

KENNEDALE CITY COUNCIL
AGENDA
REGULAR MEETING
December 12, 2013
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

WORK SESSION - 5:30 PM
REGULAR SESSION - 7:00 PM

I. CALL TO ORDER

II. WORK SESSION

***NOTE: Pursuant to Section 551.071, Texas Government Code, the City Council reserves the right to adjourn into Executive Session at any time during the work session or the regular session to discuss posted executive session items or to seek legal advice from the City Attorney on any item posted on the agenda.**

- A. Performance Report.
- B. Sales tax discussion.
- C. Oak Crest development update and discussion.
- D. Youth Advisory Council project discussion.
- E. Discuss any other items on the agenda.

III. REGULAR SESSION

IV. ROLL CALL

V. INVOCATION

VI. UNITED STATES PLEDGE

VII. TEXAS PLEDGE

"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State under God; One and Indivisible."

VIII. VISITOR/CITIZENS FORUM

At this time, any person with business before the Council not scheduled on the agenda may speak to the Council. No formal action can be taken on these items at this meeting.

IX. REPORTS/ANNOUNCEMENTS

In addition to any specific matters listed below, the city council may receive a report about items of community interest, including but not limited to recognition of individual officials, citizens or departments, information regarding holiday schedules, upcoming or attended events, etc.

- A. Updates and information from the Mayor.
- B. Updates and information from Councilmembers.
- C. Updates and information from the City Manager.

X. CONSENT ITEMS

All matters listed under consent agenda have been previously discussed, require little or no deliberation, or are considered to be routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately.

- A. Consider authorizing the City Manager to make an emergency expenditure to replace the T-Well Site Pump and Motor.
- B. Consider approval of minutes from November 5, 2013 regular meeting.

XI. REGULAR ITEMS

- A. Consider approval of Ordinance 539, regarding an electric power franchise for Oncor Electric Delivery Company.
- B. Consider casting votes for the 2013-2014 Tarrant Appraisal District Board of Directors.
- C. Consider appointing a Chair and Vice Chair for the 2013-2014 Board of Adjustment/Building Board of Appeals.
- D. **CASE # PZ 13-08** to receive comments and consider approval of Ordinance 540, regarding action on a request by Ashton Holdings, Inc. for a zoning change for approximately 6.3 acres from "OT" Old Town District to "PD" Planned Development District located at 260 Hilltop (access on 3rd St), legal description of Hilltop Addition Block 1 Lots 1-15.
 - 1. Staff Presentation
 - 2. Applicant Presentation
 - 3. Public Hearing
 - 4. Applicant Response
 - 5. Staff Response and Summary
 - 6. Action by the Council

E. **CASE # PZ 13-10** to receive comments and consider approval of Ordinance 541, regarding a request by Ashton Holdings, Inc. for a zoning change for approximately 4.3 acres from "AG" Agricultural District to "R-1" Single Family Residential District for property owned by Ricardo Trevino and located at the corner of Swiney Hiatt Rd and Collett Sublett Rd, legal description of Oliver Acres Addition Block 2 Lot 6.

1. Staff Presentation
2. Applicant Presentation
3. Public Hearing
4. Applicant Response
5. Staff Response and Summary
6. Action by the Council

F. **CORRECT CASE # PZ 13-11** to receive comments and consider action on a request by Ashton Holdings, Inc. for a replat of approximately 4.3 acres, for property owned by Ricardo Trevino and located at the corner of Swiney Hiatt Rd and Collett Sublett Rd, legal description of Oliver Acres Addition Block 2 Lot 6, to create Lots 6R1-6R8.

1. Staff Presentation
2. Applicant Presentation
3. Public Hearing
4. Applicant Response
5. Staff Response and Summary
6. Action by the Council

G. **CASE # PZ 13-12** to receive comments and consider approval of Ordinance 542, regarding a request by Alluvium Development, Inc. to amend the regulations for the Planned Development District for property located at 925 Mansfield Cardinal Rd, legal description of J M Lilly Survey A 980 Tract 2 & A 985 Tract 3, Tarrant County, Texas, to correct a scrivener's error that listed the minimum lot width for "C" type lots as 85 feet instead of 80 feet.

1. Staff Presentation
2. Applicant Presentation
3. Public Hearing
4. Applicant Response
5. Staff Response and Summary
6. Action by the Council

H. Discuss and consider approval of Ordinance 543, regarding the use of lead-flux and solder in plumbing installations.

XII. EXECUTIVE SESSION

A. The City Council will meet in closed session pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion of any item posted on the agenda..

XIII. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

XIV. ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Kennedale will provide for reasonable accommodations for persons attending City Council meetings. This building is wheelchair accessible, and parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meetings. Please contact Amethyst Cirno, City Secretary, at 817.985.2104 or (TDD) 1.800.735.2989

CERTIFICATION

I certify that a copy of the December 12, 2013, agenda was posted on the City Hall bulletin board next to the main entrance of the City Hall building, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times and said agenda was posted at least 72 hours preceding the schedule time of said meeting, in accordance with Chapter 551 of the Texas Government Code.

A handwritten signature in cursive script, reading "Amethyst G. Sloane". The signature is written in black ink and is positioned above a horizontal line.

Amethyst G. Sloane, City Secretary

Date: December 12, 2013

Agenda Item No: WORK SESSION - A.

I. Subject:
Performance Report.

II. Originated by:

Bob Hart

III. Summary:
At this time the City Manager will present a report on the balanced scorecard. Please see the attached information.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:
None

VII. Alternative Actions:

VIII. Attachments:

1.	December Scorecard	12.05.2013 Kennedale Scorecard Info 13-3.pdf
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INDICATOR DATA

Objective	Indicator Name	Unit of Measure	RED	GREEN
S1 Achieve a Thriving Community	Sales Tax Trends (% Difference)	% Of Dollars	0.02	0.04
S2 Be a Sustainable & Attractive City	% Code Enforcement Complaints Resolved (40%)	Cases	25%	35%
S2 Be a Sustainable & Attractive City	Water Cases (60%)	Gallons	20%	-20%
		Total		
S3 Be Family Oriented	Crime Rates	Priority I Crimes	30	25
I1 Provide Excellent Services	Fire/EMS Service Response Time (50%)	Minutes	5.5	4.0
I1 Provide Excellent Services	Police Service Response Time (50%)	Minutes	7.0	6.0
		Total		
I2 Enhance Business Climate	Building Permit Response Time (Days)	Days	10	5
I3 Expect Operational Excellence	Training Hours	Hours	100	125
I4 Ensure Public Health & Safety	Water Samples (70%)	Reads	7.00	8.00
I4 Ensure Public Health & Safety	Fire Inspections (30%)	Inspections	10.00	20.00
		Total		
I5 Enhance Partnerships	Partnership Interactions	Interactions	3	6
E1 Build Exceptional Talent	Turnover	Percentage	1.0	0.0
E2 Foster Pride in Ownership	Absenteeism	days	50	28

[illegible]

INDICATOR DATA

Objective	Indicator Name	Unit of Measure	RED	GREEN
E3 Leverage Technology	IT Expenses vs. Budget (%)	% Of Dollars	0	1
F1 Balance the Tax Burden	Sales tax (% of General Fund Revenues)	% Of Dollars	0.02	0.04
F2 Fiscally Responsible	Variance to Budget (%)	% Of Dollars	1	0
F3 Leverage Resources	# of Partnerships Prospects In Pipeline	Projects	0.0	3.0

2013											
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2	2	2	2	2	2	2	2	2	2	2	
-2.8	-2.9	-4.4	-4.4	-4.7	-4.4	-4.5	-4.9	-3.4	-3.4	-3.4	
0	0	0	0	0	0	0	0	0	0	0	
3	3	3	2	3	3	6	4	5	4	6	

Date: December 12, 2013

Agenda Item No: WORK SESSION - B.

I. Subject:

Sales tax discussion.

II. Originated by:

Bob Hart

III. Summary:

Bob Hart will give an updated report on the state of the city's sales tax and other revenue.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: December 12, 2013

Agenda Item No: WORK SESSION - C.

I. Subject:

Oak Crest development update and discussion.

II. Originated by:

Bob Hart

III. Summary:

Bob Hart will give an update on development in this area. Please see the attached map for reference.

IV. Fiscal Impact Summary:

V. Legal Impact:

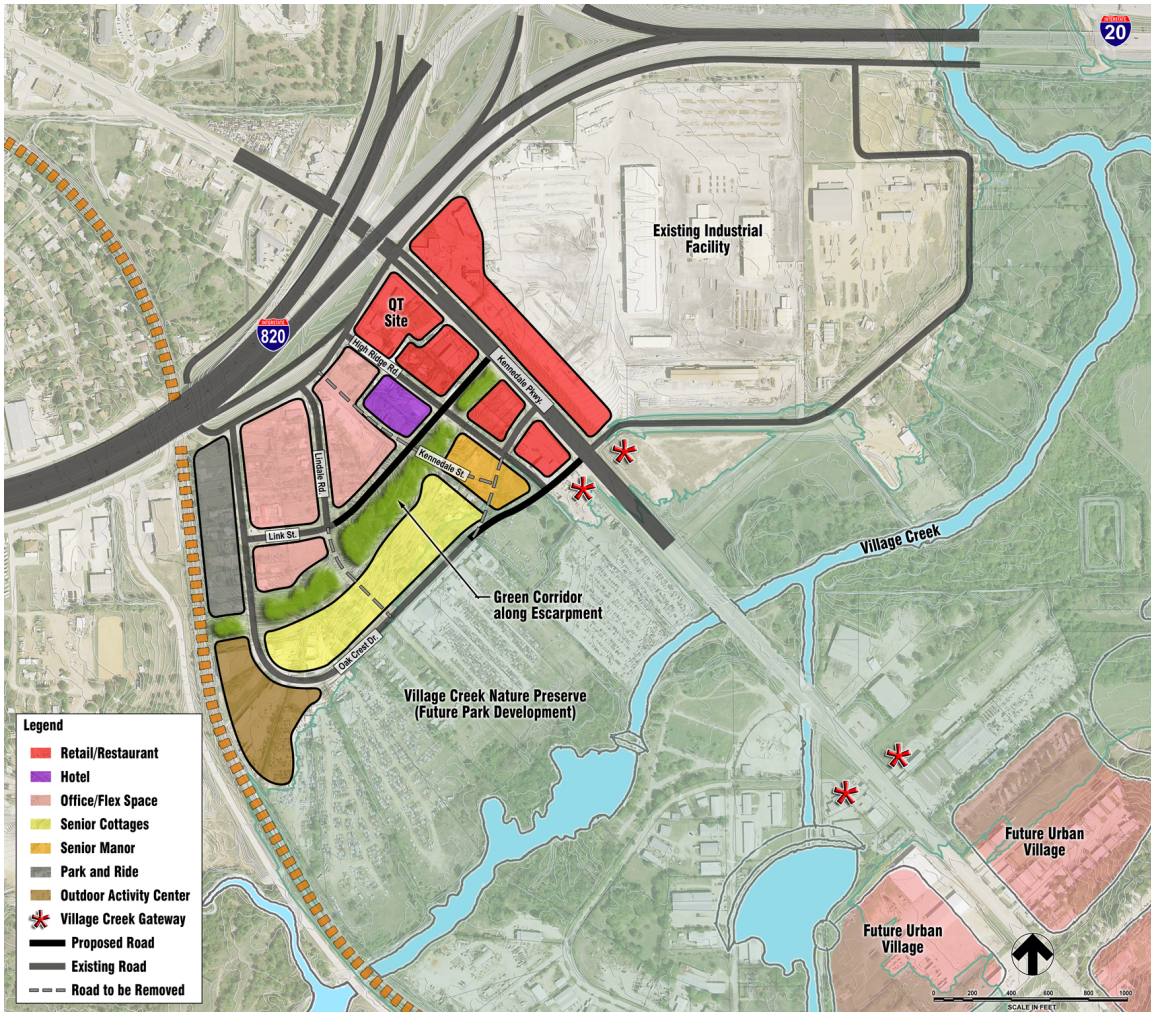
VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

1.	map	Kennedale_Employment district MP_200scl_11x17.jpg
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Date: December 12, 2013

Agenda Item No: WORK SESSION - D.

I. Subject:

Youth Advisory Council project discussion.

II. Originated by:

Amethyst G. Cirimo, City Secretary and Communications Coordinator

III. Summary:

The Youth Advisory Council is asking for Council's guidance on specific projects for the remainder of this year.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: December 12, 2013

Agenda Item No: WORK SESSION - E.

I. Subject:

Discuss any other items on the agenda.

II. Originated by:

City Council, City Council

III. Summary:

At this time City Council may discuss any items on the agenda.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: December 12, 2013

Agenda Item No: REPORTS/ANNOUNCEMENTS - A.

I. Subject:

Updates and information from the Mayor.

II. Originated by:

City Council, City Council

III. Summary:

Updates and information from the Mayor, if any.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: December 12, 2013

Agenda Item No: REPORTS/ANNOUNCEMENTS - B.

I. Subject:

Updates and information from Councilmembers.

II. Originated by:

City Council, City Council

III. Summary:

Updates and information from Councilmembers, if any.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: December 12, 2013

Agenda Item No: REPORTS/ANNOUNCEMENTS - C.

I. Subject:

Updates and information from the City Manager.

II. Originated by:

Bob Hart

III. Summary:

Updates and information from the City manager, if any.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: December 12, 2013

Agenda Item No: CONSENT ITEMS - A.

I. Subject:

Consider authorizing the City Manager to make an emergency expenditure to replace the T-Well Site Pump and Motor.

II. Originated by:

Larry Ledbetter, Director of Public Works

III. Summary:

The T-2 well pump failed during late summer 2013. In order to identify the problem, Millican Well Service was contracted to pull the pump and motor. The pump and motor were shipped to Central Lift, Pump and Motor Company in Tulsa Oklahoma for tear down and evaluation. It was determined that the pump and motor were not rebuildable. The estimate for replacing the pump and motor is \$84,486.80.

Staff recommends approval of the estimate and authorizing the City Manager to make the emergency expenditure.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	T-2 Well Site Estimate	Est 700 from Millican Well Service LLC 1048.pdf
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MILlicAN WELL SERVICE LLC
P.O. BOX 820487
FORT WORTH, TEXAS 76182
817-232-0077

Name / Address
City of Kennedale 405 Municipal Drive Kennedale, Texas 76060

Estimate

Date
11/8/2013

Well Name
T-2

Qty	Description	Cost	Total
18	Labor and equipment to pull the pump and motor and lay down for inspection. COMPLETED	185.00	3,330.00
30	Labor and equipment to install a new pump, new motor and seal back in the well.	185.00	5,550.00
1	Service tech to lay the pump and motor down COMPLETED	1,200.00	1,200.00
1	Centriflft: PUMP 675 HC12500,MOTOR 562 Series 171/2390/044, SEAL 513GSB3 FER HL SSCV, CABLE MOTOR LEAD 562 040 5KHT	69,850.00	69,850.00
1	Trade in of old equipment	-2,700.00	-2,700.00
1	Freight	1,000.00	1,000.00
1	Service tech to put the pump and motor together and make the splice (estimated)	2,500.00	2,500.00
1	Electrician charges: to start the well and check the rotation and voltage (estimated)	1,800.00	1,800.00
3	5/8" SS band-it materials	225.00	675.00
2	5/8" SS band-it buckles	86.40	172.80
2	Airline:2-1320'@.35 a ft.	462.00	924.00
2	Knock out plugs for check valves	92.50	185.00
<i>Thank you!</i>		Subtotal	\$84,486.80
Jerry Browning 2176WI		Sales Tax (6.25%)	\$0.00
Texas Department of Licensing and Regulation P.O. Box 12157 Austin, Texas 78711 512-462-7880		Total	\$84,486.80

Date: December 12, 2013

Agenda Item No: CONSENT ITEMS - B.

I. Subject:

Consider approval of minutes from November 5, 2013 regular meeting.

II. Originated by:

Amethyst G. Cirimo, City Secretary and Communications Coordinator

III. Summary:

Please see the attached minutes for approval.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	minutes	11.05.2013 CC Minutes.doc
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KENNEDALE CITY COUNCIL
MINUTES
REGULAR MEETING
November 5, 2013
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

I. CALL TO ORDER

Mayor Pro-Tem Brian Johnson called the work session to order at 5:30PM.

II. WORK SESSION

A. Update from the Youth Advisory Council.

Ashley Luu (Chair), Elias Noorzad (Vice-Chair), and Nadeya Patel (Historian) introduced themselves and gave a brief update on this year's Youth Advisory Council. The YAC invited Council to the November 12th Food Truck Tailgate event and asked Council for recommendations regarding the type of projects they should pursue this year.

B. Governance discussion regarding e-cigarettes.

Bob Hart noted that e-cigarettes had not become an issue for the city at this time, and that city code currently prohibits smoking in city buildings, which does not extend to the use of e-cigarettes. Mr. Hart also noted that this was a new issue and most cities have not yet adopted specific regulatory policies. Councilmember Fernandez noted that he was concerned with the possible secondary effects of the devices. Councilmembers Johnson and Turner noted that at this time they did not feel that there was sufficient evidence available to establish regulation on the issue, but that should such evidence become available they would be interested in revisiting the issue at that time.

C. Discuss any other items on the agenda.

Bob Hart noted that Councilmember Fernandez would be unavailable on January 9th for the City Council meeting and asked that Council consider moving the meeting to January 16th.

Mayor Pro-Tem Johnson recessed into Executive session at 5:50PM, noting that both executive item sections would be discussed at that time (items III-A and XIV-A).

III. EXECUTIVE SESSION

A. The City Council will meet in closed session pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion of any item posted on the agenda.

1. Discuss the use of tasers by Law Enforcement Officers.

IV. RECONVENE INTO OPEN SESSION

Mayor Pro-Tem Johnson reconvened into open session at 7:00PM.

V. REGULAR SESSION

Mayor Pro-Tem Johnson called the regular session to order at 7:04PM.

VI. ROLL CALL

Present:, Frank Fernandez, Brian Johnson, Charles Overstreet, Kelly Turner

Absent: John Clark, Liz Carrington

As Mayor John Clark was absent, Mayor Pro-Tem Brian Johnson presided over the meeting.

VII. INVOCATION

VIII. UNITED STATES PLEDGE

IX. TEXAS PLEDGE

X. VISITOR/CITIZENS FORUM

No individuals signed up to speak.

XI. REPORTS/ANNOUNCEMENTS

A. Recognition of Magistrates.

Mayor Pro-Tem Johnson noted that as the City had contracted jail services with the City of Mansfield, the city was no longer in need of volunteer magistrates. He presented certificates of appreciation to Ray Cowan, Sakura Moten-Dedrick, and Tiffany Penhallegon, thanking them for their volunteer service and time.

B. Reports and updates from the Mayor.

- Proclamation of Municipal Court Week, November 4 - 8, 2013

Mayor Pro-Tem Johnson read the proclamation aloud.

- Upcoming events

City Secretary Amethyst Cirimo noted the following events:

- Keep Kennedale Beautiful Commission TownCenter Park butterfly garden workday on November 9th at 9:00AM.
- Youth Advisory Council's Food Truck Tailgate would be held on November 12th from 4:30 to 7:30PM in TownCenter Plaza.
- Tree Lighting Festival on December 3rd at 5:30PM in TownCenter Park.

C. Reports and updates from Councilmembers.

Councilmember Overstreet noted that he, Mayor Pro-Tem Johnson, and City Manager Bob Hart would be attending the National League of Cities conference later in November.

D. Reports and updates from the City Manager.

No updates were given.

XII. CONSENT ITEMS

- A. Consider approval of minutes from October 1, 2013 meeting.

B. Consider approval of meeting minutes from October 10, 2013 meeting.

C. Consider authorizing the city manager to execute a contract with the City of Fort Worth for radio system access for 2013-2014.

D. Consider approval of a resolution declaring the City of Kennedale a hybrid entity for purposes of HIPAA and HITECH Acts

E. Consider authorizing the Mayor to sign an Interlocal Agreement for administrative costs funding for Section 5310 program with the Fort Worth Transportation Authority.

Motion To approve the consent agenda as presented. **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Frank Fernandez
Motion Passed Unanimously

XIII. REGULAR ITEMS

A. Consider recommendations for Planning & Zoning Commission Chair and Vice-Chair for 2013-2014.

The Planning and Zoning Commission has recommended Ernest Harvey as Chair and Thomas Pirtle as Vice Chair.

Motion To appoint Ernest Harvey as Chair and Thomas Pirtle as Vice Chair for the 2013-2014 Planning & Zoning Commission. **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Frank Fernandez. **Motion Passed Unanimously**

B. CASE # PZ 13-05 to receive comments and consider approval on an ordinance amending Chapter 17, Article VI, "Zoning", of the code of ordinances of the City of Kennedale, Texas, as amended, by establishing a new zoning district, "Employment Center District" and regulations for same, including regulations on permitted uses, building design, site design, landscaping, and signs.

1. Staff Presentation

Rachel Roberts approached the Council, noting that the establishment of this new district was the first step toward implementation of both the Comprehensive Plan and form based codes.

She noted that form based codes will allow the city to present more comprehensive and predictable building standards which set expectations for potential builders, allowing them to know what they would need to accomplish ahead of time in order to comply with the code. Bob Hart noted that the form based process will make Kennedale an attractive location for builders and businesses to pursue. The Planning and Zoning Commission held the appropriate public hearings and were recommending approval.

2. Public Hearing

Mayor Pro-Tem Johnson opened the public hearing. No one signed up to speak and the hearing was closed.

3. Staff Response and Summary

No staff response was necessary.

4. Action by the City Council

Motion To approve # PZ 13-05 and Ordinance 536 as presented. **Action** Approve, **Moved By** Frank Fernandez, **Seconded By** Kelly Turner. **Motion Passed Unanimously**

C. CASE # PZ 13-06 to receive comments and consider approval on a request by the City of Kennedale and the Kennedale Economic Development Corporation for a zoning change and ordinance adopting such change for 20 parcels totaling approximately 5 acres from "C-1" Restricted Commercial District to "EC" Employment Center District for properties located at 1101, 1103, 1105, 1107, 1109, 1111, 1113, 1115, 1117, 1119, 1121, & 1125 W Kennedale Pkwy, and 5409, 5413, 5417, 5421, 5429, 5433, & 5437 High Ridge Rd, with legal description of Oak Crest Addition Block 4 Lots 8, 9, 10A, 11A, 12A, 13A, 14- 18, 19A, 20-26, Tarrant County, Texas. The property in question is owned by the City of Kennedale and the Kennedale Economic Development Corporation.

1. Staff Presentation

Rachel Roberts approached the Council, noting that this will rezone the aforementioned properties according to the new Employment Center District "EC" that was adopted in the previous agenda item (item XIII-A). The Planning and Zoning Commission held the appropriate public hearings and recommend approval.

2. Public Hearing

Mayor Pro-Tem Johnson opened the public hearing. No one signed up to speak and the hearing was closed.

3. Staff Response and Summary

No response was necessary.

4. Action by the City Council

Motion To approve # PZ 13-06 and Ordinance 537 as presented. **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Kelly Turner. **Motion Passed Unanimously**

D. Consider authorizing the City Manager to execute an Interlocal Agreement for shared library services.

Bob Hart noted that this agreement would allow for shared library services between Kennedale, Arlington, and Mansfield. City Attorney noted that he is recommending several non-substantive changes to the agreement that are preferred but not essential.

Motion To authorizing the City Manager to execute an Interlocal Agreement for shared library services as presented. **Action** Approve, **Moved By** Kelly Turner, **Seconded By** Charles Overstreet. **Motion Passed Unanimously**

E. Consider approval of an Ordinance providing for the unappointment of prescribed magistrates Sakura Moten Dedrick and Tiffany Panhallegon-Oakes for the Kennedale Municipal Court.

Motion To approve Ordinance 538 as presented. **Action** Approve, **Moved By** Kelly Turner, **Seconded By** Frank Fernandez. **Motion Passed Unanimously**

Mayor Pro-Tem Johnson noted that both sections of Executive Session were held earlier and no further session was necessary.

XIV. EXECUTIVE SESSION

A. The Kennedale City Council will meet in closed session pursuant to Section 551.087 of the Texas Government Code to deliberate the offer of a financial or other incentive to a business project with whom the city is conducting economic development negotiations.

1. Review and discuss incentives for Watson Glass.

XV. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

No action pursuant to Executive Session was needed.

XVI. ADJOURNMENT

Motion To adjourn, **Action** Adjourn. **Moved By** Kelly Turner, **Seconded By** Charles Overstreet.
Motion Passed Unanimously

The meeting was adjourned at 7:30PM.

APPROVED:

ATTEST:

Mayor John Clark

City Secretary, Amethyst G. Sloane

Date: December 12, 2013

Agenda Item No: REGULAR ITEMS - A.

I. Subject:

Consider approval of Ordinance 539, regarding an electric power franchise for Oncor Electric Delivery Company.

II. Originated by:

Bob Hart

III. Summary:

This ordinance renews the franchise agreement with Oncor. Additional information will be presented at the meeting.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Ordinanace 539	O539 - Oncor Franchise.docx
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ORDINANCE NO. 539

AN ORDINANCE GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS, PUBLIC UTILITY EASEMENTS, PUBLIC WAYS AND OTHER PUBLIC PROPERTY (PUBLIC RIGHTS-OF-WAY) OF KENNEDALE, TEXAS, PROVIDING FOR THE REPEAL OF ALL PRIOR FRANCHISE ORDINANCES TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS PREDECESSORS AND ASSIGNS, PROVIDING FOR COMPENSATION THEREFOR, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE, AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC.

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

SECTION 1. GRANT OF AUTHORITY:

A. The City of Kennedale, Texas ("City") hereby grants to Oncor Electric Delivery Company LLC, its successors and assigns (herein called "Company"), the right, privilege and franchise to construct, extend, maintain and operate in, along, under and across the present and future streets, alleys, highways, public utility easements, public ways, and other public property ("Public Rights-of-Way") of Kennedale, electric power lines, with all necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines and other structures, and telephone and communication lines solely for its own use), for the purpose of delivering electricity to the City, the inhabitants thereof, and persons, firms and corporations beyond the corporate limits thereof, for the term set out in Section 10, subject to this consent by the City in accordance with Texas Utilities Code, Section 181.043 and in accordance with the Public Utility Regulatory Act (PURA) and all other applicable laws, rules, and regulations.

B. The provisions set forth in this ordinance represent the terms and conditions under which Company shall construct, operate, and maintain its system facilities within the Public Rights-of-Way of the City. Company, by its acceptance of this Franchise, agrees that all such lawful regulatory powers and rights as the same may be from time to time vested in the City shall be in full force and effect and subject to the exercise thereof by the City at any time. The grant to Company in this Franchise is subject to the terms and conditions contained herein, PURA, the Texas Constitution, and the City's Code of Ordinances (unless the City's Ordinances are otherwise in conflict with any federal or state laws, rules, or regulations, or this Franchise), all as amended, and subject to all other applicable and controlling local, state and federal laws, including the rules and regulations of any and all agencies thereof, whether presently in force or whether enacted or adopted at any time in the future. This franchise agreement shall in no way affect or impair the rights, obligations or remedies of the parties under PURA, other state or federal laws, rules or regulations, and the

Texas Constitution. Nothing herein shall be deemed a waiver, release or relinquishment of either party's right to contest, appeal, or file suit with respect to any action or decision of the other party, including ordinances adopted by the City, that Company believes are in violation of any federal, state, or local laws, rules or regulations. The City shall provide Company notice and opportunity to review and comment upon proposed ordinances relating to the Public Rights-of-Way.

C. This Franchise does not grant to the Company the right, privilege or authority to engage in any other activities within the City other than as specified in this Franchise.

SECTION 2. USE OF PUBLIC RIGHTS-OF-WAY:

A. The poles, towers and other structures shall be so erected as not to unreasonably interfere with traffic over streets, alleys and highways.

B. Company shall, except in cases of (i) emergency conditions or (ii) routine maintenance and repair of facilities that do not involve any of the following (a) cutting or breaking of pavement or (b) closure of traffic lane for longer than 24 hours or (c) boring or (d) excavation greater than 100 cubic feet or (iii) connection of real property to a utility service on the same side of the Public Rights-of-Way if connection does not require a pavement cut in the Public Rights-of-Way or (iv) replacement of a single damaged pole and associated work within a ten (10) foot radius of the damaged pole or (v) installation of aerial lines on less than 11 existing poles or installation of aerial lines on less than 11 new poles, provide City reasonable advance notice, and obtain a permit, (if required by City Ordinance), prior to performing work in the Public Rights-of-Way, except in no instance shall Company be required to pay fees or bonds related to its use of the Public Rights-of-Way, despite the City's enactment of any ordinance providing the contrary. Company shall construct and maintain its facilities in conformance with the applicable provisions of the National Electric Safety Code or such comparable standards as may be adopted, and in a good and workmanlike manner.

C. The City retains the right to make visual, non-invasive inspections of the Company's facilities and upon reasonable notice and request, to require the Company to make available for inspection records or data to demonstrate its current compliance with the terms of this Franchise.

D. The location of Company's facilities in the Public Rights-of-Way shall be subject to approval by the City Manager or the City Manager's designated representative (the "Manager") prior to construction; provided however, said approval shall not be unreasonably withheld. This approval will be obtained through the City's permitting process (if required by City Ordinance). In the event of a conflict between the location of the proposed facilities of Company and the locations of the facilities of City or other Public Rights-of-Way users which exist or have been authorized by the City, the Manager shall resolve the conflict and determine the location of the respective facilities within the Public Rights-of-Way. The Manager will designate a reasonable alternate

location for Company's facilities if a reasonable alternate location exists. The Company will use reasonable efforts to work with the City to avoid installing its facilities in park or City property other than utility easements or street, alley, or highway Right-of-Way. Company has the right to request City Council review of this or any actions concerning Company's use of the Public Rights-of-Way.

E. The Company shall restore at the Company's expense, all work within the City Rights-of-Way, to a condition equally as good as it was prior to being disturbed by Company's construction, excavation, repair or removal or to a condition agreed upon by City and Company. If City and Company agree that there are extenuating circumstances that do not allow for restoration of all work within the City Rights-of-Way to a condition equally as good as it was prior to being disturbed by Company, City and Company will negotiate an alternative restoration plan (in writing) to remedy the situation.

F. Company shall cooperate with the City in providing information regarding the location of current and future overhead and underground wires and poles within City's Public Rights-of-Way. Reproducible copies of maps showing the location of all overhead and underground wires and poles within the Public Rights-of-Way shall be furnished to the City upon reasonable request, if available. The maps shall be provided in electronic digital format, if available.

SECTION 3: RELOCATION AND ABANDONMENT:

The City reserves the right to lay, and permit to be laid, storm, sewer, gas, water, wastewater and other pipe lines, cables, and conduits, or other improvements or to do and permit to be done any underground or overhead work that City in its sole discretion determines may be necessary or proper in, across, along, over, or under Public Rights-of-Way occupied by Company. The City also reserves the right to change in any manner any curb, sidewalk, highway, alley, public way, street, utility lines, storm sewers, drainage basins, drainage ditches, and the like.

Upon request by City, Company shall relocate its facilities at the expense of the City except as otherwise required by Section 37.101(c) of PURA, which statutory provision currently states the governing body of a municipality may require an electric utility to relocate the utility's facility at the utility's expense to permit the widening or straightening of a street. City and Company further agree that widening and straightening of a street includes the addition of any acceleration, deceleration, center or side turn lanes, and sidewalks (meaning sidewalks done in conjunction with widening or straightening of a street), provided that the City shall provide Company with at least thirty (30) days notice and shall specify a new location for such facilities along the Public Rights-of-Way of the street.

If the City requires the Company to adapt or conform its Facilities, or in any manner to alter, relocate, or change its Facilities to enable any other corporation or person to use, or use with greater convenience, said street, alley, highway, or public way, the

Company shall not be bound to make such changes until such other corporation or person shall have undertaken, with good and sufficient bond, to reimburse the Company for any costs, loss, or expense which will be caused by, or arises out of such change, alteration, or relocation of Company's Facilities.

If City abandons any Public Rights-of-Way in which Company has facilities such abandonment shall be conditioned on Company's right to maintain its use of the former Public Rights-of-Way and on the obligation of the party to whom the Public Rights-of-Way is abandoned to reimburse Company for all removal or relocation expenses if Company agrees to the removal or relocation of its facilities following abandonment of the Public Rights-of-Way. If the party to whom the Public Rights-of-Way is abandoned requests the Company to remove or relocate its facilities and Company agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Rights-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

SECTION 4. INDEMNIFICATION:

A. In consideration of the granting of this Franchise, Company shall, at its sole cost and expense, indemnify and hold the City, and its past and present officers, agents and employees harmless against any and all liability arising from suits, actions or claims of injury to any person or persons, or damages to any property arising out of, or occasioned by the intentional and/or negligent acts or omissions of the Company or any of its officers, agents, or employees, in connection with Company's construction, maintenance and operation of Company's System in the Public Rights-of-Way, including any reasonable court costs, expenses and defenses thereof.

B. This indemnity shall only apply to the extent that the loss, damage or injury is attributable to the negligence or wrongful act or omission of the Company, its officers, agents or employees, and does not apply to the extent such loss, damage or injury is attributable to the negligence or wrongful act or omission of the City, or the City's officers, agents, or employees or any other person or entity. This provision is not intended to create a cause of action or liability for the benefit of third parties but is solely for the benefit of the Company and the City.

C. In the event of joint and concurrent negligence or fault of both the Company and the City, responsibility and indemnity, if any, shall be apportioned comparatively between the City and Company in accordance with the laws of the State of Texas without, however, waiving any governmental immunity available to the City under Texas law and without waiving any of the defenses of the parties under Texas law. Further, in the event of joint and concurrent negligence or fault of both the Company and the City, responsibility for all costs of defense shall be apportioned between the City and Company based upon the comparative fault of each.

D. In fulfilling its obligation to defend and indemnify City, Company shall have the right to select defense counsel, subject to City's approval, which will not be unreasonably withheld. Company shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Franchise. If Company fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Company shall be liable for all reasonable defense costs incurred by City, except as otherwise provided in Section 4.B and 4.C.

SECTION 5. LIABILITY INSURANCE:

Company shall, at its sole cost and expense, obtain, maintain, or cause to be maintained, and provide, throughout the term of this Franchise, insurance in the amounts, types and coverages in accordance with the following requirements. Such insurance may be in the form of self-insurance to the extent permitted by applicable law or by obtaining insurance, as follows:

A. Commercial general or excess liability on an occurrence or claims made form with minimum limits of five million dollars (\$5,000,000) per occurrence and ten million dollars (\$10,000,000) aggregate. This coverage shall include the following:

- (1) Products/completed operations to be maintained for the warranty period.
- (2) Personal and advertising injury.
- (3) Contractual liability.
- (4) Explosion, collapse, or underground (XCU) hazards.

B. Automobile liability coverage with a minimum policy limit of one million dollars (\$1,000,000) combined single limit each accident. This coverage shall include all owned, hired and non-owned automobiles.

C. Workers compensation and employers liability coverage. Statutory coverage limits for Coverage A and five hundred thousand dollars (\$500,000) bodily injury each accident, five hundred thousand dollars (\$500,000) each employee bodily injury by disease, and five hundred thousand dollars (\$500,000) policy limit bodily injury by disease Coverage B employers' liability are required. Company must provide the City with a waiver of subrogation for worker's compensation claims.

D. Company must name the City, which includes all authorities, commissions, divisions and departments, as well as elected and appointed officials, agents, employees and volunteers, as an additional insureds under the coverage required herein, except Worker's Compensation Coverage. The certificate of insurance must state that the City is an additional insured.

E. Coverages required to be maintained under Sections 5.A, 5.B., and 5.C. shall include a waiver of subrogation in favor of the City, its officers, agents and employees.

F. Company will require its contractors and subcontractors to maintain, at their sole cost and expense, a minimum of three million dollars (\$3,000,000) each occurrence or each accident general liability and automobile liability throughout the course of work performed. Also, contractors and subcontractors will be required to maintain statutory workers' compensation benefits in accordance with the regulations of the State of Texas or state of jurisdiction as applicable. The minimum limits for employers' liability insurance will be five hundred thousand dollars (\$500,000) bodily injury each accident, five hundred thousand dollars (\$500,000) each employee bodily injury by disease, and five hundred thousand dollars (\$500,000) policy limit bodily injury by disease.

The Company will provide proof of its insurance in accordance with this Franchise within 30 days of the effective date of the Franchise and annually thereafter as applicable insurance coverages renew. Company will not be required to furnish separate proof when applying for permits.

SECTION 6. NON-EXCLUSIVITY:

This franchise is not exclusive, and nothing herein contained shall be construed so as to prevent the City from granting other like or similar rights, privileges and franchises to any other person, firm, or corporation.

SECTION 7. CONSIDERATION:

In consideration of the grant of said right, privilege and franchise by the City and as full payment for the right, privilege and franchise of using and occupying the said Public Rights-of-Way, and in lieu of any and all occupation taxes, assessments, municipal charges, fees, easement taxes, franchise taxes, license, permit and inspection fees or charges, street taxes, bonds, street or alley rentals, and all other taxes, charges, levies, fees and rentals of whatsoever kind and character which the City may impose or hereafter be authorized or empowered to levy and collect, excepting only the usual general or special ad valorem taxes which the City is authorized to levy and impose upon real and personal property, sales and use taxes, and special assessments for public improvements, Company shall pay to the City the following:

- A. A final annual payment was made on or before March 15, 2013, for the basis period of January 1, 2012 through December 31, 2012, for the privilege period of January 1, 2013 through December 31, 2013 in accordance with the payment schedule in the previous franchise agreement.
- B. As authorized by Section 33.008(b) of PURA, the original franchise fee

factor calculated for the City in 2002 was 0.002928 (the “Base Factor”), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility’s point of delivery is located within the City’s municipal boundaries for determining franchise payments going forward.

Due to a 2006 agreement between Company and City the franchise fee factor was increased to a franchise fee factor of 0.003074 (the “Current Factor”), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility’s point of delivery is located within the City’s municipal boundaries on an annual basis.

However, should the Public Utility Commission of Texas at any time in the future disallow Company’s recovery through rates of the higher franchise payments made under the Current Factor as compared to the Base Factor, then the franchise fee factor shall immediately revert to the Base Factor of 0.002928 and all future payments, irrespective of the time period that is covered by the payment, will be made using the Base Factor.

1. Effective December 15, 2013 Company shall begin quarterly Pre-Pay payments as follows:

<u>Payment Due</u>	<u>Basis Period</u>	<u>Privilege Period</u>
December 15	Jan. 1 – March 31	Jan. 1 – March 31
March 15	April 1 – June 30	April 1– June 30
June 15	July 1 – Sept. 30	July 1 – Sept. 30
September 15	Oct. 1 – Dec. 31	Oct. 1. – Dec. 31

2. The first payment hereunder shall be due and payable on or before December 15, 2013 and will cover basis period of January 1, 2013 through March 31, 2013 for the privilege period of January 1, 2014 through March 31, 2014. If this Franchise is not effective prior to the first quarterly payment date, Company will pay any payments due within 30 days of the effective date of this agreement. The final payment under this Franchise is due on or before September 15, 2027 and covers the basis period of October 1, 2026 through December 31, 2026 for the privilege period of October 1, 2027 through December 31, 2027; and
3. After the final payment date of September 15, 2027, Company may continue to make payments in accordance with the above schedule. The City acknowledges that such continued payments will correspond to privilege periods that extend beyond the term of this franchise and that such continued payments will be

recognized in any subsequent franchise agreement as full payment for the relevant periods.

- C. On a prospective basis; a sum equal to four percent (4%) of gross revenues received by Company from services identified as DD1 through DD24 in Section 6.1.2 "Discretionary Service Charges," in its Tariff for Retail Delivery Service (Tariff), effective 1/1/2002, that are for the account and benefit of an end-use retail electric consumer. Company will, upon request by City, provide a cross reference to Discretionary Service Charge numbering changes that are contained in Company's current approved Tariff.
1. The franchise fee amounts based on "Discretionary Service Charges" shall be calculated on an annual calendar year basis, i.e. from January through December 31 of each calendar year.
 2. The franchise fee amounts that are due based on "Discretionary Service Charges" shall be paid at least once annually on or before April 30 each year based on the total "Discretionary Service Charges", as set out in Section 7.C, received during the preceding calendar year. The initial Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2015 and will be based on the calendar year January 1 through December 31, 2014. The final Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2028 and will be based on the calendar year of January 1 through December 31, 2027.
 3. Company may file a tariff or tariff amendment(s) to provide for the recovery of the franchise fee on Discretionary Service Charges.
 4. City agrees (i) to the extent the City acts as regulatory authority, to adopt and approve that portion of any tariff which provides for 100% recovery of the franchise fee on Discretionary Service Charges; (ii) in the event the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of the franchise fees on such Discretionary Service Charges is an issue, the City will take an affirmative position supporting the 100% recovery of such franchise fees by Company and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Company.
 5. City agrees that it will take no action, nor cause any other

person or entity to take any action, to prohibit the recovery of such franchise fees by Company.

6. In the event of a regulatory disallowance of the recovery of the franchise fees on the Discretionary Service Charges, Company will not be required to continue payment of such franchise fees.
- D. With each payment of compensation required by Section 7.B, Company shall furnish to City a statement that provides the franchise basis period, the total amount of kilowatt hours of electricity delivered during the franchise basis period by the Company to retail customers whose consuming facility's point of delivery is located within the City's municipal boundaries, and the privilege period covered by the payment. The parties agree that any information exchanged or provided to the other party is true and correct to the best of their knowledge.
- E. With each payment of compensation required by Section 7.C, Company shall furnish to the City a statement reflecting the total amount of gross revenues received by Company within the City's municipal boundaries for services identified in its Tariff, Section 6.1.2, "Discretionary Service Charges," Items DD1 through DD24. The parties agree that any information exchanged or provided to the other party is true and correct to the best of their knowledge.
- F. If Company fails to pay when due any payment provided for in this Section, Company shall pay such amount plus interest from such due date until payment is received by City. Interest shall be calculated in accordance with the interest rate for customer deposits established by the PUC in accordance with Texas Utilities Code Section 183.003 for the time period involved.

SECTION 8. MOST FAVORED NATIONS:

A. This Section 8 applies only if, after the effective date of this Franchise Agreement, Company enters into a new municipal franchise agreement or renews an existing municipal franchise agreement with another municipality that provides for a different method of calculation of franchise fees for use of the Public Rights-of-Way than the calculation under PURA, Section 33.008(b), which, if applied to the City, would result in a greater amount of franchise fees owed the City than under this Franchise Agreement.

B. In the event of an occurrence as described in Section 8 hereof, City shall have the option to:

1. Have Company select, within 30 days of the City's request, any or all portions of the franchise agreement with the other municipality or comparable provisions that, at Company's sole

discretion, must be considered in conjunction with the different method of the calculation of franchise fees included in that other franchise agreement; and

2. Modify this franchise agreement to include both the different method of calculation of franchise fee found in the franchise agreement with the other municipality and all of the other provisions identified by Company pursuant to Section 8.B.1. In no event shall City be able to modify the franchise to include the different method of calculation of franchise fee found in the franchise agreement with the other municipality without this franchise also being modified to include all of the other provisions identified by Company pursuant to Section 8.B.1.

C. City may not exercise the option provided in Section 8 if any of the provisions that would be included in this franchise are, in Company's sole opinion, inconsistent with or in any manner contrary to any then-current rule, regulation, ordinance, law, Code, or Charter of City.

D. In the event of a regulatory disallowance of the increase in franchise fees paid pursuant to City's exercise of its option under Section 8, then at any time after the regulatory authority's entry of an order disallowing recovery of the additional franchise fee expense in rates, Company shall have the right to cancel the modification of the franchise made pursuant to Section 8, and the terms of the Franchise shall immediately revert to those in place prior to City's exercise of its option under Section 8.

E. Notwithstanding any other provision of this franchise, should the City exercise the option provided in Section 8.B, and then adopt any rule, regulation, ordinance, law, Code, or Charter of City that, in Company's sole opinion, is inconsistent with or in any manner contrary to the provisions included in this franchise pursuant to Section 8.B, then Company shall have the right to cancel all of the modifications to this franchise made pursuant to Section 8 and, effective as of the date of the City's adoption of the inconsistent provision, the terms of the franchise shall revert to those in place prior to the City's exercise of its option under Section 8.

F. The provisions of Section 8 apply only to the amount of the franchise fee to be paid and do not apply to other franchise fee payment provisions, such as the timing of such payments. The provisions of Section 8 do not apply to differences in the franchise fee factor that result from the application of the methodology set out in Section 33.008(b) of PURA or a successor methodology.

SECTION 9: RECORDS AND REPORTS:

A. Company shall keep accurate books of account at its principal office for the purpose of determining the amount due to the City under this Franchise.

B. Company shall provide City with a report notifying the City of the basis

period for which the quarterly payment was made, the Total kWh in that basis period, the factor and the payment amount. This report may take the form of a letter to the City.

C. Pursuant to Section 33.008(e) of the Texas Utilities Code, the City may conduct an audit or other inquiry in relation to a payment made by Company less than two (2) years before the commencement of such audit or inquiry. The City may, if it sees fit, and upon reasonable notice to the Company, have the books and records of the Company examined by a representative of the City to ascertain the correctness of the reports agreed to be filed herein.

D. The Company shall make available to the auditor during the Company's regular business hours and upon reasonable notice, such personnel and records as the City may, in its reasonable discretion, request in order to complete such audit, and shall make no charge to the City therefore.

E. The Company shall assist the City in its review by responding to all requests for information no later than thirty (30) days after receipt of a request.

F. The City agrees to maintain the confidentiality of any non-public information obtained from Company to the extent allowed by law if Company identifies the information as non-public prior to providing the information to City. City shall not be liable to Company for the release of any information the City is required by law to release. City shall provide notice to Company of any request for release of non-public information prior to releasing the information so as to allow Company adequate time to pursue available remedies for protection. If the City receives a request under the Texas Public Information Act that includes information Company has identified as Company's proprietary information, City will notify the Texas Attorney General of the proprietary nature of the document(s). The City also will provide Company with a copy of this notification, and thereafter Company is responsible for establishing that an exception under the Act allows the City to withhold the information.

G. If either party discovers that the Company has either overpaid the City or failed to pay the entire or correct amount of compensation due the City, the correct amount shall be mutually determined by the City and Company and shall be paid by the responsible party within thirty (30) calendar days of such mutual determination. Such underpayments or overpayments shall include interest as provided for in Section 7.F. Any overpayment to the City by Company through error or otherwise, will, at the option of the City, either be refunded by City to Company within thirty (30) days of the mutual determination or be offset against the next payment due from Company. If the parties cannot mutually agree on either the underpayment due the City or an overpayment due the Company, both the City and Company may seek any other rights and remedies provided by law or in equity. Acceptance by the City or Company of any payment due under this Section shall not be deemed to be a waiver by the City or Company of any breach of this Franchise, nor shall the acceptance by the City or Company of any such payments preclude the City or Company from later establishing that a larger amount was actually due or from collecting any balance due.

SECTION 10. TERM:

This Ordinance shall become effective upon Company's written acceptance hereof, said written acceptance to be filed by Company with the City Secretary within sixty (60) days after final passage and approval hereof. The right, privilege and franchise granted hereby shall expire on December 31, 2027 provided that, unless written notice of cancelation is given by either party hereto to the other not less than sixty (60) days before the expiration of this franchise agreement, it shall be automatically renewed for an additional period of six (6) months from such expiration date and shall be automatically renewed thereafter for like periods until canceled by written notice given not less than sixty (60) days before the expiration of any such renewal period.

SECTION 11. REPEALER CLAUSE:

This Ordinance shall supersede any and all other franchises granted by the City to Company its predecessors and assigns, provided the parties agree any claim, action or complaint by either party that arose under or pursuant to any such previous franchise ordinance shall be preserved and saved from repeal, subject to all applicable statutes of limitations.

SECTION 12. DEFAULT, REMEDIES, TERMINATION:

A. Events of Default. The occurrence, at any time during the term of the Franchise Agreement, of any one or more of the following events, shall constitute an Event of Default by Company under this Franchise:

1. The failure of Company to pay the franchise fee on or before the due dates specified herein.
2. Company's material breach or material violation of any material terms, covenants, representations or warranties contained herein.

B. Uncured Events of Default.

1. Upon the occurrence of an Event of Default which can be cured by the immediate payment of money to City or a third party, Company shall have thirty (30) calendar days from receipt of written notice from City of an occurrence of such Event of Default to cure same before City may exercise any of its rights or remedies provided for in Section 12.C.
2. Upon the occurrence of an Event of Default by Company which cannot be cured by the immediate payment of money to City or

a third party, Company shall have sixty (60) calendar days (or such additional time as may be agreed to by the City) from receipt of written notice from City of an occurrence of such Event of Default to cure same before City may exercise any of its rights or remedies provided for in Section 12.C.

3. If the Event of Default is not cured within the time period allowed for curing the Event of Default as provided for herein, such Event of Default shall, without additional notice, become an Uncured Event of Default, which shall entitle City to exercise the remedies provided for in Section 12.C.

C. Remedies. The City shall notify the Company in writing of an alleged Uncured Event of Default as described in Section 12.B, which notice shall specify the alleged failure with reasonable particularity. The Company shall, within thirty (30) business days after receipt of such notice or such longer period of time as the City may specify in such notice, either cure such alleged failure or in a written response to the City either present facts and arguments in refuting or defending such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure. In the event that such cure is not forthcoming, City shall be entitled to exercise any and all of the following cumulative remedies:

1. The commencement of an action against Company at law for monetary damages.

2. The commencement of an action in equity seeking injunctive relief or the specific performance of any of the provisions that as a matter of equity, are specifically enforceable.

3. The termination of this Franchise.

D. The rights and remedies of City and Company set forth in this Franchise Agreement shall be in addition to, and not in limitation of, any other rights and remedies provided by law or in equity. City and Company understand and intend that such remedies shall be cumulative to the maximum extent permitted by law and the exercise by City of any one or more of such remedies shall not preclude the exercise by City, at the same or different times, of any other such remedies for the same failure to cure. However, notwithstanding this Section or any other provision of this Franchise, City shall not recover both liquidated damages and actual damages for the same violation, breach, or noncompliance, either under this Section or under any other provision of this Franchise.

E. Termination. In accordance with the provisions of Section 12.C, this Franchise may be terminated upon thirty (30) business days prior written notice to Company. City shall notify Company in writing at least fifteen (15) business days in

advance of the City Council meeting at which the question of forfeiture or termination shall be considered, and Company shall have the right to appear before the City Council in person or by counsel and raise any objections or defenses Company may have that are relevant to the proposed forfeiture or termination. The final decision of the City Council may be appealed to any court or regulatory authority having jurisdiction. Upon timely appeal by Company of the City Council's decision terminating the Franchise, the effective date of such termination shall be either when such appeal is withdrawn or an order upholding the termination becomes final and unappealable. Until the termination becomes effective the provisions of this Franchise shall remain in effect for all purposes. The City recognizes Company's right and obligation to provide service in accordance with the Certificate of Convenience and Necessity authorized by the Public Utility Commission of Texas in accordance with the Texas Utilities Code.

F. This Franchise Ordinance shall be construed and governed by the laws of the State of Texas. City and Company agree that any lawsuit between the City and the Company concerning this Ordinance will be filed in the state of Texas. Nothing in this Ordinance shall prohibit the City from filing an action related to this Ordinance in Parker County, Texas.

SECTION 13. NOTICES:

Notices, reports or demands required to be given under this franchise shall be deemed to be given when delivered in writing, personally to the person designated below, or when five days have elapsed after it is deposited in the United States Mail with registered or certified mail postage prepaid to the person designated below, or on the next business day if sent by Express Mail or overnight air courier addressed to the person designated below:

If to City:

City Manager
City of Kennedale, Texas
405 Municipal Drive
Kennedale, Texas 76060

If to the Company:

Regulatory Affairs
Oncor Electric Delivery Company LLC
1616 Woodall Rodgers Fwy, 6th floor
Dallas, Texas 75202-1234

SECTION 14. SEVERABILITY:

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or agency of competent jurisdiction, such portion shall be deemed a separate provision and such holding shall not affect the validity of the remaining portions of the ordinance.

SECTION 15. ASSIGNMENT:

The rights granted by this Franchise Agreement inure to the benefit of the Company and any parent, subsidiary, affiliate or successor entity now or hereafter existing. The rights shall not be assignable without the express written consent, by Ordinance, of the City Council of the City, unless otherwise superseded by state laws, rules, or regulations or Public Utility Commission of Texas action, and such consent by City shall not be unreasonably withheld or delayed, except the Company may assign its rights under this Franchise Agreement to a parent, subsidiary, affiliate or successor entity without the City's consent, so long as such parent, subsidiary, affiliate or successor assumes all obligations of Company hereunder, and is bound to the same extent as Company hereunder. The Company shall give the City written notice of any such assignment to a parent, subsidiary, affiliate or successor entity.

PASSED AND APPROVED ON FIRST AND FINAL READING ON THIS _____
DAY OF _____, 2013.

MAYOR
City of Kennedale

ATTEST:

CITY SECRETARY
City of Kennedale

APPROVED AS TO FORM AND LEGALITY:

City Attorney

Date: _____

STATE OF TEXAS §
COUNTY OF TARRANT §
CITY OF KENNEDALE §

I, _____, City Secretary of Kennedale, Tarrant County, Texas, do hereby certify that the above and foregoing is a true and correct copy of an ordinance passed and approved by the City Council of Kennedale, Texas, at a _____ session, held on the _____ day of _____, 2013, at a _____ session as it appears of record in the Minutes in Book _____, page _____.

WITNESS MY HAND AND SEAL OF KENNEDALE, this the _____ day of _____, A. D. 2013.

City Secretary
Kennedale, Texas

Date: December 12, 2013

Agenda Item No: REGULAR ITEMS - B.

I. Subject:

Consider casting votes for the 2013-2014 Tarrant Appraisal District Board of Directors.

II. Originated by:

Bob Hart

III. Summary:

Please see the attached regarding nominees who have provided background information.

The City of Kennedale is allocated 6 votes

The KISD School Board voted to nominate Michael P O' Donnell.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	TAD Ballot	20131104151911158.tif
2.	David Averitt Info	David_Averitt - TAD Resume.doc



OFFICIAL BALLOT

**ELECTION OF MEMBERS TO THE BOARD OF DIRECTORS
TARRANT APPRAISAL DISTRICT**

We, the governing body of City of Kennedale having been advised by the Chief Appraiser of Tarrant Appraisal District that we are entitled to cast 6 votes collectively or separately for the following nominees for the Board of Tarrant Appraisal District:

David Averitt
Johnny Bennett
John Deithloff
John Eubanks
John Fegan (Mr. Fegan has withdrawn his name for consideration for this term.)
Michael Gaspie (Mr. Gaspie has withdrawn his name for consideration for this term.)
Mike Leyman
John Molyneaux
Michael P. O'Donnell
Joe Potthoff

do hereby resolve and order that City of Kennedale cast and does hereby cast its votes as follows:

_____ votes for _____
_____ votes for _____
_____ votes for _____
_____ votes for _____
_____ votes for _____

Passed this _____ day of _____, 2013

Presiding Officer

ATTEST

_____, Secretary or Clerk, City of Kennedale

IMPORTANT: This ballot should be returned by December 15, 2013 to Jeff Law, Chief Appraiser, Tarrant Appraisal District, 2500 Handley-Ederville Rd., Fort Worth, Texas, 76118

David Averitt

Residence:

- 1970 – Present: Haltom City, Tarrant County, Texas.

Occupation:

- 1999 – Present: Broker / Owner: Averitt Realty and Property Management.

Public Service:

- Current member of the Tarrant Appraisal District Board of Directors; Appointed January 2012.
- Elected to Haltom City Council Place 3: May 2010.
- Current Member of the Haltom City Finance Audit Committee.
- Current Council liaison to the Haltom City Zoning Board of Adjustments.
- Past Member of the Birdville Education Foundation.
- Elected to Haltom City Council 1993-95 and 2000-04.
- Past member of Haltom City Finance Audit Committee.
- Past Council Liaison to Haltom City Beautification Board.
- Past Member of the Haltom City Park & Recreation Board.
- Past member of the Haltom City Library Board.
- Past member of the Haltom City Economic Development Corporation.
- Past Council Liaison to Haltom City Planning & Zoning Commission.
- Past Member Haltom City Bond Study Committee.
- Past Council Liaison to the Haltom City Housing Authority.
- Past Council liaison to the Haltom City Park & Recreation Board.
- Past Member Haltom City Recycling Task Force.
- Graduate of the Haltom City Citizens Fire Academy.

Date: December 12, 2013

Agenda Item No: REGULAR ITEMS - C.

I. Subject:

Consider appointing a Chair and Vice Chair for the 2013-2014 Board of Adjustment/Building Board of Appeals.

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

During its November meeting, the BOA/BBA elected Rick Adams as chair and Pat Vader as vice-chair. This agenda item is for the Council to approve or deny the appointments of chair and vice-chair.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:



Date: December 12, 2013

Agenda Item No: REGULAR ITEMS - D.

I. Subject:

CASE # PZ 13-08 to receive comments and consider approval of Ordinance 540, regarding action on a request by Ashton Holdings, Inc. for a zoning change for approximately 6.3 acres from "OT" Old Town District to "PD" Planned Development District located at 260 Hilltop (access on 3rd St), legal description of Hilltop Addition Block 1 Lots 1-15.

1. Staff Presentation
2. Applicant Presentation
3. Public Hearing
4. Applicant Response
5. Staff Response and Summary
6. Action by the Council

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

Request: Rezone from "OT" Old Town to "PD" Planned Development District

Location: Hilltop, accessed from 3rd St (see map included in exhibits)

Applicant: Ashton Holdings, Inc., Adlai Pennington, President

Background.

The subject property was platted in the 1950s as a 15-lot subdivision (see attached plat drawing). The property was never developed but is surrounded by other lots that have been developed. Many of the surrounding properties are large lots with single family homes; typical lots are narrow and deep, with the houses sitting closer to the street than is usual in newer neighborhoods.

Ashton Holdings has requested to rezone the property as a Planned Development District. The proposed standards would keep the same or larger lot width, depth, and area required by the OT district but would allow for building materials more in keeping with the character of Old Town (see attached table). The proposed PD would also add standards for architectural style and would require a larger minimum home size than is required in the OT district. The proposed standards are intended to establish a neighborhood character reflecting of Old Town's history and the city's goals for this area. Please see the attached table for a more detailed comparison of the standards required for OT districts by Sec. 17-405 of the city code and the proposed PD standards.

This case was originally proposed to be considered at the same time as a replat request, but after the notices were mailed, the applicant requested the replat be postponed for one month. Several residents spoke at the

public hearing, and many of their comments were about matters to be considered during the platting stage (see Planning & Zoning Commission Review, below). We expect the replat request to be on Council's January agenda.

Staff Review.

Compliance with the comprehensive land use plan.

The comprehensive plan identifies the Hilltop Addition as part of the Downtown Village. The plan describes the Downtown Village as follows.

The Downtown Village preserves and expands the original downtown street grid and block pattern. Uses should include a relatively dense mix of residences and businesses. The village should be easily accessible by pedestrians from the Towncenter and other nearby areas. This village will serve as a gateway into the center of Kennedale, distinguishing it from neighboring communities. Sample development types include small lot single family residential, townhomes, specialized retail, and pocket parks.

The proposed development is small-lot single family, which fits the character of the Downtown Village district. Ideally, the development would provide a connection to TownCenter, but since the Hilltop Addition does not include land connecting to Corry A Edwards Dr, a connection is not possible through this development.

The proposed architectural styles and materials support and enhance the historic character Old Town and the desired character of the Downtown Village.

Staff considers the proposed PD to be in compliance with the comprehensive land use plan.

Compliance with the strategic plan.

The Strategic Plan recommended “that steps be taken to revise all residential definitions and standards to reflect current market conditions,” which included Traditional Neighborhood Development. The lot size, setbacks, and materials proposed for this PD are characteristics commonly found in TNDs.

Compliance with City Council priorities.

Several of the Council's goals are related to this rezoning request. One objective under the goal Enhance the Business Climate is to increase the number of residents, which increases the viability of local businesses. Increasing residents is especially important for the west side of town; residents on the east side tend to visit businesses in Arlington, but it is hoped that residents on the west side will be more likely to visit businesses in TownCenter or elsewhere within the city limits.

Another related goal is Balance the Tax Burden. This goal mainly calls for increasing the number and type of businesses, but a related objective raised by the Council is to increase housing density (in context sensitive design and location in compliance with the comprehensive plan). The proposed rezoning would allow for development that increases density in keeping with the character of Old Town.

Staff Recommendation.

The requested rezoning is in compliance with the comprehensive plan, the strategic plan, and city council goals. Moreover, this property was platted over fifty years ago and has since sat vacant. Infill development provides property tax revenue and additional residents to the city at a lower cost for infrastructure installation and maintenance than development at city edges. Infill development thus tends to be more cost-effective for the city over the long-term. Also, an addition like the one proposed would help sustain the historic character of the neighborhood.

Staff recommends approval of the rezoning request.

Planning and Zoning Commission Recommendation.

The Planning & Zoning Commission considered this case during its November meeting.

Several residents spoke against the request during the public hearing. The main concerns were drainage and concerns about safety from an increase in traffic and limited visibility at the proposed Hilltop/3rd St. intersection. Several Old Town residents were also opposed to removing the requirement of 80% masonry.

Drainage should be addressed during the replatting stage. The city's engineers have done a preliminary review of the site plan, and we have sent their comments to the applicant to be addressed as part of the replat request to be considered by the P&Z this month.

The Commission recommended approval of the request (5 in favor, 1 opposed, and 1 abstaining) with several conditions. Some of the conditions were intended to address concerns brought up during the public hearing, and some were intended to ensure the development meets the city's vision for the character of the Downtown Village. The conditions are as follows (and are indicated in the attached ordinance as underlined text).

1. The front plane of the garage must be set back from the front plane of the primary structure, with the garage setback a minimum of 20' from the street right-of-way and the front porch setback a minimum of 15'.
2. Primary structures shall have exterior facades of a minimum of 25% masonry.
3. Street lighting shall be decorative and aesthetically compatible with the character of the district.
4. The developer shall adequately address storm water run-off resulting from developing property within the district. Construction plans submitted to the city shall include detailed drainage plans.
5. Elevations shall not repeat more than once every fifth house.
6. A Home Owners' Association shall be required, and the HOA shall be responsible for maintaining drainage facilities.
7. The developer shall conduct a traffic study.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

Approve

VIII. Alternative Actions:

IX. Attachments:

1.	PZ 13-08 ordinance Exhibit A	PZ 13-08 exhbt A.pdf
2.	PZ 13-08 Exhibit B	PZ 13-08 exhibit b.pdf
3.	PZ 13-08 Exhibit C, Site Plan	PZ 13-08 Exhibit C site plan.pdf
4.	PZ 13-08 code comparison table	PZ 13-08 comparison table.pdf
5.	Hilltop Addn plat (original)	Hilltop Addn to Kennedale (1955) blueline.pdf
6.	PZ 13-08 application	PZ 13-08 application.pdf
7.	PZ 13-08 application illustration	PZ 13-08 appl illustr.pdf
8.	PZ 13-08 draft ordinance -- PZ recommendations	PZ 13-08 draft PD ordinance -- PZ recommendation.docx

EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

DESCRIPTION OF PROPERTY

Being 6.30 acres of land out of the Jacob Prickett Survey, Abstract Number 1225 and being all of Lots 1-15, Block 1, HILLTOP ADDITION according to the plat recorded in Volume 388-2, Page 68, Plat Records of Tarrant County, Texas as conveyed to Rockshield Investments according to the deed recorded in Clerk Instrument Number D207423630, Deed records of Tarrant County, Texas and being more particularly described as follows:

BEGINNING at a 5/8" iron rod found for corner being the northeast corner of Lot 1, Block 1, Gregory Addition according to the plat recorded in Cabinet B, Slide 2846, P.R.T.C.T.;

THENCE, South 89 degrees 32 minutes 00 seconds West, along the north line of said Gregory Addition and the north line of Lot 1, Block 1, Roberson Addition according to the plat recorded in Cabinet B, Slide 2223, P.R.T.C.T., 262.00 feet to a 3/4" iron rod found for corner, being the northwest corner of said Roberson Addition;

THENCE, North 01 degrees 05 minutes 00 seconds West, along the west line of said Hilltop Addition, 567.20 feet to a 3/4" iron rod found for corner;

THENCE, North 89 degrees 55 minutes 00 seconds East, along the north line of said Hilltop Addition, 575.00 feet to a 3/4" iron rod found for corner;

THENCE, South 01 degrees 11 minutes 00 seconds East, along the east line of said Hilltop Addition, 347.00 feet to a 3/4" iron rod found for corner;

THENCE, South 88 degrees 46 minutes 00 seconds West, along the north line of a tract of land conveyed to Bobby Joe Camp according to the deed recorded in Volume 16153, Page 200, D.R.T.C.T., 259.00 feet to a 3/4" iron rod found for corner;

THENCE, South 00 degrees 00 minutes 00 seconds East, along the west line of said Camp tract, 377.00 feet to a 1/2" iron rod found for corner, being in the existing north right-of-way line of Third Street;

THENCE, North 90 degrees 00 minutes 00 seconds West, along the existing north right-of-way line of said Third Street, 50.51 feet to a 1/2" iron rod found for corner, being the southeast corner of said Gregory Addition;

THENCE, North 00 degrees 00 minutes 00 seconds West, along the east line of said Gregory Addition, 163.70 feet to the POINT OF BEGINNING.

The tract of land herein described contains 6.30 acres of land.

EXHIBIT "B"
MAP OF PROPERTY

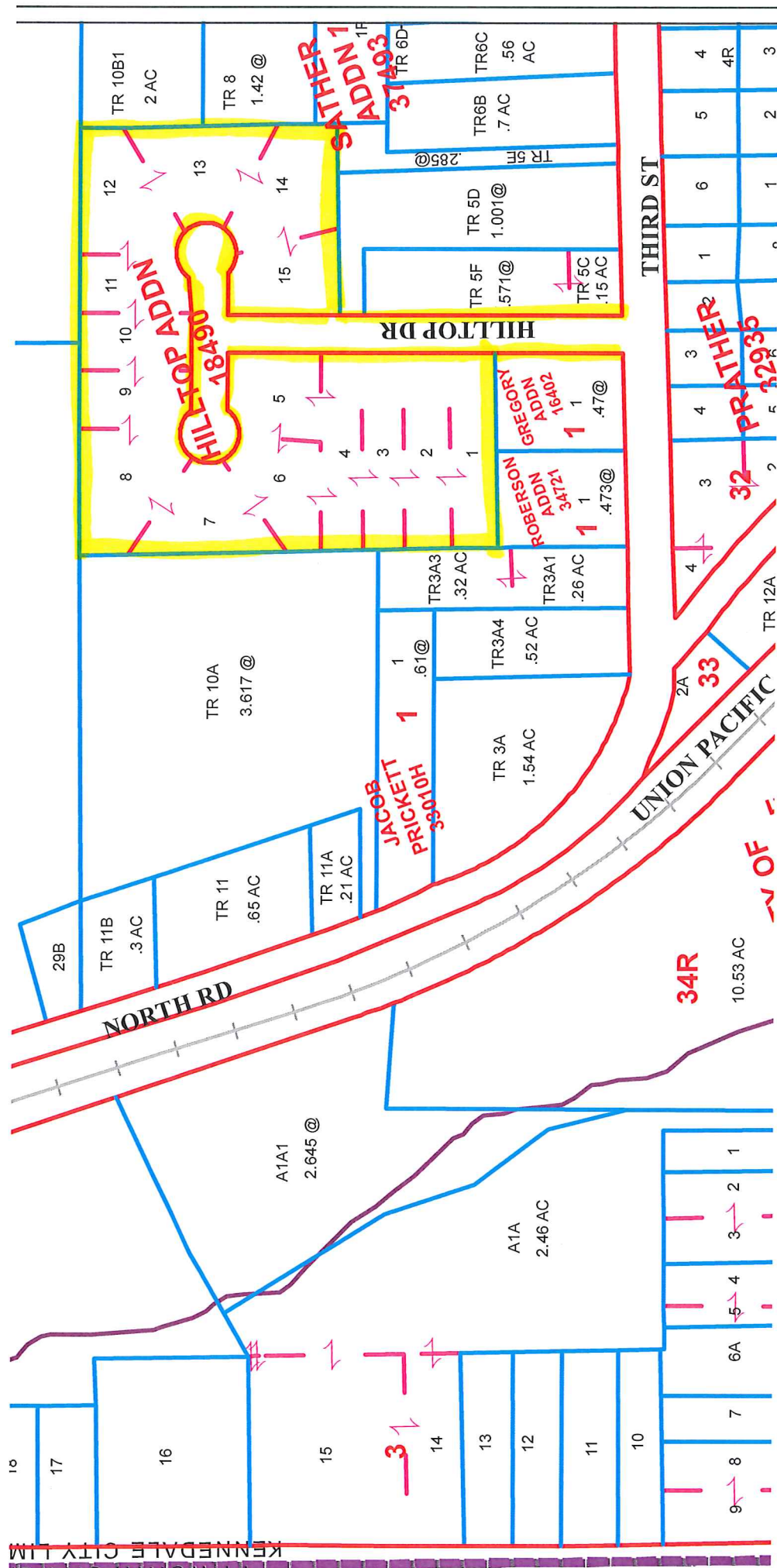
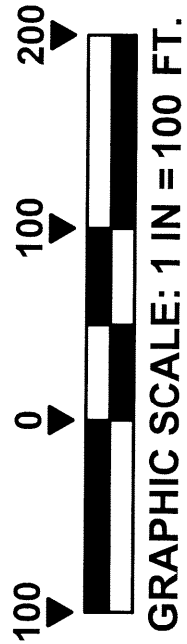
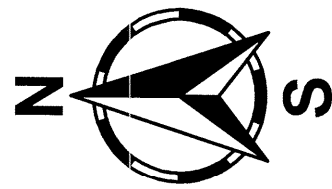
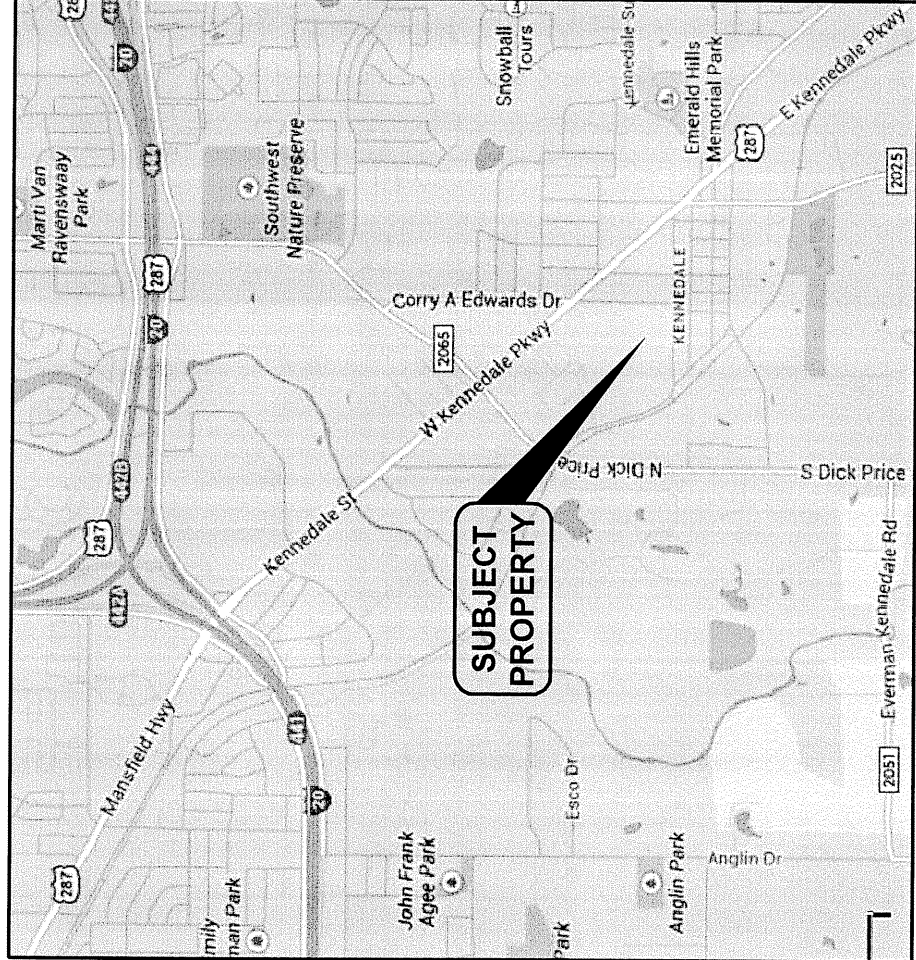


EXHIBIT "C"
CONCEPTUAL PLAN (PRELIMINARY SITE PLAN)



LOCATION MAP



LAND USE DATA:

TOTAL AREA – 6.30 ACRES
TOTAL LOTS – 29
RESIDENTIAL LOTS – 28
DETENTION POND LOT – 1
DENSITY – 4.60 LOTS/ACRE
STREET LENGTH – 958.32 FT.
MINIMUM LOT WIDTH – 50.00 FT.
MINIMUM LOT DEPTH – 110.00 FT.
MINIMUM LOT AREA – 5,000 SQ. FT.

BUILDING LINES:

FRONT – 20 FT.
SIDE – 5 FT.
SIDE ADJACENT TO R.O.W. – 15 FT.
REAR – 5 FT.

PLANNED DEVELOPMENT DISTRICT

Single Family Residential The Village at Hilltop

- 1.1 **Building Materials:** The acceptable exterior building materials are Hardi-Plank or equivalent, 3 step masonry, stucco, and stone.
- 1.2 **Street Trees:** A minimum of 1 (3") caliber tree is required for each residential lot to be planted centered between the sidewalk and the curb.
- 1.3 **Fencing:** All lot fencing shall be 6' high except for fencing parallel with the street in the sideyard setback which shall be 6' wrought iron.
- 1.4 **Building Spaces:** The minimum square footage of homes shall be 1350 SF of air conditioned space, not including garage and porches.
- 1.5 **Design Elevations:** All front elevations will be articulated to accommodate a useful porch of at least 48 square feet. All elevations will have a minimum of 6/12 pitch.
- 1.6 **Roof:** All roofs shall be a minimum of 6/12 pitch.
- 1.7 **Architectural styles:** All homes shall be consistent with cottage scale and will include varied architectural styles, including Victorian, Craftsman, and Texana.
- 1.8 **Landscape:** All homes shall have sodded front and rear lawns and be fully sprinklered.
- 1.9 **Garage Doors:** All garage doors shall be stained decorative wood panel.
- 1.10 **Sidewalks:** Each home will have 4' sidewalk in right of way.

DESCRIPTION OF PROPERTY

Being 6.30 acres of land out of the Jacob Prickett Survey, Abstract Number 1225 and being all of Lots 1-15, Block 1, HILLTOP ADDITION according to the plat recorded in Volume 388-2, Page 68, Plat Records of Tarrant County, Texas as conveyed to Rockehild Investments according to the deed recorded in Clerk Instrument Number D207423630, Deed records of Tarrant County, Texas and being more particularly described as follows:

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THENCE, South 00 degrees 00 minutes 00 seconds East, along the west line of said Camp tract, 377.00 feet to a 1/2" iron rod found for corner, being in the existing north right-of-way line of Third Street;

THENCE, North 90 degrees 00 minutes 00 seconds West, along the existing north right-of-way line of said Third Street, 50.51 feet to a 1/2" iron rod found for corner, being the southeast corner of said Gregory Addition;

THENCE, North 00 degrees 00 minutes 00 seconds West, along the east line of said Gregory Addition, 163.70 feet to the POINT OF BEGINNING.

The tract of land herein described contains 6.30 acres of land.

KNOW ALL MEN BY THESE PRESENTS:

That I, William L. Boomer, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that this plat is true and correct and that I am the actual survey made under my supervision on the ground.

William L. Boomer, R.P.L.S. No. 2559
Date: _____

OWNER:
ROCKSHIELD INVESTMENTS
1009 KILLIAN DRIVE
MANSFIELD, TX 76063

DEVELOPER:
MKP & ASSOCIATES, INC.
1375 GILMAN ROAD
FORT WORTH, TEXAS 76140
(817) 561-7949
CONTACT: ADLAI PENNINGTON
pennington@mkpassociates.com

HILLTOP ADDITION

BEING A REVISION OF LOTS 1-15, BLOCK 1, HILLTOP ADDITION
ACCORDING TO THE PLAT RECORDED IN VOLUME 388-2, PAGE 68,
PLAT RECORDS OF TARRANT COUNTY, TEXAS AND ALSO BEING
6.3 ACRES OF LAND IN THE

JACOB PRICKETT SURVEY, ABSTRACT NUMBER 1225,
CITY OF KENNEDALE, TARRANT COUNTY, TEXAS

PREPARED SEPTEMBER 2013

CivilSolutions Inc
Engineers Surveyors Planners

P.O. Box 1000, Fort Worth, Texas 76185
(817) 423-0050 (817) 424-0050 FAX
Texas Registered Engineering Firm F-389
Texas Licensed Surveying Firm 100662-00

The Planning and Zoning Commission of the City of Kennedale, Texas voted affirmatively on this _____ day of _____, 2013, to approve this Preliminary Plat.

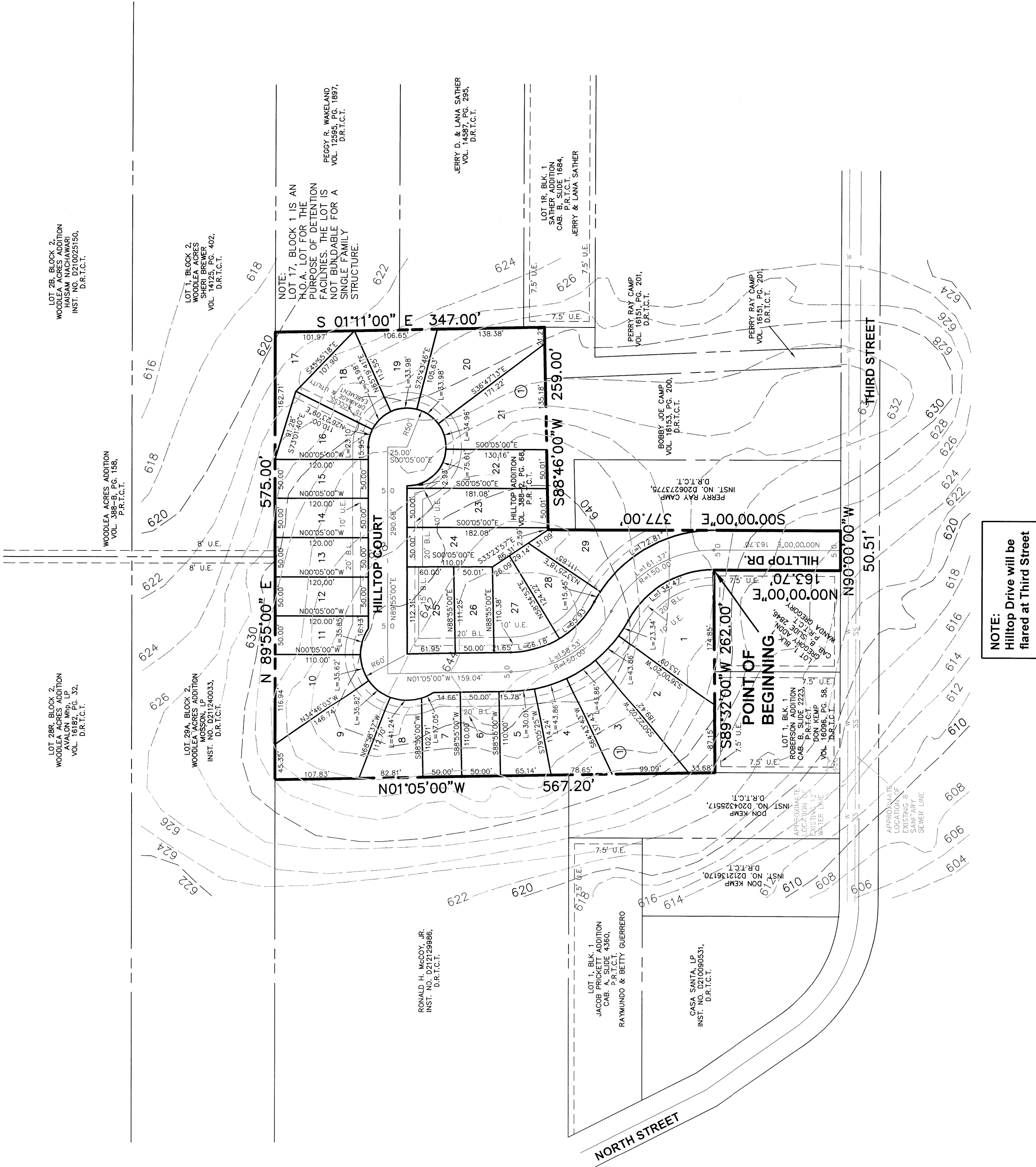
Chairman, Planning and Zoning Commission

Attest: Secretary, Planning and Zoning Commission

The City Council of the City of Kennedale, Texas voted affirmatively on this _____ day of _____, 2013, to approve this Preliminary Plat.

Mayor

City Secretary



NOTE:
Hilltop Drive will be
flared at Third Street

PZ 13-08 comparison table

Standard/Regulation	Existing – Old Town	Proposed – PD
Lot Width	50'	50'
Lot Depth	80'	110'
Minimum Lot Area	5,000 sq ft	5,000 sq ft
Front Setback	20'	20'
Side Setback, interior	5'	5'
Side Setback, corner	5'	15' (adjacent to r-o-w)
Rear Setback	15'	5'
Minimum building size (livable area)	1,000 sq ft	1,350 sq ft
Building materials	80% masonry; 20% materials as desired by builder/home owner	Masonry, hardie-plank, stucco, stone
Street trees	Not regulated in zoning code	A minimum of 1 (3") caliper tree is required for each residential lot to be planted centered between the sidewalk and the curb.
Landscaping	Not regulated in zoning code	All homes shall have sodded front and rear lawns and be fully sprinklered.
Fencing	n/a – no minimum height	All lot fencing shall be 6' high except for fencing parallel with the street in the sideyard setback, which shall be 6' wrought iron.
Elevations	Not regulated in zoning code	All front elevations will be articulated to accommodate a useful porch of at least 48 square feet. All elevations will have a combination of two building material types.
Roof	Not regulated in zoning code	All roofs shall be a minimum of 6/12 pitch.
Architectural styles	Not regulated in zoning code	All homes shall be consistent with cottage scale and will include varied architectural styles, including Victorian, Craftsman, and Texana.
Garage Doors	Not regulated in zoning code	All garage doors shall be stained decorative wood panel.
Sidewalks	4 feet minimum width	4 feet minimum width

Lot size, width, and depth meet or exceed existing regulations for development in Old Town.



KENNEDALE
Planning Department
www.cityofkennedale.com
PETITION FOR

CHANGE OF ZONING CLASSIFICATION

ZONING CASE # _____
(assigned by city staff)

DATE: 10/18/13

City Council
City of Kennedale
Kennedale, Texas 76060

HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL:

You are hereby respectfully requested to approve the following request for a change of zoning classification. I, the applicant, request to change the zoning classification of the property described on Exhibit "A" attached, from its current zoning classification of

" OT " (Old Town) to that of

" PD " (Planned Development) in its entirety as shown on Exhibit "B"

attached. The property totals some 6.3 acres.

A statement of why the zoning change should be approved is attached to this application. I understand that I must satisfy the Council that either the general welfare of all the city affected by the area to be changed will be enhanced, or that the property is unusable for the purposes allowed under existing zoning.

Legal Description is Lots 1-15 Block 1 Hilltop Addition

Present use of the property is Vacant

Address of the property is _____

Property Owner's Name: Ashton Holdings, Inc.

Address: 1375 Gilman Rd
Fort Worth, TX 76140

Telephone Number: 817 561 7949



KENNEDALE
Planning Department
www.cityofkennedale.com
Applicant's Name:

Address:

Telephone Number:

Ashton Holdings, Inc
1375 Gilman Rd
Fort Worth, TX 76140
817 561 7949

If applicant is not the owner, an owner's affidavit must be submitted with this application.

I, the applicant, understand that city staff, the Planning & Zoning Commission, or the City Council may request from me a site plan or other supporting documents concerning the nature, extent, and impact of my request for rezoning, in addition to what I supply with my application for a change in zoning.

I further certify that Ashton Holdings, Inc is the sole owner(s) of the property described in the legal description and shown in the map attached to this application, as of the date of this application.


Applicant Signature

10/18/13
Date

PLANNED DEVELOPMENT DISTRICT Single Family Residential

The Village at Hilltop

- 1.1 Building Materials: The acceptable exterior building materials are hardiplank, masonry, stucco, and stone.
- 1.2 Street Trees: A minimum of 1 (3") caliper tree is required for each residential lot to be planted centered between the sidewalk and the curb.
- 1.3 Fencing: All lot fencing shall be 6' high except for fencing parallel with the street in the sideyard setback which shall be 6' wrought iron.
- 1.4 Building Size: The minimum square footage of homes shall be 1350 SF of air conditioned space, not including garage and porches.
- 1.5 Design Elevations: All front elevations will be articulated to accommodate a useful porch of at least 48 square feet. All elevations will have a combination of 2 building material types.
- 1.6 Roof: All roofs shall be a minimum of 6/12 pitch.
- 1.7 Architectural styles: All homes shall be consistent with cottage scale and will include varied architectural styles, including Victorian, Craftsman, and Texana.
- 1.8 Landscape: All homes shall have sodded front and rear lawns and be fully sprinklered.
- 1.9 Garage Doors: All garage doors shall be stained decorative wood panel.
- 1.10 Sidewalks: Each home will have 4' sidewalk in right of way.

The Village at Hilltop Narrative

The Village at Hilltop is a 28 lot infill community located at 601 North Street, Kennedale in the Old Town section of Kennedale. The mission of The Village at Hilltop is to provide a new home alternative to the large lot and large home housing stock in Kennedale. The empty nest and young professional market is currently underserved in Kennedale. Further the central location of Hilltop makes it a perfect site for families and individuals who want to access the services that are within walking distance. Town Center and the associates retail services including pharmacy, senior center, banking and restaurants, etc. are all within walking distance. This walkable convenience is highly desirable to both empty nesters and young professionals.

The Village at Hilltop is planned to begin construction in January 2014 and be complete by June 2014 and ready for new home construction. The marketing program has scheduled sales of about 1 home per month so the build out should be early 2016.

The Village at Hilltop was platted in 1955 as a 15 lot subdivision. The property will be owned and developed by Ashton Holding, Inc. and Summit Homes located here in Kennedale will be the community builder.

The Village at Hilltop will embrace the architectural characteristics of a small town. With varied building materials and a wide range of styles Hilltop will perpetuate the feel of older enclave in Kennedale.



AN ORDINANCE AMENDING ORDINANCE NO. 40, AS AMENDED; REZONING CERTAIN PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF KENNEDALE FROM "OT" OLD TOWN DISTRICT TO "PD" PLANNED DEVELOPMENT DISTRICT; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP TO REFLECT SUCH CHANGES; PROVIDING THAT TIDS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Kennedale Texas is a Home Rule municipality acting under its charter adopted by the electorate pursuant to Article XI, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, pursuant to Chapter 211 of the Local Government Code, the City has adopted a comprehensive zoning ordinance and map regulating the location and use of buildings, other structures and land for business, industrial, residential, or other purposes, for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan; and

WHEREAS, the City of Kennedale desires to promote the development of certain infill property located in the Original Town of Kennedale, and which was platted more than 50 years ago but never developed, when such development is consistent with the comprehensive land use plan; and

WHEREAS, the redevelopment of this property provides an opportunity to implement the comprehensive plan's vision for the Downtown Village character district; and

WHEREAS, Ashton Holdings, Inc. wishes to develop the property described below as a Planned Development District, in compliance with the comprehensive land use plan; and

WHEREAS, the City of Kennedale believes the development as proposed would help achieve the vision set forth in the comprehensive land use plan; and

WHEREAS, Ashton Holdings, Inc., which has a proprietary interest in said property being an approximately 6.3 acre tract in the Jacob Prickett Survey A-1225, more particularly described as Hilltop Addition Block 1 Lots 1-15, Tarrant County, Texas, has filed an application to rezone the property from its present classification of "OT" Old Town District to a "PD" Planned Development District; and

WHEREAS, the City Council has determined that a planned development zoning district is the most

appropriate zoning district to facilitate the development of the property; and

WHEREAS, a public hearing was duly held by the Planning and Zoning Commission of the City of Kennedale on the 21st day of November 2013 and by the City Council of the City of Kennedale on the 12th day of December 2013 with respect to the zoning changes described herein; and

WHEREAS, all requirements of law dealing with notice to other property owners, publication and all procedural requirements have been complied with in accordance with Chapter 211 of the Local Government Code; and

WHEREAS, the City Council does hereby deem it advisable and in the public interest to amend the City's Zoning Ordinance as described herein.

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

SECTION 1.

The Comprehensive Zoning Ordinance is hereby amended so that the zoning classification and the uses in the hereinafter described area shall be changed and or restricted as shown and described below:

An approximately 6.3 acre tract in the Jacob Prickett Survey, more particularly described as Hilltop Addition Block 1 Lots 1-15, Tarrant County, Texas ("the Property"), as more particularly described on Exhibit "A" attached hereto and incorporated herein, from "OT" Old Town District to The Hilltop Planned Development District ("Hilltop PD") for residential use with modified restrictions, as more fully described on the Concept Plan, attached hereto as Exhibit "C" and incorporated herein.

SECTION 2.

The use of the Property shall be subject to the restrictions, terms and conditions set forth in the Concept Plan, attached hereto as Exhibit "C", and the Concept Plan is hereby approved. The use of the Property shall further conform to the standards and regulations of the "OT" Old Town District and to Chapter 17, Division 10 Subdivision Design Criteria of the City of Kennedale City Code, to the extent not modified in this Ordinance and the document attached as Exhibit "C", and shall be subject to all other applicable regulations contained in the Zoning Ordinance and all other applicable and pertinent ordinances of the City of Kennedale, where not otherwise controlled by the regulations set forth below. The Property shall conform to the following supplemental standards and regulations, which shall supersede any other requirements to the extent of a conflict:

1. *Permitted Uses.* The only permitted uses in the “Hilltop PD” shall be:

single family detached residential;

park, playground, or open space, including detention or retention facilities;

accessory building (other than a *guest house*), when such use does not exceed fifteen (15) feet in height, is a subordinate building incidental to that of the main building on the same lot, has a maximum interior floor area of fifteen (15) percent of the living space of the primary structure, and is constructed of masonry (as defined in Kennedale city code), stone, 3-coat/3-step stucco, or Hardie-Plank or material equivalent to Hardie-Plank in quality and durability, with city staff to determine whether alternative materials are equivalent to Hardie-Plank;

guest house, when such use does not exceed fifteen (15) feet in height and is a subordinate building incidental to that of the main building on the same lot, has a maximum living space of fifteen (15) percent of the living space of the primary structure, is constructed of masonry (as defined in Kennedale city code), stone, 3-coat/3-step stucco, or Hardie-Plank or material equivalent to Hardie-Plank in quality and durability, with city staff to determine whether alternative materials are equivalent to Hardie-Plank, and is not used as a rental residence or permanent living facility.

2. *Density.* The number of residential lots within the Hilltop PD shall not exceed 28. The Hilltop PD shall have a minimum of one (1) lot dedicated for open space or storm water detention. When used as storm water detention, the lot(s) shall be designed to include natural features, such as plants or grasses, so that the detention facility also serves as a neighborhood amenity.

3. *Lot size.* Lot size requirements shall be as follows.

Lot Type	Maximum Number of Lot Type	Minimum Lot Width	Minimum Lot Depth	Minimum Lot Area
Residential	28	50	110	5,500
Public/Detention	n/a	n/a*	n/a*	n/a*
*Minimum size of detention facilities shall be determined during platting and final construction design.				

4. *Lot coverage.* Lot coverage shall not exceed seventy (70) percent of the lot. *Lot coverage*

means the percentage of the total area of a lot occupied by the first story or ground floor of all buildings located on the lot.

5. *Minimum livable area.* The minimum livable area for all primary residential structures is 1,350 square feet.

6. *Setbacks.* The Hilltop PD herein approved shall require the following minimum setbacks:

Lot Type	Front Setback Minimum (ft.) – primary structure	Front Setback Minimum (ft.) – garage	Rear Setback Minimum (ft.)	Side Setback Minimum – R-o-W Adjacent (ft.)	Side Setback Minimum – Interior (ft.)
Residential	15 ¹	<u>20²</u>	5	15	5
Public/Detention	n/a	<u>n/a</u>	n/a	n/a	n/a

¹ For the purposes of this sub-section, the front setback is measured from the exterior plane of the front porch (required by this ordinance)

² The front plane of the garage must be set back a minimum of two (2) feet from the main entry door plane.

7. *Building height.* Buildings shall not exceed a height of two and one half (2 ½) stories, at a maximum of forty (40) feet in height.

8. *Building materials.* All primary structures shall be constructed of stone, Hardie-Plank or material equivalent to Hardie-Plank in quality and durability, with city staff to determine whether alternative materials are equivalent to Hardie-Plank, or 3-coat/3-step stucco. All primary structures shall use a minimum of 25% masonry.

9. *Elevations.* All exterior elevations shall be constructed of at least two building material types. No elevation shall be used more than once in every five contiguous lots (i.e., the first and sixth lots in a row may contain the same elevation, but the second, third, fourth, and fifth may not). No identical elevation shall be repeated on any lot directly across the street. Elevations shall be substantially different beyond simple mirrored plans, or garage or window relocation, and shall include combinations of architectural variety such as: front porches, dormers, gables, bay windows, roof pitch, or other such architectural features that substantially differentiate house façades.

10. *Architectural style.* All homes shall be consistent with cottage scale and shall include

architectural styles consistent with the historic character of Old Town, including Victorian, Craftsman, and Texana.

11. *Front porches.* All homes shall have a usable front porch of a minimum size of forty-eight (48) square feet.

12. *Roof pitch.* All homes shall have a minimum roof pitch of 6/12.

13. *Parking.* Parking spaces for at least two (2) motor vehicles shall be provided in an enclosed garage for any single family dwelling constructed within the Hilltop PD. All garage doors shall be stained decorative wood panel. Front entry garages may occupy a maximum of fifty (50) percent of the house linear frontage. J-swing garages that accommodate more than two (2) vehicles are prohibited.

14. *Landscaping.* Landscaping shall be regulated by the Kennedale City Code except as otherwise controlled by this ordinance.

a. *Lawns.* All residential lots shall have sodded front and rear lawns and shall be fully sprinklered.

b. *Plants.* Use of native or adaptive xeriscape plants is encouraged. Landscaping shall be maintained in good condition.

c. *Street trees.* A minimum of one (1) tree of three (3) inch caliper or greater shall be required for each residential lot, to be planted centered between the sidewalk and the curb. The developer shall be responsible for installation of all street trees and shall ensure tree selection and installation are sufficient to ensure a long tree life. The developer shall be responsible for maintenance and replacement of trees, as needed, for a period of two (2) years after the development's public improvements have been accepted by the city.

d. *Irrigation.* Sprinkler systems should be controlled by an automatically controlled timer, unless the use of the property would otherwise prohibit use of a timer. Irrigation systems shall be installed with a rain shut off sensor. The irrigation system shall be designed so that overspray onto structures, streets, sidewalks, windows, walls, and fences is minimized.

i. High-efficiency irrigation systems, such as (but not limited to) drip or soaker hose systems, are required for non-turf areas.

ii. Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be required as close as possible to the point of connection of the water supply to minimize water loss in

case of an emergency (such as a main line break) or routine repair.

iii. The use of rain cisterns is permitted.

1. Cisterns must be located in the rear yard or side yard and must be screened so as not to be seen from the public street. Screening must meet the screening materials regulations of the Kennedale City Code.
2. Cisterns may not exceed ten (10) percent coverage in any required yard.
3. A cistern of less than three (3) feet in diameter may be placed anywhere in the rear yard. A cistern with diameter of three (3) feet or more shall be a minimum of eight (8) feet from any side lot line and eight (8) feet from any rear lot line.
4. A cistern may not be greater than six (6) feet in height.

e. *Protection of quality trees.* The Zoning Administrator may approve a deviation from the lot layout or street layout shown Exhibit "C" in order to retain and protect an existing quality tree, as defined in the Chapter 16, Article VI of the Kennedale City Code. Permission to deviate from the approved Site Plan must be requested, in writing, by the developer.

15. *Driveways and Access.* All entry and exit points shall conform to the approved Concept Plan and supporting documents, as depicted in Exhibit "C", and shall conform to the standards of the City of Kennedale public works design manual and the City of Kennedale subdivision design criteria of Chapter 17, Division 10 of the City of Kennedale Code of Ordinances, unless otherwise regulated by this ordinance. Notwithstanding the above, it is understood that the exact entry and exit point for the subdivision developed under the Hilltop PD may need to be adjusted due to topographic, soil, or other similar development constraints, and therefore the entry and exit point may be modified with written approval of the Director of Public Works. The Director of Public Works may approve such requests if they are made in writing and present evidence of development constraints that would prohibit the safe ingress or egress of traffic at the location approved in the Concept Plan, but the Director is not required to grant such requests.

16. *Sidewalks.* Sidewalks are required within the Hilltop PD and shall be constructed according to the requirements of the City of Kennedale Code of Ordinances, the City of Kennedale Public Works Design Manual, and any other applicable regulations, where not otherwise controlled by this ordinance. Sidewalks may be constructed of permeable materials and may be designed and constructed using low-impact

development standards if approved, in writing, by the Director of Public Works. Review and approval of low-impact infrastructure or public facilities shall follow the process for review and approval of standard infrastructure or public facilities as set forth in the codes, regulations, and design manuals of the City of Kennedale. Low-impact development standards shall not be approved unless the Director of Public Works is satisfied the materials and construction methods used will meet the same standards for safety and durability as used in standard sidewalk construction within the City of Kennedale.

17. Street lighting. Street lighting shall be decorative and shall be aesthetically compatible with the character of the district.

18. Drainage. The developer(s) shall adequately address storm water run-off resulting from developing property within the district. Construction plans submitted to the city shall include detailed drainage plans.

19. Home owners' association. The developer shall establish a home owners' association, which shall be responsible for maintaining drainage facilities and common areas within the district.

20. Traffic study. The developer shall conduct a traffic impact study to study impact on traffic and traffic safety stemming from the proposed development. The study shall be submitted to the city no later than the date construction plans for the development are submitted.

SECTION 3.

The zoning districts and boundaries as herein established have been made in accordance with the comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic, flood and other dangers, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, parks and other public requirements. They have been made after a full and complete hearing with reasonable consideration among other things of the character of the district and its peculiar suitability for the particular uses and with a view of conserving the value of the buildings and encouraging the most appropriate use of land throughout the community.

SECTION 4.

The City Secretary is hereby directed to amend the official zoning map to reflect the changes in

classifications approved herein.

SECTION 5.

The use of the properties hereinabove described shall be subject to all the applicable regulations contained in the Comprehensive Zoning Ordinance and all other applicable and pertinent ordinances of the City of Kennedale, Texas.

SECTION 6.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Kennedale, Texas (1991), as amended, including but not limited to all Ordinances of the City of Kennedale affecting zoning and land use, and shall not repeal any of the provisions of such ordinances except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 7.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 8.

All rights or remedies of the City of Kennedale Texas are expressly saved as to any and all violations of any ordinances governing zoning or of any amendments thereto that have accrued at the time of the effective date of this Ordinance and as to such accrued violations and all pending litigation both civil and criminal same shall not be affected by this Ordinance but may be prosecuted until final disposition by the Courts.

SECTION 9.

It is hereby declared to be the intention of the City Council that the phrases clauses sentences paragraphs and sections of this ordinance are severable and if any phrase clause sentence paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction such unconstitutionality shall not affect any of the remaining phrases clauses sentences paragraphs and sections of this ordinance since the same would have been enacted by the City

Council without the incorporation in this ordinance of any such unconstitutional phrase clause sentence paragraph or section.

SECTION 10.

The City Secretary of the City of Kennedale is hereby directed to publish the caption penalty clause publication clause and effective date clause of this ordinance in every issue of the official newspaper of the City of Kennedale for two days or one issue of the newspaper if the official newspaper is a weekly newspaper as authorized by Section 3.10 of the City of Kennedale Charter.

SECTION 11.

This ordinance shall be in full force and effect from and after its passage and publication as required by law and it is so ordained.

PASSED AND APPROVED ON THIS 12TH DAY OF DECEMBER 2013.

MAYOR

SECRETARY

EFFECTIVE: ☐ _____

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY



Date: December 12, 2013

Agenda Item No: REGULAR ITEMS - E.

I. Subject:

CASE # PZ 13-10 to receive comments and consider approval of Ordinance 541, regarding a request by Ashton Holdings, Inc. for a zoning change for approximately 4.3 acres from "AG" Agricultural District to "R-1" Single Family Residential District for property owned by Ricardo Trevino and located at the corner of Swiney Hiatt Rd and Collett Sublett Rd, legal description of Oliver Acres Addition Block 2 Lot 6.

1. Staff Presentation
2. Applicant Presentation
3. Public Hearing
4. Applicant Response
5. Staff Response and Summary
6. Action by the Council

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

Request: Rezone from "AG" Agricultural to "R-1" Single Family Residential

Location: corner of Swiney Hiatt and Collett Sublett

Applicant: Ashton Holdings, Inc., Adlai Pennington, President

Background.

This property was platted more than 70 years ago as part of the Oliver Acres subdivision. Most of the other lots in Oliver Acres were developed as large lot single family homes, but this lot is still undeveloped. Nearby neighborhoods include Beacon Hill (across the street, at Mansfield Cardinal and Swiney Hiatt) and Falcon Wood (across the street, between Swiney Hiatt and Eden). The primary land use in this area is residential.

Ashton Holdings has requested to rezone the property in question from its current zoning of AG Agricultural to that of R-1 Single Family Residential. A summary comparison of the development standards for each district is as follows:

- Minimum lot area under AG zoning is 1 acre, whereas R-1 lots are required to be at least 1/2 an acre. A change in zoning would increase the potential number of lots from 4 to 8.
- Minimum lot width is smaller in the current zoning, but minimum lot depth is the same in the two districts.
- Front and side setback minimums are the same in AG and R-1, but required rear setbacks are smaller in R-1 than in AG districts.

- The minimum living area for homes and the masonry requirements are the same in both districts.

Staff Review.*Compliance with the comprehensive land use plan.*

The comprehensive land use plan identifies this area as Neighborhood (note: the adjacent intersection of Swiney Hiatt and Collett Sublett is identified as Neighborhood Corridor). The plan describes the Neighborhood character district as follows.

"This district is primarily residential in nature. Neighborhoods should have defined boundaries, a clear center, and be easily accessible to day-to-day goods and services, such as those provided at Neighborhood Villages. The center of a neighborhood should be a civic, public, or community use in which people can come together—such as a park, school, or neighborhood amenity center."

R-1 zoning is in compliance with the character district description (or as close as any of our residential zoning districts can come to it).

Compliance with the strategic plan.

Staff reviewed the strategic plan for relevant recommendations. The plan's recommendations are not applicable to this rezoning request.

Compliance with City Council priorities.

Two of Council's priorities from the balanced scorecard are related to this rezoning case: (1) Enhance the Business Climate -- Increasing resident population was noted as part of enhancing the business climate; and (2) Balance the Tax Burden -- Creating higher density housing was identified as one way to balance the tax burden. The proposed rezoning increases potential density (reducing minimum lot size from 1 acre to ½ acre) and increases potential number of new residents. Rezoning from AG to R-1 does not guarantee greater density or more residents but allows such increases to occur.

Staff Recommendation.

The requested rezoning is in compliance with the comprehensive plan and Council priorities and does not conflict with the strategic plan. Staff recommends approval.

Planning & Zoning Commission Recommendation.

The Planning & Zoning Commission considered this case during its November meeting.

Two residents spoke during the public hearing for this case and the related replat request, Case PZ 13-11. The residents did not speak in favor of or against the requests but did express some concerns about water pressure. They also were concerned about whether the developer would be required to install sidewalks and the impact on the school district. In response, staff told the Commission that the public works director had said the proposed rezoning (increase in density) would not have a negative impact on water pressure in the area. Also, sidewalks are required to be installed as part of development. If sidewalks cannot be installed at the time of development, then the developer usually is required to pay a fee in lieu of installing sidewalks, and the city installs them later. Dr. Walker stated that a development this small in size would have a negligible effect on the

school district population.

The Commission voted to recommend approval of Case PZ 13-10 with all members in favor, except the chair, who abstained.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

Approve

VIII. Alternative Actions:

IX. Attachments:

1.	PZ 13-10 ordinance	PZ 13-10 ordinance.docx
2.	PZ 13-10 exhibit A	PZ 13-10 exhibit A legal descr.docx
3.	PZ 13-10 Exhibit B	PZ 13-10 exhibit b.pdf

AN ORDINANCE AMENDING ARTICLE VI OF CHAPTER 17 OF THE KENNEDALE CITY CODE (1991), AS AMENDED, BY REZONING CERTAIN PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF KENNEDALE FROM "AG" AGRICULTURAL DISTRICT TO "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, pursuant to Chapter 211 of the Local Government Code, the City has adopted a comprehensive zoning ordinance and map regulating the location and use of buildings, other structures and land for business, industrial, residential or other purposes, for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan; and

WHEREAS, Ashton Holdings, Inc., on behalf of owner Richard Trevino, who has a proprietary interest in said property being an approximately 4.28 acre tract in the J.M. Lilly Survey Abstract 980, more particularly described as Oliver Acres Subdivision Block 2 Lot 6, Tarrant County, Texas, has filed an application to rezone the property from its present classification of "AG" Agricultural District to "R-1" Single Family Residential District; and

WHEREAS, the Planning and Zoning Commission of the City of Kennedale, Texas held a public hearing on November 21, 2013, and the City Council of the City of Kennedale, Texas held a public hearing on December 12, 2013, with respect to the amendments described herein; and

WHEREAS, the City has complied with all requirements of Chapter 211 of the Local Government Code, Section 17-429 of the Zoning Ordinance, and all other laws dealing with notice, publication, and procedural requirements for the approval of amending the Schedule of Uses under Section 17-421 of the Kennedale City Code; and

WHEREAS, all requirements of law dealing with notice to other property owners, publication and all procedural requirements have been complied with in accordance with Chapter 211 of the Local Government Code; and

WHEREAS, the City Council does hereby deem it advisable and in the public interest to amend the City's Zoning Ordinance as described herein,

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

SECTION 1.

The Comprehensive Zoning Ordinance is hereby amended so that the zoning classification and the uses in the hereinafter described area shall be changed and or restricted as shown and described below:

An approximately 4.28 acre tract in the J. M. Lilly Survey, Abstract 980 and 985, Tarrant County, Texas ("the Property"), being that same tract conveyed to Richard Trevino according to the deed recorded in Tarrant County Clerk's Instrument Number D202074623, and more particularly described as Lot 6, Block 2, Oliver Acres, an Addition to the City of Kennedale, Tarrant County, Texas, according to the Plat thereof recorded in Volume 1383, Page 586, Plat Records, Tarrant County, as shown and described on Exhibit "A" attached hereto and incorporated herein, from "AG" Agricultural District to "R-1" Single Family Residential District.

SECTION 2.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Kennedale, Texas (1991), as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clause, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause, or phrase.

SECTION 4.

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00). Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 5.

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the provisions of any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

The City Secretary of the City of Kennedale is hereby directed to publish in the official newspaper of the City of Kennedale the caption, penalty clause, publication clause and effective date clause of this ordinance as provided by Section 3.10 of the Charter of the City of Kennedale.

SECTION 7.

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 12TH DAY OF DECEMBER 2013.

MAYOR

ATTEST:

CITY SECRETARY

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY

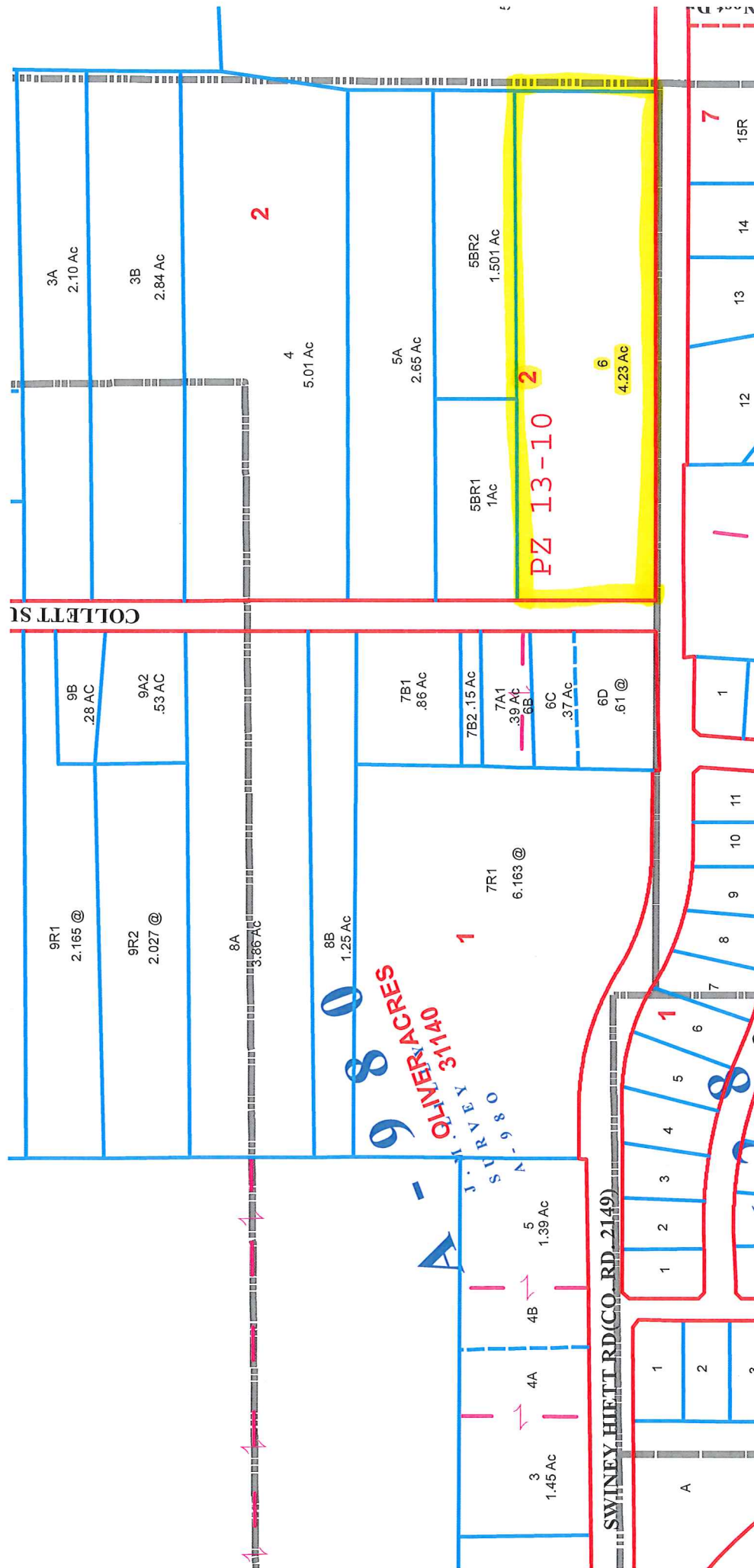
EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

LEGAL DESCRIPTION

An approximately 4.28 acre tract in the J. M. Lilly Survey, Abstract 980 and 985, Tarrant County, Texas, being that same tract conveyed to Richard Trevino according to the deed recorded in Tarrant County Clerk's Instrument Number D202074623, and more particularly described as Lot 6, Block 2, Oliver Acres, an Addition to the City of Kennedale, Tarrant County, Texas, according to the Plat thereof recorded in Volume 1383, Page 586, Plat Records, Tarrant County.

EXHIBIT "B"
MAP OF PROPERTY





Date: December 12, 2013

Agenda Item No: REGULAR ITEMS - F.

I. Subject:

CORRECT CASE # PZ 13-11 to receive comments and consider action on a request by Ashton Holdings, Inc. for a replat of approximately 4.3 acres, for property owned by Ricardo Trevino and located at the corner of Swiney Hiatt Rd and Collett Sublett Rd, legal description of Oliver Acres Addition Block 2 Lot 6, to create Lots 6R1-6R8.

1. Staff Presentation
2. Applicant Presentation
3. Public Hearing
4. Applicant Response
5. Staff Response and Summary
6. Action by the Council

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

Background.

Lot 6, Block 2 in the Oliver Acres subdivision is located at the corner of Collett Sublett Rd and Swiney Hiatt Rd. The original plat was filed at least 70 years ago. This lot is the same property considered under Case PZ 13-10. If the rezoning request under Case PZ 13-10 is approved, then the zoning for the property will be R-1 Single Family Residential. If it is not approved, then the zoning will remain AG Agricultural.

The applicant, Ashton Holdings, proposes to subdivide the property into eight (8) lots, oriented toward Swiney Hiatt. Each lot would be approximately 0.53 acres in size. Water and sewer lines are available in the area, and therefore the replat would not require the extension of water or sewer utilities.

Please note that state law requires the city to allow protests on replats if variances are requested and also requires that we notify certain property owners of the right to protest. No variance has been requested for this replat, so the protest provision does not apply.

Staff Review.

Planning, Permits, Public Works, and Fire Department staff reviewed the proposed plat. The plat complies with applicable sections of the comprehensive plan, with the exception of the right-of-way dedications (see below). It also meets all city requirements for new lots in the R-1 zoning district (including lot width, depth, and area). The following changes should be made to the plat drawing for it to be in compliance with city requirements.

1. Change the title from "Amending Plat" to "Replat".
2. Add Oliver Acres to title block ("Lots 6R1-6R8, Block 2, Oliver Acres...")

3. Add total gross acreage to title block.
4. Change the front setback line from 30 feet to 50 feet.
5. Remove any other setback lines from the plat drawing.
6. Add a signature box for City Council.
7. Correct the plat title in the signature box for the Commission.
8. Add depth dimensions for each lot (currently, depth dimensions are given on the exterior lots only).
9. Provide a scale for the vicinity map.
10. For adjacent properties, make sure each owner name is shown. If adjacent lots are platted, state the subdivision name.
11. Verify all existing easements are shown.
12. State the area of each lot in square feet (area is given in acres).
13. Dedicate right-of-way, if needed, for Collett Sublett side sufficient for a 70-foot right-of-way.
14. Dedicate right-of-way, if needed, for Swiney Hiatt side sufficient for a 60-foot right-of-way.
15. Submit a drainage study for this property for existing and proposed conditions, incorporating the requirements of Kennedale's detention policy.
16. Submit a supplemental document providing fire hydrant assemblies, connected to the Kennedale 12" main in Swiney Hiatt, to provide coverage for this subdivision.

Most of these changes are non-substantive and simply reflect the city's preferences for how plats should be drawn. A few of the changes, however, are substantive and will affect how the property is developed. These changes are those related to drainage and to the right-of-way.

Staff Recommendation.

The plat is in compliance with the comprehensive plan, except for the street rights-of-way for the two roadways shown on the plat. If the plat is revised to show the right-of-way on Swiney Hiatt and to dedicate additional r-o-w if needed, and if it is revised to dedicate any additional r-o-w needed on Collett Sublett, then it will be in compliance with the comprehensive land use plan. Making the other corrections will bring the plat into compliance with the city requirements if the city first approves the rezoning requested under Case PZ 13-10.

If the Council votes to approve rezoning of this property under Case PZ 13-10, and if a revised version is presented to Council with the required changes, then staff recommends approving the replat.

If the Council votes to deny rezoning of this property under Case PZ 13-10, or if the required changes to the plat drawing are not made, then staff recommends denying the plat, since the request would not meet all applicable city requirements.

Planning & Zoning Commission Recommendation.

The Planning & Zoning Commission considered this case during its November meeting. Two residents addressed the Commission during the public hearing to express concerns about additional development in this part of the city. As stated in the staff report for Case PZ 13-10, the residents' main concerns were water pressure and sidewalks, and they were also concerned about impact on the school district and privacy. Larry Ledbetter has stated that an additional eight (8) homes at this location would not have a negative impact on water pressure.

The Commission voted to recommended approval (all in favor except the chair, who abstained) on the condition that the changes to the plat suggested by staff be made before the proposed plat is considered by Council. The Commission also wanted to advise Council that low water pressure is a concern to residents in this part of the city.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

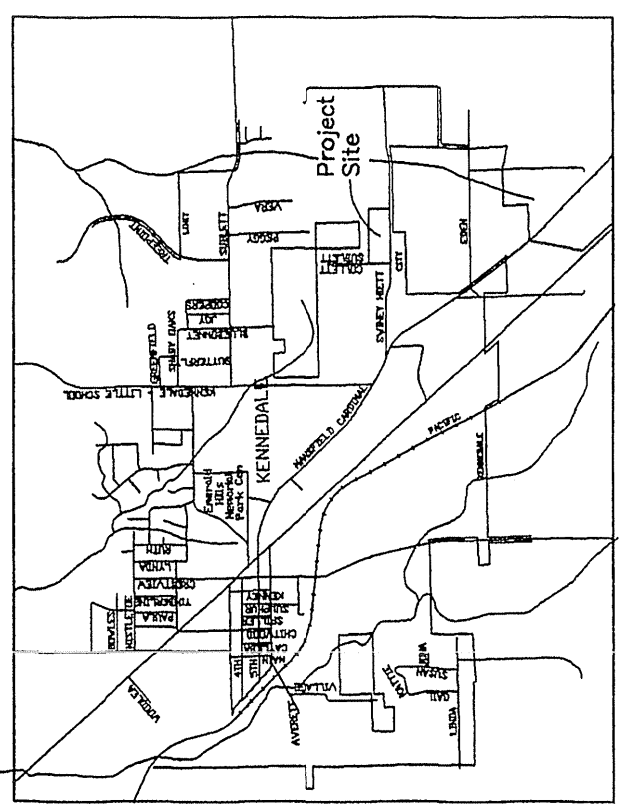
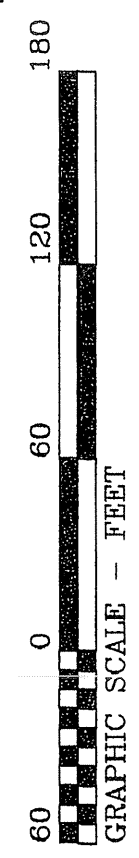
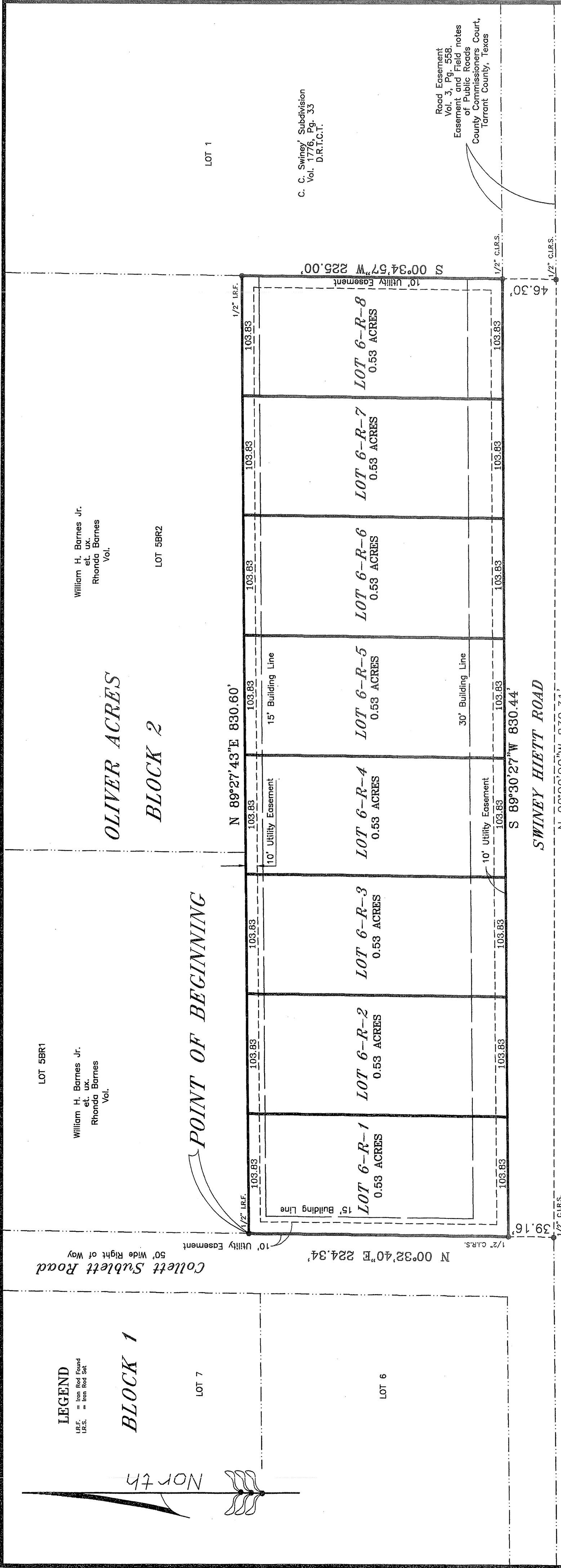
VII. Recommendation:

Approve

VIII. Alternative Actions:

IX. Attachments:

1.	PZ 13-11 replat drawing	Lot 6 Blk 2 Oliver Acres replat.pdf
2.	PZ 13-11 map	PZ 13-10 & 13-11 map.pdf
3.	PZ 13-11 application	PZ 13-11 application.pdf



FLOOD STATEMENT
The property shown hereon appears to be located in Zone "X" (Areas determined to be outside the 500-Year Flood Plain) according to the Flood Insurance Rate Map, Map No. 48439C0439 H, Map Revised: August 2, 1995. This Surveyor will not accept the responsibility for the accuracy of said map, nor will this Surveyor accept the responsibility for the local surface drainage affecting the property shown hereon.

This plat represents an actual survey made on the ground under my supervision and is true and correct to the best of my knowledge.

*** PRELIMINARY ***
*** For review only, not to be recorded. ***

Registered Professional Land Surveyor
Texas Registration No. ????

METES AND BOUNDS DESCRIPTION

Being a portion of that certain lot, tract or parcel of land situated in the J. M. Lilly Survey, Abstract Number 980, Tarrant County, Texas and being all of Lot 6, Block 2, Oliver Acres, an addition to Tarrant County, Texas, according to the plat recorded in Volume 1383, Page 587, Deed Records, Tarrant County, Texas:

BEGINNING at a 1/2 inch iron rod found on the east line of Collett Sublett Road, being the northwest corner of Lot 6 and the southwest corner of Lot 5, Block 2;

THENCE North 89 degrees 27 minutes 43 seconds East, along the common line of said Lots 5 and 6, a distance of 830.60 feet to a 1/2 inch iron rod found for the common easterly corner of said lots;

THENCE South 00 degrees 34 minutes 57 seconds West, along the east line of said Lot 6, a distance of 225.00 feet to a 1/2 inch capped iron rod set for the northeast corner of that certain road easement recorded in Volume 3, Page 558, of the Easement and Field Notes of Public Road County Commissioner's Records, Tarrant County, Texas, from which a 1/2 inch capped iron rod set for southeast corner of said lot 6 bears South 0 degrees 34 minutes 57 seconds West, a distance of 46.30 feet;

THENCE South 89 degrees 30 minutes 27 seconds West, along the north line of said easement and the north line of Swiney Hiatt Road, a distance of 830.44 feet to a 1/2 inch capped iron rod set for the northwest corner of said easement being on the east line of Collett Sublett Road, and the west line of said lot 6, from which a 1/2 inch capped iron rod set for the southwest corner of lot 6, bears South 00 degrees 32 minutes 40 seconds West, a distance of 39.16 feet;

THENCE North 00 degrees 32 minutes 40 seconds East, along the east line Collett Sublett Road and the west line of lot 6, a distance of 224.34 feet to the point of beginning.

The Planning and Zoning Commission of the City of Kennedale, Texas voted affirmatively on this _____ day of _____, 2013, to approve this preliminary Plat.

Chairman, Planning and Zoning Commission

ATTEST: SECRETARY Planning and Zoning Commission

THE STATE OF TEXAS

Before me _____, a Notary Public in and for the State of Texas on this day personally appeared Adlai Pennington, President, Ashton Holdings, Inc., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this _____ day of _____, 2013.

AMENDING PLAT SHOWING

Lots 6-R-1 thru 6-R-8, Block 2
Being 4.28 acres of land out of the
J. M. LILLY SURVEY, ABSTRACT 980
and also being
A Revision of Lot 6, Oliver Acres,
Tarrant County, Texas
recorded in Volume 1383, Page 586,
Deed Records, Tarrant County, Texas

Notary Public in and for
The State of Texas

My Commission Expires _____

THIS PLAT FILED IN

CABINET _____, SLIDE _____

DATE _____

NOW, THEREFORE KNOW ALL MEN BY THESE PRESENTS, that Ashton Holdings, Inc., acting by and through Adlai Pennington, President, does hereby certify that it is the owner of the herein described property and does hereby adopt this plat as Lots 6-R-1 thru 6-R-8, Block 2, Oliver Acres, an Addition to Tarrant County, Texas, and does hereby dedicate to the public's use forever the easements and right-of-ways shown hereon.

Executed this _____ day of _____, 2013.

Adlai Pennington, President, Ashton Holdings, Inc.

Barney Ballard Corporation P.O. BOX 545, BARBERSHIRE, TEXAS 76697 817795-4891			
Scale: 1"=60'	Drawn: ATV	Project #	2806037
Book: 10-10-13	App: btb	dt: J	2404072

Site of Cases PZ 13-10 & PZ 13-11



City of Kennedale Re-Plat Application

APPLICANT NAME: Ashton Holdings, Inc DATE: 10/18/13
 SUB-DIVISION NAME: Falcon Crest
 LEGAL DESCRIPTION: Lot 6 Oliver Acres ACRES: 4.28
 CURRENT ZONING: AG PROPOSED ZONING: R-1
 BEING PLATTED AS: LOTS: 6-R-1 BLOCKS: 2 PHASES: 1
6-R-8

OWNER OF RECORD: Ricardo Trevino
 ADDRESS: 717 Woodland Ct PHONE: _____
 CITY: Kennedale STATE: TX ZIP: 76060

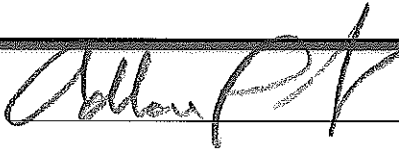
SURVEYOR: Barney Ballard Corporation
 ADDRESS: P.O. Box 545 PHONE: _____
 CITY: Burleson STATE: TX ZIP: 76097

ENGINEER: N/A
 ADDRESS: _____ PHONE: _____
 CITY: _____ STATE: _____ ZIP: _____

DEVELOPER: Ashton Holdings, Inc
 ADDRESS: 1375 Gilman Rd PHONE: 817 561 7149
 CITY: Fort Worth STATE: TX ZIP: 76140

DESCRIPTION OF THE PROJECT FOR WHICH THE PLAT IS SOUGHT, INCLUDING PROPOSED LAND
 USES AND THEIR LOCATIONS:

APPLICANT SIGNATURE:



DATE:

10/18/13

OWNER SIGNATURE: _____

DATE: _____

SURVEYOR SIGNATURE: _____

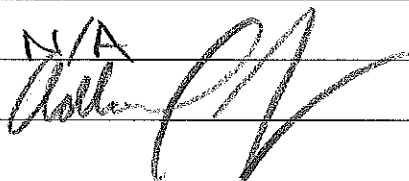
DATE: _____

ENGINEER SIGNATURE: _____

N/A

DATE: _____

DEVELOPER SIGNATURE:



DATE:

10/18/13

Please submit with your application a tax certificate from Tarrant County showing that any delinquent taxes, fee, and outstanding liens due to the city have been paid.

KENNEDALE



Date: December 12, 2013

Agenda Item No: REGULAR ITEMS - G.

I. Subject:

CASE # PZ 13-12 to receive comments and consider approval of Ordinance 542, regarding a request by Alluvium Development, Inc. to amend the regulations for the Planned Development District for property located at 925 Mansfield Cardinal Rd, legal description of J M Lilly Survey A 980 Tract 2 & A 985 Tract 3, Tarrant County, Texas, to correct a scrivener's error that listed the minimum lot width for "C" type lots as 85 feet instead of 80 feet.

1. Staff Presentation
2. Applicant Presentation
3. Public Hearing
4. Applicant Response
5. Staff Response and Summary
6. Action by the Council

II. Originated by:

III. Summary:

The site plans for The Vineyard planned development district (approved by the city under case PZ 13-04) showed a lot width of 85 feet for "C" type lots. The applicant's intent had been for the "C" type lots to have a width of 80 feet; that width is what the lots are scaled at on the site plan and what he thought had been proposed in the site plan text. Unfortunately, the mistake was not caught in time, and the site plans were reviewed and approved by City Council at the wider width of 85 feet. The approved layout and number of lots are not possible with a width of 85 feet for the "C" lots, unfortunately, so the applicant is requesting a change to the approved site plan to allow a lot width of 80 feet. This lot width would apply only to "C" type lots.

Staff Review.

The request to amend the site plan does not conflict with city plans or goals, and staff therefore recommends approval of the request to amend the site plan for The Vineyard Planned Development District.

Planning & Zoning Commission Recommendation.

The Planning & Zoning Commission considered this case during its November meeting and recommended approval (all Commissioners voting in favor except the chair, who abstained).

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

Approve

VIII. Alternative Actions:**IX. Attachments:**

1.	PZ 13-12 adopting ordinance (draft)	PZ 13-12 ordinance correcting error in PD site plan.docx
2.	PZ 13-12 corrected site plan	PD Exhibit - The Vineyard - Error Correction 110113.pdf

AN ORDINANCE AMENDING ORDINANCE NO. 40, AS AMENDED, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF KENNEDALE; BY AMENDING THE VINEYARD PLANNED DEVELOPMENT DISTRICT; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP TO REFLECT SUCH CHANGES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, pursuant to Chapter 211 of the Local Government Code, the City has adopted a comprehensive zoning ordinance and map regulating the location and use of buildings, other structures and land for business, industrial, residential or other purposes, for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan; and

WHEREAS, a change in the zoning classification of the property listed below was requested by a person or entity having a proprietary interest in said property; and

WHEREAS, a scrivener's error was made on the site plan submitted and approved as part of The Vineyard Planned Development District; and

WHEREAS, the Planning and Zoning Commission of the City of Kennedale, Texas held a public hearing on November 21, 2013, and the City Council of the City of Kennedale, Texas held a public hearing on December 12, 2013, with respect to the amendments described herein; and

WHEREAS, the City has complied with all requirements of Chapter 211 of the Local Government Code, Section 17-429 of the Zoning Ordinance, and all other laws dealing with notice, publication, and procedural requirements for the approval of amending the Schedule of Uses under Section 17-421 of the Kennedale City Code; and

WHEREAS, the City of Kennedale, Texas does hereby deem it advisable and in the public interest to amend Ordinance No. 40, as amended, as described herein.

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

SECTION 1.

The Vineyard Planned Development District site plan is hereby amended as follows:

See Exhibit "A".

SECTION 2.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Kennedale, Texas (1991), as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clause, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause, or phrase.

SECTION 4.

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00). Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 5.

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the provisions of any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

The City Secretary of the City of Kennedale is hereby directed to publish in the official newspaper of the City of Kennedale the caption, penalty clause, publication clause and effective date clause of this ordinance as provided by Section 3.10 of the Charter of the City of Kennedale.

SECTION 7.

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 12TH DAY OF DECEMBER 2012.

ATTEST:

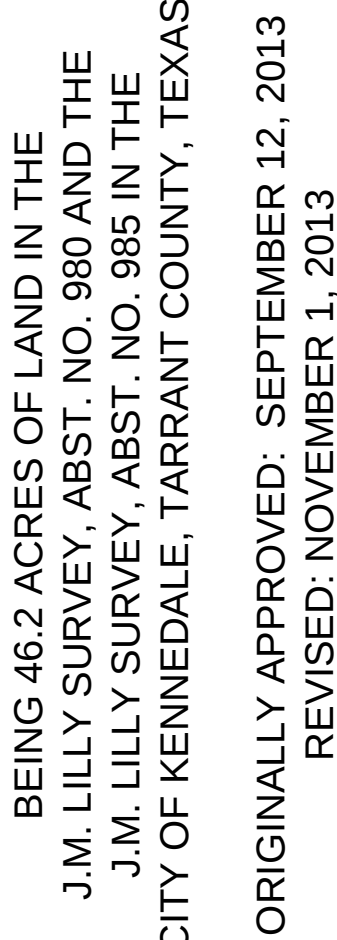
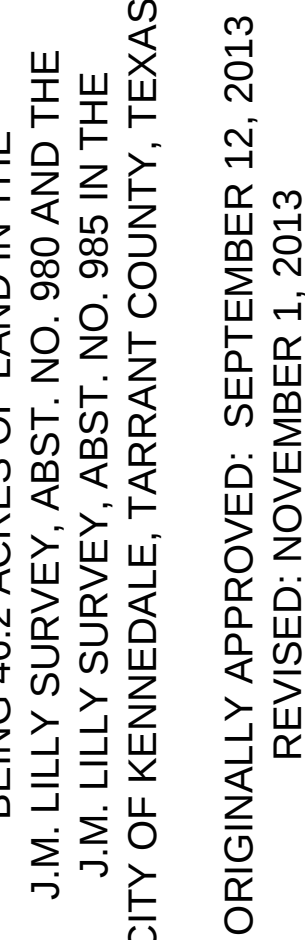
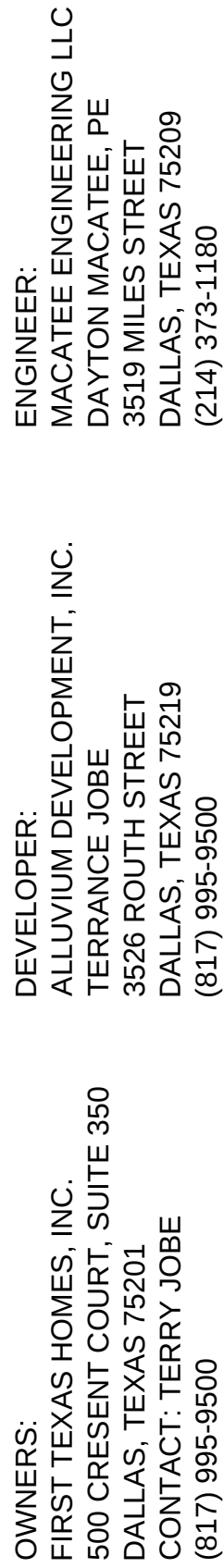
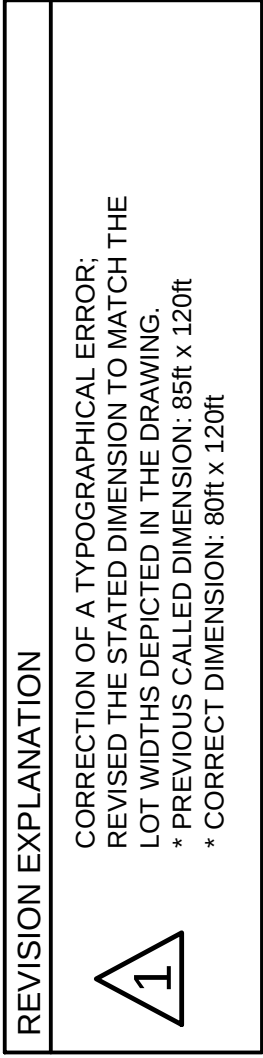
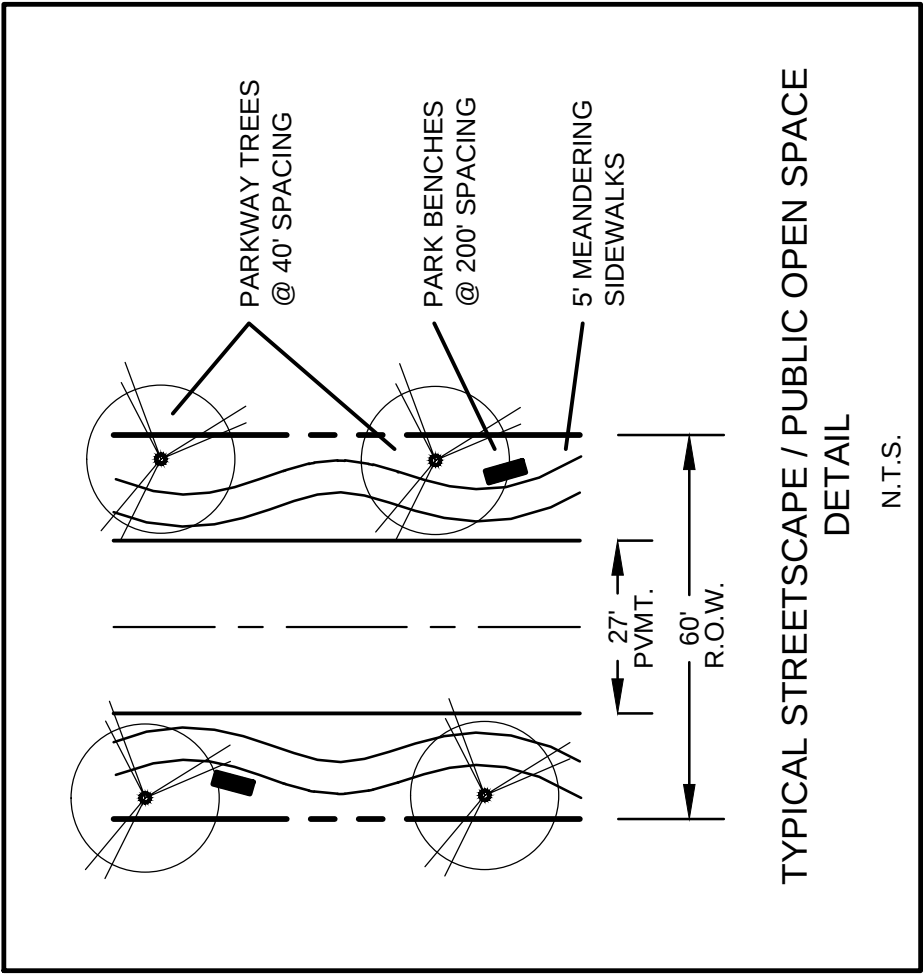
MAYOR

CITY SECRETARY

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY



Date: December 12, 2013

Agenda Item No: REGULAR ITEMS - H.

I. Subject:

Discuss and consider approval of Ordinance 543, regarding the use of lead-flux and solder in plumbing installations.

II. Originated by:

Amethyst G. Cirimo, City Secretary and Communications Coordinator

III. Summary:

The original 1988 ordinance establishing this policy has an error that needs to be corrected. The allowable lead content currently reads '0.2' and should read '0.02.' This ordinance will correct the error.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Ordinance 543	O543 - Plumbing Code Correction.docx
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ORDINANCE NO. 543

AN ORDINANCE AMENDING ARTICLE VI OF CHAPTER 4 OF THE KENNEDALE CITY CODE (1991), AS AMENDED, REQUIRING THE USE OF LEAD-FREE FLUX AND SOLDER IN PLUMBING INSTALLATION OR REPAIR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council does hereby deem it necessary to amend this ordinance governing materials quality of plumbing installations in order to protect the health, safety, and welfare of the citizens of the City of Kennedale.

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

SECTION 1.

Section 4-122 of the Kennedale City Code is hereby amended to read as follows:

It shall be illegal to use solder or flux in any plumbing installation or repair within the city limits with a lead content of greater than 0.02.

SECTION 2.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Kennedale, Texas (1991), as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clause, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause, or phrase.

SECTION 4.

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be

fined not more than Two Thousand Dollars (\$2,000.00). Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 5.

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the provisions of any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

The City Secretary of the City of Kennedale is hereby directed to publish in the official newspaper of the City of Kennedale the caption, penalty clause, publication clause and effective date clause of this ordinance as provided by Section 3.10 of the Charter of the City of Kennedale.

SECTION 7.

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 12TH DAY OF DECEMBER 2013.

APPROVED:

Mayor John Clark

ATTEST:

City Secretary, Amethyst G. Sloane

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

City Attorney, Wayne K. Olson

Date: December 12, 2013

Agenda Item No: EXECUTIVE SESSION - A.

I. Subject:

The City Council will meet in closed session pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion of any item posted on the agenda..

II. Originated by:

Bob Hart

III. Summary:

At this time the city council will meet in executive session.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments: