenance.* On any **nonconforming** structure, or **nonconforming** portion of a structure, containing a **nonconforming** use, repairs and maintenance shall be performed to

maintain the structure in compliance with the electrical, plumbing and building codes; provided that such repairs and maintenance shall be subject to the following conditions and limitations:

(1) No work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-load-bearing walls, fixtures, wiring or plumbing, to an extent exceeding 25 percent of the current replacement cost of such structure or **nonconforming** portion of such structure.

(2) If 50 percent or more of the **nonconforming** structure containing a **nonconforming** use becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

***Comprehensive Plan Guidance***

This property is split by both the Historic Core Area and Midtown future land use districts. Both future land use districts are intended to be developed predominantly residentially.

***Proposed Zoning District***

The warehouse district is designed to provide locations for outlets offering goods and services to a targeted segment of the general public as well as industrial users. The permitted uses include those that primarily serve other commercial and industrial enterprises. No building or land shall be used, and no building hereafter shall be erected, maintained, or structurally altered, except for an allowed use. The conditions and limitations on uses in the Warehouse district are as follows:

(1) The use is conducted primarily within an enclosed building or screened area, except for the customary outdoor activities for the specific use listed.

(2) The use is not objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that such odor, smoke, dust, noise or vibration at the property line does not exceed the permitted levels established by ordinance.

(3) Signs (advertising) must be in compliance with all applicable ordinances.

(4) Establishments located on property that is within 300 feet of any property zoned for a residential use when the commercial use is first established may not be open to the general public before 6:00 a.m. and must be closed to the general public by 10:00 p.m.

October 22, 2013

*Planning and Zoning Commission*

Zoning

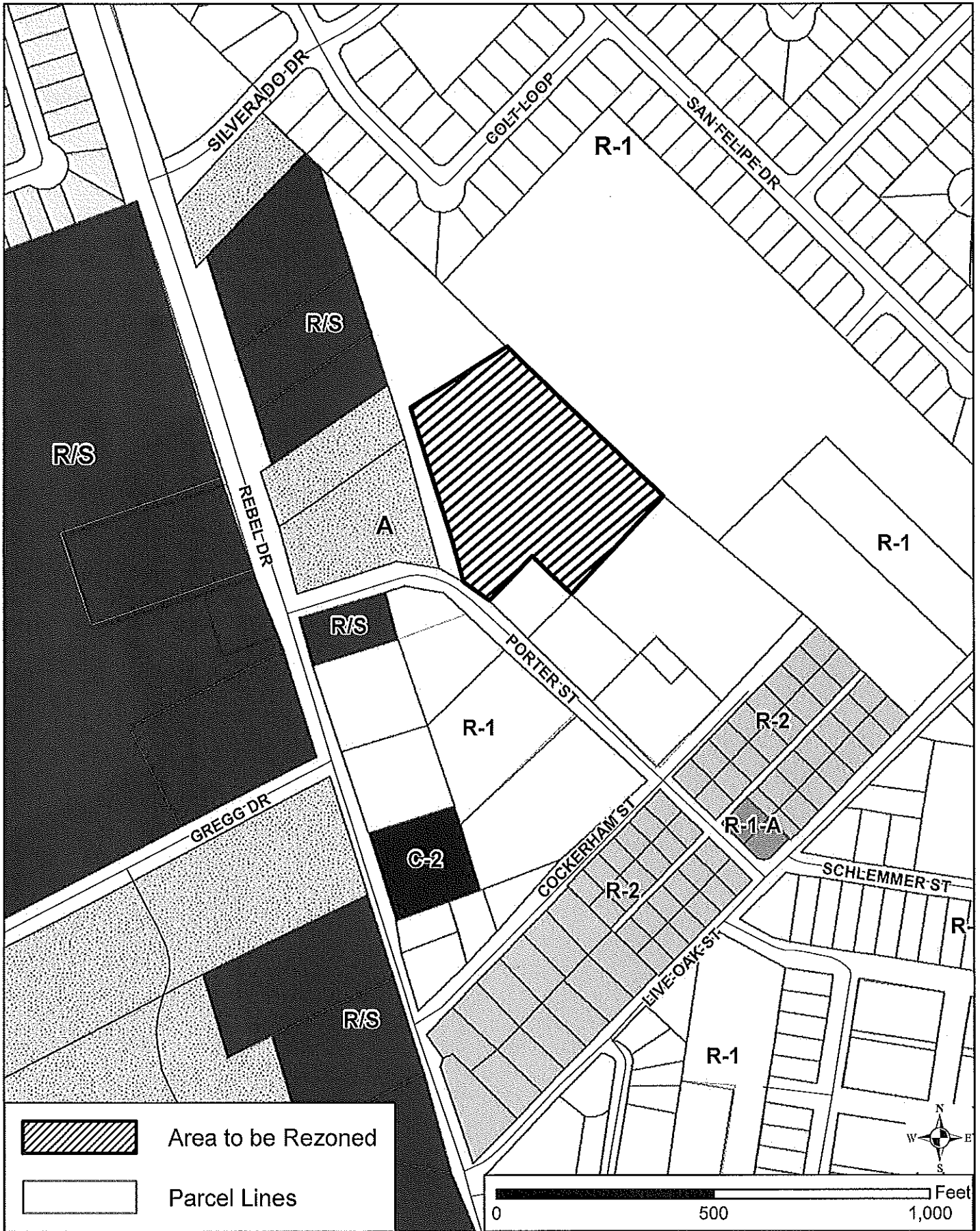
**Case Number: Z-13-016**

*Findings and Recommendation*

In reviewing the requested rezoning application staff has made the following findings:

- The proposed zoning change would allow for the property to be improved to current site requirements which would included landscaping and paved parking areas.
- The zoning proposal is not consistent with the stated goals of the future land use districts and is identified as a conflicting land use transition based on the existing uses and guidance provided in the comprehensive master plan.
- The warehouse zoning district is identified as not recommended in both future land use districts
- For the above reasons staff is recommending denial of the request.

# Exhibit B



| <i>W, Warehouse district</i> |  |   |
|------------------------------|--|---|
| Constr.                      | Air conditioning and heating contractor  | W |
| Constr.                      | Brick and stone mason contractor         | W |
| Constr.                      | Cable installation contractor            | W |
| Constr.                      | Carpentry work contractor                | W |
| Constr.                      | Carpet and floor laying contractor       | W |
| Constr.                      | Commercial buildings contractor          | W |
| Constr.                      | Concrete contractor                      | W |
| Constr.                      | Construction contractors, NEC            | W |
| Constr.                      | Contractor, air conditioning and heating | W |
| Constr.                      | Contractor, brick and stone mason        | W |
| Constr.                      | Contractor, cable installation           | W |
| Constr.                      | Contractor, carpentry work               | W |
| Constr.                      | Contractor, carpet and floor laying      | W |
| Constr.                      | Contractor, commercial bldg.             | W |
| Constr.                      | Contractor, concrete                     | W |
| Constr.                      | Contractor, construction NEC             | W |
| Constr.                      | Contractor, demolition and wrecking      | W |
| Constr.                      | Contractor, drywall and insulation       | W |
| Constr.                      | Contractor, electrical                   | W |
| Constr.                      | Contractor, excavating and foundation    | W |
| Constr.                      | Contractor, fencing                      | W |
| Constr.                      | Contractor, foundation repair            | W |



|         |   |   |
|---------|---|---|
| Constr. | Contractor, general                       | W |
| Constr. | Contractor, glass and glazing             | W |
| Constr. | Contractor, highway and road construction | W |
| Constr. | Contractor, lawn sprinkler systems        | W |
| Constr. | Contractor, mechanical                    | W |
| Constr. | Contractor, paint and wallpaper hanger    | W |
| Constr. | Contractor, paving (not road)             | W |
| Constr. | Contractor, plumbing                      | W |
| Constr. | Contractor, roofing and siding            | W |
| Constr. | Contractor, single-family residence       | W |
| Constr. | Contractor, steel erectors                | W |
| Constr. | Contractor, swimming pool                 | W |
| Constr. | Contractor, tile and marble               | W |
| Constr. | Contractor, utility                       | W |
| Constr. | Demolition and wrecking work              | W |
| Constr. | Drilling contractor, water well           | W |
| Constr. | Drywall and insulation contractor         | W |
| Constr. | Electrical contractor                     | W |
| Constr. | Excavating and foundation contractor      | W |
| Constr. | Fencing contractor                        | W |
| Constr. | Floor and carpet laying contractor        | W |
| Constr. | Foundation repair contractor              | W |
| Constr. | General contractor office                 | W |

|         |  |   |
|---------|--|---|
| Constr. | Glass and glazing contractor             | W |
| Constr. | Heating and air conditioning contractor  | W |
| Constr. | Highway and road construction contractor | W |
| Constr. | Home construction contractor             | W |
| Constr. | Insulation and drywall contractor        | W |
| Constr. | Mason, brick and stone contractor        | W |
| Constr. | Mechanical contractors                   | W |
| Constr. | Paint and wallpaper hanging contractor   | W |
| Constr. | Paving contractors (not road)            | W |
| Constr. | Plumbing contractor                      | W |
| Constr. | Residential home construction            | W |
| Constr. | Road and highway construction contractor | W |
| Constr. | Roofing and siding contractor            | W |
| Constr. | Siding and roofing contractor            | W |
| Constr. | Single-family residence home contractor  | W |
| Constr. | Sprinkler systems contractor, lawn       | W |
| Constr. | Steel erectors                           | W |
| Constr. | Swimming pool contractor                 | W |
| Constr. | Tile and marble contractor               | W |
| Constr. | Utility contractor                       | W |
| Constr. | Wallpaper hanging and paint contractor   | W |
| Constr. | Water sprinkler systems contractor       | W |
| Constr. | Water well drilling contractor           | W |

|         |   |   |
|---------|---|---|
| Constr. | Wrecking and demolition work                          | W |
| Mfg.    | Athletic and sporting goods manufacturing             | W |
| Mfg.    | Cabinet shop  | W |
| Mfg.    | Clothing mfg., NEC                                    | W |
| Mfg.    | Communication devices manufacturing (not telephone)   | W |
| Mfg.    | Computer, circuit board manufacturing                 | W |
| Mfg.    | Computer, computer manufacturing                      | W |
| Mfg.    | Computer, cabless semiconductor                       | W |
| Mfg.    | Computer, peripheral equip                            | W |
| Mfg.    | Computer, semiconductor manufacturing (not 3332 9500) | W |
| Mfg.    | Computer, semiconductor manufacturing equip           | W |
| Mfg.    | Computer, semiconductor testing                       | W |
| Mfg.    | Computer, terminal manufacturing                      | W |
| Mfg.    | Costume jewelry manufacturing                         | W |
| Mfg.    | Detection and search and navigation equip             | W |
| Mfg.    | Doll manufacturer                                     | W |
| Mfg.    | Electrical equip manufacturing, vehicle               | W |
| Mfg.    | Electronic components manufacturing                   | W |
| Mfg.    | Electronic connectors manufacturing                   | W |
| Mfg.    | Food, bread products                                  | W |
| Mfg.    | Food, candy products                                  | W |
| Mfg.    | Food, cookies and chips and snacks                    | W |
| Mfg.    | Food, prepared (nonfrozen)                            | W |

|        |  |   |
|--------|--|---|
| Mfg.   | Food, sauces and condiments                | W |
| Mfg.   | Furniture mfg., household                  | W |
| Mfg.   | Heating and fireplace equipment mfg.       | W |
| Mfg.   | Household fixtures, NEC                    | W |
| Mfg.   | Household furniture mfg.                   | W |
| Mfg.   | Industrial measurement products            | W |
| Mfg.   | Jeweler findings manufacturing             | W |
| Mfg.   | Jewelry mfg., costume jewelry              | W |
| Mfg.   | Jewelry mfg., precious metal               | W |
| Mfg.   | Lighting equip, NEC                        | W |
| Mfg.   | Machine shop (not auto)                    | W |
| Mfg.   | Machine tool and accessories manufacturing | W |
| Mfg.   | Metal work, ornamental                     | W |
| Mfg.   | Sewing gift products                       | W |
| Retail | Chemical retailer, NEC                     | W |
| Retail | Dirt and loam product sales                | W |
| Retail | Drinking place, nightclub                  | W |
| Retail | Flea market booth                          | W |
| Retail | Flea market operator                       | W |
| Retail | Heavy equipment sales                      | W |
| Retail | Liquefied petro/bottled gas                | W |
| Retail | Men's club                                 | W |
| Retail | Mobile home dealers                        | W |

|          |   |   |
|----------|---|---|
| Retail   | Mobile home repossession service                  | W |
| Retail   | Nightclub   | W |
| Retail   | Portable buildings and mobile office sales        | W |
| Retail   | RV and utility trailer dealers                    | W |
| Retail   | Trailer and RV dealers                            | W |
| Retail   | Utility trailer and RV dealers                    | W |
| Retail   | Warehouse off-site storage (retail and wholesale) | W |
| Services | Aircraft service and repair                       | W |
| Services | Armature rewinding shop                           | W |
| Services | Armored car service                               | W |
| Services | Coffee service, office                            | W |
| Services | Delivery services                                 | W |
| Services | Laundry, cleaning plant                           | W |
| Services | Lawn and garden services                          | W |
| Services | Miniwarehouse office                              | W |
| Services | Mobile home, transport service                    | W |
| Services | Movers, home and office                           | W |
| Services | Newspaper (publish and print)                     | W |
| Services | Packing and carting service                       | W |
| Services | Pest control                                      | W |
| Services | Print, newspaper (publish and print)              | W |
| Services | Print, publishing and printing                    | W |
| Services | Publishing and printing                           | W |

|           |  |   |
|-----------|--|---|
| Services  | Repair services, NEC                   | W |
| Services  | Rifle and pistol range                 | W |
| Services  | Tree surgeon and services              | W |
| Services  | Upholstery and carpet cleaning         | W |
| Services  | Vending machine, office                | W |
| Services  | Vending machine equip, various loc.    | W |
| Services  | Warehousing, refrigerated              | W |
| Services  | Warehousing and storage, general       | W |
| Services  | Welding shop                           | W |
| Services  | Wrecker service                        | W |
| Transp.   | Bus charter service                    | W |
| Transp.   | Bus lines                              | W |
| Transp.   | Local and suburban transit             | W |
| Transp.   | Local trucking w/o storage             | W |
| Transp.   | Local trucking with storage            | W |
| Transp.   | Railroad side track                    | W |
| Transp.   | School buses                           | W |
| Transp.   | Taxicab company                        | W |
| Transp.   | Transportation services, NEC           | W |
| Transp.   | Trucking, except local                 | W |
| Transp.   | Trucking terminal facility             | W |
| Utilities | Electric companies                     | W |
| Whsale    | Air conditioning and heating equipment | W |

|        |   |   |
|--------|---|---|
| Whsale | Appliance wholesaler - electrical       | W |
| Whsale | Arts and crafts wholesaler              | W |
| Whsale | Auto wholesaler                         | W |
| Whsale | Automotive parts wholesaler             | W |
| Whsale | Beer distributor                        | W |
| Whsale | Bottled water distributor               | W |
| Whsale | Brick and stone wholesaler              | W |
| Whsale | Building materials, NEC                 | W |
| Whsale | Dairy products wholesaler               | W |
| Whsale | Drugs and toiletries wholesaler         | W |
| Whsale | Electrical equipment and supplies       | W |
| Whsale | Electrical appliances                   | W |
| Whsale | Electronic parts and equipment          | W |
| Whsale | Florists and flowers supply, wholesaler | W |
| Whsale | Gas, industrial and medical             | W |
| Whsale | Grocery distributor, wholesaler         | W |
| Whsale | Hardware wholesaler                     | W |
| Whsale | Heating and ac equipment                | W |
| Whsale | Industrial supplies                     | W |
| Whsale | Insulation and siding and roofing       | W |
| Whsale | Janitorial supplies                     | W |
| Whsale | Jewelry wholesaler                      | W |
| Whsale | Liquor and wine wholesaler              | W |

|        |  |   |
|--------|--|---|
| Whsale | Magazine and newspaper wholesaler        | W |
| Whsale | Masonry products wholesaler              | W |
| Whsale | Medical goods and equipment              | W |
| Whsale | Newspaper and magazine wholesaler        | W |
| Whsale | Office supplies wholesaler               | W |
| Whsale | Paint wholesaler                         | W |
| Whsale | Paper wholesaler                         | W |
| Whsale | Plumbing fixtures and supplies           | W |
| Whsale | Poultry products wholesaler              | W |
| Whsale | Produce wholesaler                       | W |
| Whsale | Professional equipment and supplies, NEC | W |
| Whsale | Refrigeration equipment                  | W |
| Whsale | Restaurant equipment and supplies        | W |
| Whsale | Roofing and siding and insulation        | W |
| Whsale | Siding and roofing and insulation        | W |
| Whsale | Soft drinks distributor                  | W |
| Whsale | Stone and brick wholesaler               | W |
| Whsale | Tire wholesaler                          | W |
| Whsale | Tobacco products wholesaler              | W |
| Whsale | Toiletries and drugs wholesaler          | W |
| Whsale | Wholesale trade, NEC                     | W |



9C

|                                       |  |
|---------------------------------------|--|
| <p>October 22, 2013</p> <p>Zoning</p> | <p><i>Planning and Zoning Commission</i></p> |
| <p><b>Case Number: Z-13-017</b></p>   |  |

**OWNER/APPLICANT:** Blake and Ramona Brown

**LOCATION:** 1108-C Porter Road (north of case Z-13-016)

**AREA** 2.378 acres

**PROPOSED CITY COUNCIL HEARINGS:** First Reading: November 5, 2013  
Second Reading: November 19, 2013

**EXISTING ZONING:** R-1 (zoning category from previous zoning ordinance)

**PROPOSED ZONING:** Warehouse "W"

**SITE INFORMATION:** The subject property is a flag-shaped lot which has an access drive which fronts on Porter Street but is largely located approximately 350-400 feet from Porter Street.

***Surrounding Zoning:***

- o *North: R-1 (zoning designation allowed under previous zoning ordinance; this designation is no longer part of the current zoning ordinance )*
- o *South: R-1 currently seeking a rezoning to Warehouse concurrent with this zoning request.*
- o *West: Retail Services and Agriculture*

***Future Land Use Designation: Historic Core Area and Midtown***

**PUBLIC INPUT:** Notice of the proposed change was sent to property owners within 200' of the subject property. Under the new notification requirements a sign was also posted on the sign.

**STAFF ANALYSIS:**

***Background***

The property is currently developed and used as a cabinet making shop. The property owner would like to bring the zoning of the property into conformance in order to allow for future development of the property. Because the property is considered a legal non-conforming if the property owner would like to exceed the scope of the below non-conforming requirements the property must first come into conformance with the zoning requirements and then development requirements.

Sec. 53-1139. **Nonconforming** structures. Where a lawful structure exists on the effective date of the adoption or amendment of the ordinance from which this chapter is derived, that could not be built under the terms of this article by reason of restrictions on permitted use, area, lot coverage, height, years, its locations on the lot, or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

(1) No such **nonconforming** structure may be enlarged or altered in a way which increases its structural nonconformity, but any structure or portion thereof may be altered to decrease its structural nonconformity.

(2) Should such **nonconforming** structure or **nonconforming** portions of a structure be damaged by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with this chapter.

(3) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

Sec. 53-1140. **Nonconforming** uses.

(a) A **nonconforming** use may be continued as long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a **nonconforming** use shall be enlarged, extended, constructed or reconstructed.

(2) The use of the structure shall only be changed to a use permitted in the district in which it is located.

(3) A **nonconforming** use that has been discontinued may be resumed only if there has been no other use of the premises or structure since the **nonconforming** use was discontinued, and such use was not discontinued for a period of 90 days or more; provided that if a use is discontinued temporarily for remodeling of a building and a building permit for the remodeling is taken out within 60 days from the date the use is discontinued the period shall be 180 days from the from the date the use is discontinued.

(4) Any **nonconforming** use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to any land outside such building.

(5) Removal or destruction of a structure containing a **nonconforming** use shall eliminate the **nonconforming** use status. The term "destruction" means, for the purpose of this subsection, damage equal to more than 50 percent of the replacement cost of the structure.

(6) A **nonconforming** use shall not terminate upon any sale or conveyance of the property so long as the **nonconforming** use continues through any sale or conveyance.

(b) *Repairs and maintenance.* On any **nonconforming** structure, or **nonconforming** portion of a structure, containing a **nonconforming** use, repairs and maintenance shall be performed to

October 22, 2013

## Planning and Zoning Commission

Zoning

**Case Number: Z-13-017**

maintain the structure in compliance with the electrical, plumbing and building codes; provided that such repairs and maintenance shall be subject to the following conditions and limitations:

(1) No work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-load-bearing walls, fixtures, wiring or plumbing, to an extent exceeding 25 percent of the current replacement cost of such structure or **nonconforming** portion of such structure.

(2) If 50 percent or more of the **nonconforming** structure containing a **nonconforming** use becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

### *Comprehensive Plan Guidance*

This property is split by both the Historic Core Area and Midtown future land use districts. Both future land use districts are intended to be developed predominantly residentially.

### *Proposed Zoning District*

The warehouse district is designed to provide locations for outlets offering goods and services to a targeted segment of the general public as well as industrial users. The permitted uses include those that primarily serve other commercial and industrial enterprises. No building or land shall be used, and no building hereafter shall be erected, maintained, or structurally altered, except for an allowed use. The conditions and limitations on uses in the Warehouse district are as follows:

- (1) The use is conducted primarily within an enclosed building or screened area, except for the customary outdoor activities for the specific use listed.
- (2) The use is not objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that such odor, smoke, dust, noise or vibration at the property line does not exceed the permitted levels established by ordinance.
- (3) Signs (advertising) must be in compliance with all applicable ordinances.
- (4) Establishments located on property that is within 300 feet of any property zoned for a residential use when the commercial use is first established may not be open to the general public before 6:00 a.m. and must be closed to the general public by 10:00 p.m.

October 22, 2013

## *Planning and Zoning Commission*

Zoning

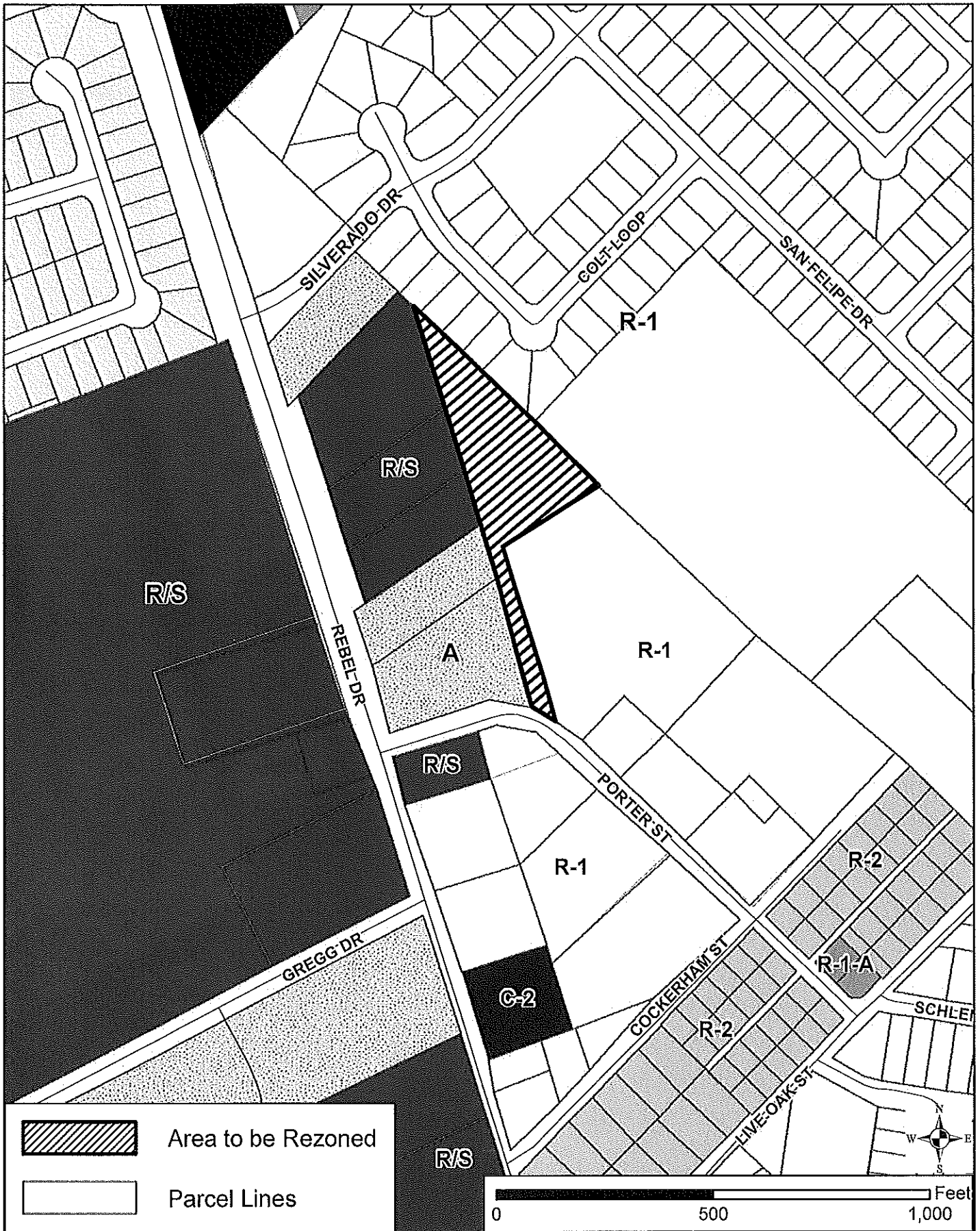
**Case Number: Z-13-017**

### *Findings and Recommendation*

In reviewing the requested rezoning application staff has made the following findings:

- The proposed zoning change would allow for the property to be improved to current site requirements which would included landscaping and paved parking areas.
- The zoning proposal is not consistent with the stated goals of the future land use districts and is identified as a conflicting land use transition based on the existing uses and guidance provided in the comprehensive master plan.
- The warehouse zoning district is identified as not recommended in both future land use districts
- For the above reasons staff is recommending denial of the request.

# Exhibit B



|                                       |  |
|---------------------------------------|--|
| <p>October 22, 2013</p> <p>Zoning</p> | <p><i>Planning and Zoning Commission</i></p> |
| <p><b>Case Number: Z-13-018</b></p>   |  |

**OWNER/APPLICANT:** Kyle Fire Department / ESD #5

**LOCATION:** 108 S. Burleson

**AREA:** 3.254 acres

**PROPOSED CITY COUNCIL HEARINGS:** First Reading: November 5, 2013  
Second Reading: November 19, 2013

**EXISTING ZONING:** R-1 (zoning category from previous zoning ordinance)

**PROPOSED ZONING:** CBD-2

**SITE INFORMATION:** The subject property is on the northwest corner of Miller and Burleson. The site currently has two metal buildings on the property.

***Surrounding Zoning:***

- o *North: CBD-2*
- o *South: Bounded by Miller Street- property across the street is zoned R-1*
- o *East :Bounded by Burleson Street- City square is zoned CBD-2*
- o *West: R-1*

***Future Land Use Designation: Old Town Community***

**PUBLIC INPUT:** Notice of the proposed change was sent to property owners within 200’ of the subject property. Under the new notification requirements a sign was also posted on the sign.

**STAFF ANALYSIS:**

***Background***

The applicant is seeking to rezone this property to a category permitted with the zoning ordinance and consistent with the surrounding zoning districts and surrounding development.

***Comprehensive Plan Guidance***

The Old Town District is called to be preserved and promoted. This district is called to be both local commercial services and residential uses.

***Proposed Zoning District***

The CBD-2 central business district 2 is less restrictive than CBD-1 and principally addresses development in the original town and central area of the city, allowing a mix of uses including, office, and restricted commercial, restricted multi-family residential and residential uses. Each multi-family dwelling unit shall be required to have a minimum of five hundred (500) square feet of living area.

October 22, 2013

## *Planning and Zoning Commission*

Zoning

**Case Number: Z-13-018**

The conditions and limitations on uses in the CBD-2 district are as follows:

- (1) The use be conducted wholly within an enclosed building.
- (2) Required yards and outdoor areas not be used for display, sale vehicles, equipment, containers or waste material, save and except for screened dumpster collection areas.
- (3) The use is not objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that, excluding that caused customer and employee vehicles, such odors, smoke, dust, noise or vibration be generally contained within the property.
- (4) Signs (advertising) must be in compliance with all applicable ordinances.
- (5) The conditions and limitations and permitted uses applicable to the district governing the proposed use of the property shall apply within the central business district 2.
- (6) Uses as determined by the planning and zoning commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted.

### *Findings and Recommendation*

In reviewing the requested rezoning application staff is recommending approval of the request for the following findings:

- The proposed zoning is consistent with the zoning of the remainder of the block.
- CBD-2 is a recommended zoning district for the future land use district
- The uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area.
- The proposed zoning change will not substantially affect the public health, safety, morals, or general welfare

# Exhibit B

