

KENNEDALE CITY COUNCIL
AGENDA
REGULAR MEETING
January 19, 2015
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. Discuss Village Creek Water Quality Testing program with Trinity River Authority (TRA) and UTA Engineering program
- B. Discuss regular agenda items

III. EXECUTIVE SESSION (Approx. 6:30 PM)

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, legal issues regarding nonconforming uses, discussion of zoning issues in the city, and legal issues regarding the preparation of developer's agreements.

- 1. Discuss language for development agreements
- 2. Discuss acquisition of utility easement

B. 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. Economic Incentives for H2O Supply

IV. REGULAR SESSION

V. ROLL CALL

VI. INVOCATION

VII. UNITED STATES PLEDGE

VIII. TEXAS PLEDGE

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

IX. 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.

X. 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 from the Mayor
- B. Updates from City Council
- C. Updates from the City Manager
 - a. Balanced Scorecard
 - b. Firehouse Subs Grant-Richard Freeman, Fire Fighter/Paramedic

XI. 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 approval of minutes from December 15, 2014 regular meeting
- B. Consider authorizing the City Manager to sign a contract with UTA for Village Creek Water Quality Testing
- C. Consider authorizing the City Manager to sign a contract with H2O Supply for business incentives under Chapter 380
- D. 2014 Racial Profiling Report
- E. Consider authorizing the City Manager to sign an agreement with the Department of the Army for the Village Creek, Kennedale, Texas Feasibility Cost Sharing Agreement

XII. REGULAR ITEMS

A. **CASE # PZ 14-09** Public hearing and consideration of Ordinance 561 approval regarding a request by Delia Vela for a zoning change from “R-2” Single family residential district to “PD” Planned development district for approximately 1.98 acres at 6901 Mansfield Cardinal Rd, legal description of Jesse Russell Addn Lot 4.

1. Staff presentation
2. Applicant presentation
3. Public hearing
4. Applicant response
5. Staff response and summary
6. Action by the City Council

B. Case PZ 14-10 Public hearing and consideration of Ordinance 562 approval regarding a request by the City of Kennedale to amend Section 17-430(i) “Authorized Special Exceptions” and Section 17-431 “Definitions” of Article VI “Zoning” of Chapter 17 “Planning and Land Development” of the Kennedale City Code to authorize the Board of Adjustment to grant special exceptions for special functions in single family residential districts.

1. Staff presentation
2. Public hearing
3. Staff summary and recommendation
4. Action by the City Council

C. **Case PZ 14-11** Public hearing and consideration of Ordinance 563 approval regarding a request by the City of Kennedale to amend Section 17-421 “Schedule of uses and off-street parking requirements” of Article VI “Zoning” of Chapter 17 “Planning and Land Development” of the Kennedale City Code and Section 17-431 “Definitions” of Article VI “Zoning” of Chapter 17 “Planning and Land Development” of the Kennedale City Code.

1. Staff presentation
2. Public hearing
3. Staff summary and recommendation
4. Action by the City Council

D. Consider approval of Resolution 442 adopting a community revitalization plan for a portion of Kennedale overlapping with the Tax Increment Reinvestment Zone boundaries

1. Staff presentation
2. Public hearing
3. Staff response and summary
4. Action by the City Council

E. Consider approval of a citywide curbside recycling program and authorize the City Manager to sign the agreement

F. **CASE # PZ 14-12** Public hearing and consideration of Ordinance 564 approval regarding a request by Kennedale Economic Development Corporation for a zoning change for approximately 19.46 acres from “AG” Agricultural district to “PD” Planned Development district at 1001 Corry A Edwards Dr, an unaddressed parcel on Bowman Springs Rd, 1021 Bowman Springs Rd, 1083 Bowman Springs Rd, & 1029 Bowman Springs Rd, legal description of Woodlea Acres Addn Blk 1 Lots 18A, 18B, 19R, 20R, & 21R.

1. Staff presentation
2. Public hearing
3. Staff summary and response
4. Action by the City Council

XIII. 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 the City Secretary at 817.985.2104 or (TDD) 1.800.735.2989

CERTIFICATION

I certify that a copy of the January 19, 2015, 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.



Leslie Galloway, City Secretary

Date: January 19, 2015

Agenda Item No: WORK SESSION - A.

I. Subject:

Discuss Village Creek Water Quality Testing program with Trinity River Authority (TRA) and UTA Engineering program

II. Originated by:

Bob Hart

III. Summary:

Glenn Clingenpeel, Manager of Planning & Environmental Services for the Trinity River Authority (TRA) will be present to discuss water quality sampling and testing efforts planned for Village Creek by the Engineering Department at the University of Texas at Arlington and TRA. Dr. Neck Fang, UTA professor may also be present for the discussion, as may a staff member from the Tarrant Regional Water District. The discussion is designed to provide insight as to water quality monitoring that will be done under the proposed UTA water sampling contract (Later on the agenda) and how these efforts are complimentary to the TRA grant contract with the EPA Section 319 program.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

1.	Village Creek Water Quality Testing Program	Village Creek Report.pdf
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Appendix H to the Trinity River Authority Clean Rivers Program FY 2014/2015

VILLAGE CREEK SEDIMENT SAMPLING

**Prepared by the Trinity River Authority in cooperation
with the Texas Commission on Environmental Quality
(TCEQ)**

Effective: Immediately upon approval by all parties

Questions concerning this QAPP should be directed to:

Angela Kilpatrick

Trinity River Authority

Senior Environmental Scientist & Clean Rivers Program Coordinator

5300 South Collins

Arlington, TX 76018

PO Box 60

Arlington, TX 76004

Phone: 817-493-5179

Fax: 817-417-0367

kilpatricka@trinityra.org

SS-A1 Approval Page

Texas Commission on Environmental Quality

Water Quality Planning Division

Patricia Wise, Work Leader Clean Rivers Program	Date
--	------

Allison Fischer CRP Project Quality Assurance Specialist	Date
---	------

Nancy Ragland, Team Leader Data Management and Analysis	Date
--	------

Sarah Eagle Project Manager, CRP CRP	Date
--	------

Monitoring Division

Daniel R. Burke Lead CRP Quality Assurance Specialist Laboratory and Quality Assurance Section	Date
--	------

Trinity River Authority

Webster Mangham Date
TRA Senior Project Manager & Field Team Leader

Angela Kilpatrick
TRA Project Manager & Quality Assurance Officer

Kelly McKnight
TRA Field Team Leader

Date

Hong Wu
TRA Data Manager

University of Texas at Arlington

Nick Z. Fang Date

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List of Acronyms

As described in Section A2 of the basin-wide QAPP in addition to the acronyms below.

Lab acronym

CRWS	Central Regional Wastewater System
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SS-A3 Distribution List

Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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Clean Rivers Program
MC-234
512-239-6329

Trinity River Authority
5300 South Collins
Arlington, Texas 76018

Webster Mangham, Senior Project Manager
& Field Team Leader
817-493-5139

Kelly McKnight, Field Team Leader
817-493-5176

Angela Kilpatrick, Project Manager and QAO
817-493-5179

Hong Wu, Data Manager
817-493-5139

University of Texas at Arlington
Civil Engineering Department
425 Nedderman Hall, 416 Yates St., Box 19308
Arlington, TX 76019

Nick Z. Fang, Ph.D., P.E.
817-272-5334

SS-A4 PROJECT/TASK ORGANIZATION

Sarah Eagle, CRP Project Manager – as described in Section A4 of the basin-wide QAPP.

Allison Fischer, CRP Project Quality Assurance Specialist – as described in Section A4 of the basin-wide QAPP.

Patricia Wise, CRP Work Leader – as described in Section A4 of the basin-wide Quality Assurance Project Plan (QAPP).

Daniel R. Burke, CRP Lead Quality Assurance Specialist – as described in Section A4 of the basin-wide Quality Assurance Project Plan (QAPP).

Jonathan West, CRP Data Manager, Data Management and Analysis Group – as described in Section A4 of the basin-wide QAPP.

Nancy Ragland, Team Leader, Data Management and Analysis Team -- as described in Section A4 of the basin-wide QAPP.

Trinity River Authority

Webster Mangham, Senior Project Manager and Field Team Leader – as described in Section A4 of the basin-wide QAPP.

Angela Kilpatrick, Project Manager and Quality Assurance Officer – as described in Section A4 of the basin-wide QAPP.

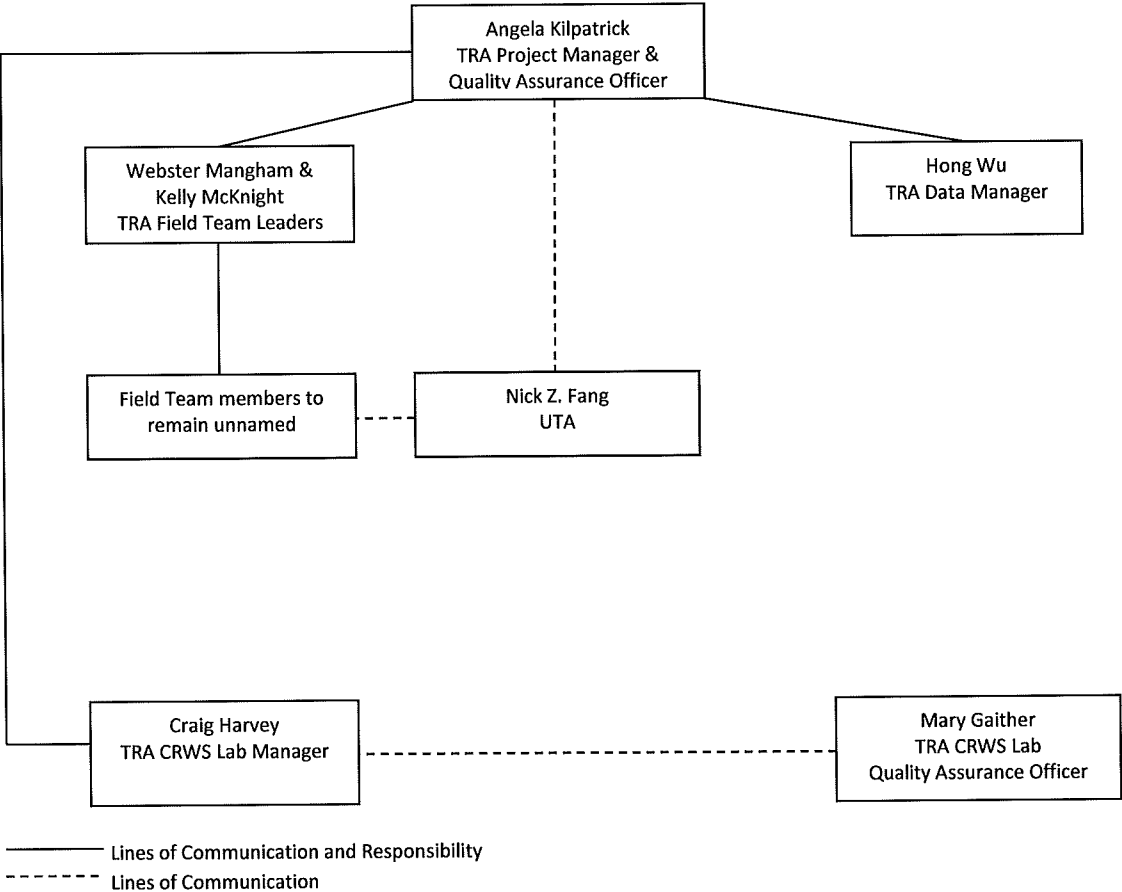
Kelly McKnight, Field Team Leader – as described in Section A4 of the basin-wide QAPP.

Hong Wu, Data Manager – as described in Section A4 of the basin-wide QAPP.

University of Texas at Arlington

Dr. Nick Z. Fang, .

Figure SS-A4.1 – Project Organization Chart



SS-A5 Problem Definition/Background

Routine water quality grab sampling has been an ongoing effort in the TRA Clean Rivers Program. However, this type of sampling provides only a short term view of water quality in an area; especially for streams and rivers which are highly dynamic. Due to the dynamic nature of these systems, specific acute water quality issues may be missed due to sample timing. For example, illicit discharges or stormwater runoff may not be captured by routinely scheduled monthly or quarterly grab sampling.

Therefore, sediment sampling may be able to provide a broader view of water quality in these systems. Sediment sampling involves collecting substrate at certain depth at targeted areas and analyzing the sample for parameters of interest. The sediment's absorption of water and subsequent retention of that water's constituents due to contact with rainfall runoff are telling of the local water quality experienced as a result of rainfall events. Sediment sampling in areas where precipitation runoff will likely make contact with the substrate should accurately represent the water quality in a system where this type of contribution is a factor.

SS-A6 Project/Task Description

This project may determine if there are contaminants being introduced to Village Creek from various historical and ongoing industries in the area. Village Creek is a tributary of the Trinity River, and travels a mostly northeastern course. The creek begins in Joshua, Texas and continues to Lake Arlington (over 18 miles), resuming again in the outfall of Lake Arlington, and then stretching approximately 6 more miles until its confluence with the West Fork of the Trinity River. The confluence occurs just upstream of the Village Creek Water Treatment Plant in northwestern Arlington, Texas. If contamination were to occur in this system due to surrounding industry, it would most likely do so during precipitation events where surface runoff introduces water directly to the Creek. Water quality assessments can be made by the analyzing of grab samples and other field data as is currently being accomplished throughout the Basin via routine sampling by partners in the Clean Rivers Program. However, the dynamic nature of fluvial systems makes it unlikely that a normal routine sampling event schedule would coincide with a stormwater inflow event in the Village Creek area, as is the concern. Therefore, this study has been designed to target the effects of surface runoff on the area sediment, which should in turn be indicative of the runoff input to the Creek.

Four different sites have been selected for sediment sampling in industrial and residential locations near the City of Kennedale. The four sites chosen for sediment sampling along Village Creek: (1) Southeast Landfill Rd, (2) Kennedale St. (BUS 287/W. Mansfield Hwy), (3) I-20, and (4) the upstream end of Lake Arlington. ~~The sites selected for stormwater sampling are Village Creek and Rendon St., Southeast Landfill Rd, Kennedale St. (BUS 287), and I-20.~~

These sites have been determined to be appropriate for sediment sampling and meet the qualifications stated in the "Representativeness" section of this appendix (SS-A7). See Sample Design Rationale and Site Selection Criteria in section SS-B1 for details about site selection.

As part of this study, monitoring procedures as described in the *Surface Water Quality Monitoring Procedures, Volume 1: Physical and Chemical Monitoring Methods, 2012* will be followed and will

result in data of sufficient quality to achieve the goals of this monitoring. Instantaneous field measurements will also be collected. Staff will conduct all field work. Analysis of sediment sampling will be performed by LAB. Water quality sample analysis will be conducted by the Trinity River Authority Central Regional Wastewater treatment System laboratory.

Amendments to the QAPP

Amendments to the Special Study Appendix may be necessary to address incorrectly documented information or to reflect changes in project organization, tasks, schedules, objectives, and methods. Requests for amendments will be directed from the Trinity River Authority Project Manager to the CRP Project Manager electronically. Amendments are effective immediately upon approval by the Trinity River Authority Project Manager, the Trinity River Authority QAO, the CRP Project Manager, the CRP Lead QA Specialist, the CRP Project QA Specialist, and additional parties affected by the amendment. Amendments are not retroactive. No work shall be implemented without an approved Special Study Appendix or amendment prior to the start of work. Any activities under this contract that commence prior to the approval of the governing QA document constitute a deficiency and are subject to corrective action as described in section C1 of the basin-wide QAPP. Any deviation or deficiency from this QAPP which occurs after the execution of this QAPP should be addressed through a Corrective Action Plan (CAP). An Amendment may be a component of a CAP to prevent future recurrence of a deviation. Amendments will be incorporated into the QAPP by way of attachment and distributed to personnel on the distribution list by the Trinity River Authority Project Manager.

SS-A7 Quality Objectives and Criteria

The measurement performance specifications listed in Table SS-A7.1 will generate data of sufficient quality to meet the objectives as described in Sections SS-A5 and SS-A6.

The measurement performance specifications to support the project objectives are specified in Table SS-A7.1.

Ambient Water Reporting Limits (AWRLs)

As described in Section A7 of the basin-wide QAPP

Precision

As described in Section A7 of the basin-wide QAPP

Bias

As described in Section A7 of the basin-wide QAPP.

Representativeness

Monitoring sites were selected that best represent conditions (both sediment and water quality) of

the local water body. Potential sampling reaches will be avoided where water quality conditions and hydrology change dramatically over the reach, such as areas with a major tributary inflow. See Sample Design Rationale and Site Selection Criteria in section SS-B1 for details about site selection.

Comparability

As described in Section A7 of the basin-wide QAPP.

Completeness

As described in Section A7 of the basin-wide QAPP.

Table SS-A7.1 – Measurement Performance Specifications

Organics in Sediment										
Parameter	Units	Matrix	Method	Parameter Code	AWRL	LOQ	LOQ Check Sample %Rec	Precision (RPD of LCS/LCSD)	Bias %Rec. of LCS	Lab
VOC		Sediment		NA	NA		40-160	30	40-160	
BTEX		Sediment		NA	NA		40-160	30	40-160	
TOTAL PETROLEUM HYDROCARBONS IN SEDIMENT	MG/KG	Sediment		89995	NA		40-160	30	40-160	
Metals in Sediment										
Parameter	Units	Matrix	Method	Parameter Code	AWRL	LOQ	LOQ Check Sample %Rec	Precision (RPD of LCS/LCSD)	Bias %Rec. of LCS	Lab
CADMIUM,TOTAL, BOTTOM DEPOSITS (MG/KG,DRY WT)	mg/kg	sediment	EPA 6010B	01028	2.49		60-140	30	60-140	
CHROMIUM,TOTAL, BOTTOM DEPOSITS (MG/KG,DRY WT)	mg/kg	sediment	EPA 6010B	01029	55.5		60-140	30	60-140	
COPPER, BOTTOM DEPOSITS (MG/KG AS CU DRY WT)	mg/kg	sediment	EPA 6010B	01043	74.5		60-140	30	60-140	
LEAD, BOTTOM DEPOSITS (MG/KG AS PB DRY WT)	mg/kg	sediment	EPA 6010B	01052	64		60-140	30	60-140	
ARSENIC, BOTTOM DEPOSITS (MG/KG AS AS DRY WT)	mg/kg	sediment	EPA 6010B	01003	16.5		60-140	30	60-140	
NICKEL, TOTAL, BOTTOM DEPOSITS (MG/KG,DRY WT)	mg/kg	sediment	EPA 6010B	01068	24.3		60-140	30	60-140	
ALUMINUM, BOTTOM DEPOSITS (MG/KG AS AL DRY WT)	mg/kg	sediment	EPA 6010B	01108	NA		60-140	30	60-140	

SS-A8 Special Training/Certification

As described in section A7 of the basin-wide QAPP.

Collection of water samples will be in accordance with the *Surface Water Quality Monitoring Procedures, Volume 1: Physical and Chemical Monitoring Methods, 2012*. Individuals conducting water quality samples have adequate training and education to accurately and safely perform sample collection.

SS-A9 Documents and Records

As described in Section A9 of the basin-wide QAPP.

Table SS-A9.1 – Project Documents and Records

Document/Record	Location	Retention	Format
QAPPs, amendments, and appendices	TCEQ / TRA / UTA	min 7 years	Paper / Electronic
QAPP distribution documentation	TRA	min 7 years	Paper / Electronic
Field notebooks or data sheets	TRA	min 7 years	Paper / Electronic
Field equipment calibration/maintenance logs	TRA	min 7 years	Paper / Electronic
Field equipment printouts	TRA	min 7 years	Paper / Electronic
Chain of Custody records (see Exhibit A for Tracking Logs for Benthics and Fish)	TRA / UTA	min 7 years	Paper / Electronic
Field SOPs	TRA	min 7 years	Paper / Electronic
Field staff training records	TRA	min 7 years	Paper / Electronic
Laboratory QA Manuals	TRA	min 7 years	Paper / Electronic
Laboratory SOPs	TRA	min 7 years	Paper / Electronic
Laboratory data reports/results	TRA	min 7 years	Paper / Electronic
Corrective action documentation	TRA / UTA	min 7 years	Paper / Electronic

Laboratory Test Reports

As described in Section A9 of the basin-wide QAPP.

Electronic Data

As described in Section A9 of the basin-wide QAPP.

SS-B1 Sampling Process Design

The data collection design is summarized in Tables SS-B1.1 and SS-B1.2 (Sampling Sites and Monitoring Frequencies) and Figure SS-B1 (Sample Site Map).

Table B1.1 – Sample Design and Schedule, FY 2015

Region	Segment	Station Description	Station ID	SE/CE*	Mon Type*	Start Date	End Date	Frequency (samples per year)														
								24 HR	Aq Hab	Benthics	Nekton	Metals Water	Org Water	Metals Sed	Org Sed	Conventional	Amb Tox Wat	Amb Tox Sed	Indicator Bacteria	Inst Flow	Fish Tissue	Field
														1	1							

See Data Dictionary in Section SS-B10 for definitions of codes in Table B1.1.

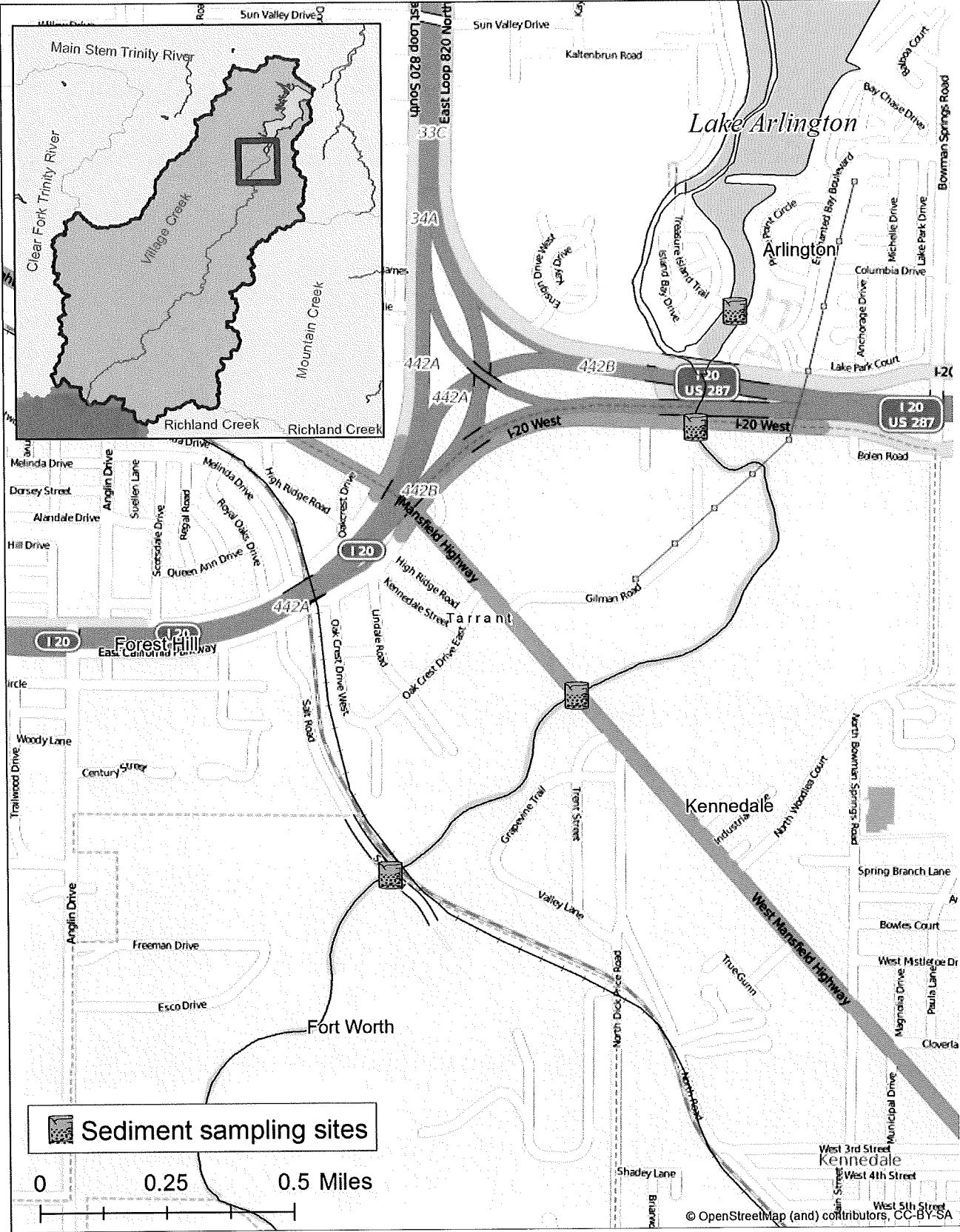
Sample Design Rationale and Site Selection Criteria

Station (Southeast Landfill Rd) is located near the Southeast Landfill Road bridge at Village Creek. This site was selected because it is on the upstream end of where some industrial facilities begin, on the outskirts of the City of Kennedale. This station should be representative of the conditions on the upper end of the possibly affected area. Continuing downstream, the next station is (Kennedale at Business 287). This station was selected because it is immediately downstream of the industrial area, and should represent the conditions of the stream at high flow events, and should also be representative of the downstream industrial end area soils. The next sampling site is station (I-20) under the Interstate 20 bridge at Village Creek. This site was selected as a necessary candidate for sediment sampling at it should be representative of the soils under the heavily-trafficked Interstate Highway. The most downstream site is Site (Lake Arlington), near the headwaters of Lake Arlington. This site was selected because it should be representative of the sediment stormwater conditions just before the Village Creek discharges into the Lake. This monitoring will provide background information for this stream and may help to determine if further monitoring needs to be conducted.

Sampling Site Maps

A map of stations to be monitored is provided on the following page. The map was generated by the University of Texas at Arlington. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact Angela Kilpatrick at 817-493-5179.

Figure SS-B1 – Sampling Site Map for Village Creek



SS-B2 Sampling Methods

Field Sampling Procedures

Field sampling will be conducted according to procedures documented in the *TCEQ Surface Water Quality Monitoring Procedures, Volume 1: Physical and Chemical Monitoring Methods for Water, Sediment, and Tissue, 2012 (RG-415)*. Additional aspects outlined in Section B below reflect specific requirements for sampling under the Clean Rivers Program and/or provide additional clarification.

Recording Data

As described in Section B2 of the basin-wide QAPP.

Sampling Method Requirements or Sampling Process Design Deficiencies, and Corrective Action

As described in Section B2 of the Basin-wide QAPP.

SS-B3 Sample Handling and Custody

Chain-of-Custody

As described in Section B3 of the basin-wide QAPP. See Exhibit A for a copy of the Chain-of-Custody to be used in this project.

Sample Labeling

As described in Section B3 of the basin-wide QAPP and in the *TCEQ Surface Water Quality Monitoring Procedures, Volume 1: Physical and Chemical Monitoring Methods for Water, Sediment, and Tissue, 2012 (RG-415)*.

Sample Handling

Samples will be handled in accordance with the *TCEQ Surface Water Quality Monitoring Procedures, Volume 1: Physical and Chemical Monitoring Methods for Water, Sediment, and Tissue, 2012 (RG-415)*. Forms used to document field conditions and sample collection are shown in Exhibit A.

SS-C2 Reports to Management

Reports to Planning Agency Project Management

All data will be submitted to the TRA Data Manager by field staff and by Water Monitoring Solutions, Inc. in an appropriate format as described in Section SS-A9, Laboratory Test Reports and Electronic Data.

Reports to TCEQ Project Management

As described in Section C2 of the basin-wide QAPP. In addition to submittal of the electronic data for inclusion in SWQMIS, the completed Biological Monitoring Reporting Packet (Exhibit A) will be submitted by TRA in the format required at the time of submittal.

Reports by TCEQ Project Management

As described in Section C2 of the basin-wide QAPP.

SS-D1 Data Review, Verification, and Validation

All field and water quality data will be reviewed and verified for integrity and continuity, reasonableness, and conformance to project requirements, and then validated against the project objectives and measurement performance specifications which are listed in Section SS-A7. Only those data which are supported by appropriate quality control data and meet the measurement performance specifications defined for this project will be considered acceptable, and will be reported to the TCEQ for entry into SWQMIS.

SS-D2 Verification and Validation Methods

As described in Section D2 of the basin-wide QAPP and as shown in Table SS-D2.1.

SS-D3 Reconciliation with User Requirements

Data produced in this project will be analyzed and reconciled with data quality requirements. Data meeting project requirements will be used by TRA and TCEQ to provide information, inform future studies and support publications

Stream Flow (Discharge) Measurement Form

[illegible]

Stream width after flow measurement: _____

Did stream stage change during flow measurement? _____

Date: January 19, 2015

Agenda Item No: WORK SESSION - B.

I. Subject:

Discuss regular agenda items

II. Originated by:

III. Summary:

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

Date: January 19, 2015

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, legal issues regarding nonconforming uses, discussion of zoning issues in the city, and legal issues regarding the preparation of developer's agreements.

1. Discuss language for development agreements
2. Discuss acquisition of utility easement

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:



Date: January 19, 2015

Agenda Item No: EXECUTIVE SESSION - B.

I. Subject:

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. Economic Incentives for H2O Supply

II. Originated by:

Bob Hart

III. Summary:

Bob Hart will present information on this topic during executive session.

IV. Recommendation:

None

V. Alternative Actions:

VI. Attachments:

Date: January 19, 2015

Agenda Item No: REPORTS/ANNOUNCEMENTS - A.

I. Subject:

Updates 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: January 19, 2015

Agenda Item No: REPORTS/ANNOUNCEMENTS - B.

I. Subject:

Updates from City Council

II. Originated by:

City Council, City Council

III. Summary:

Updates and information.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: January 19, 2015

Agenda Item No: REPORTS/ANNOUNCEMENTS - C.

I. Subject:

Updates from the City Manager

- a. Balanced Scorecard
- b. Firehouse Subs Grant-Richard Freeman, Fire Fighter/Paramedic

II. Originated by:

Bob Hart

III. Summary:

Updates and information, if any.

- a. Balanced Scorecard
- b. Firehouse Subs Grant-Richard Freeman, Fire Fighter/Paramedic

IV. Fiscal Impact Summary:

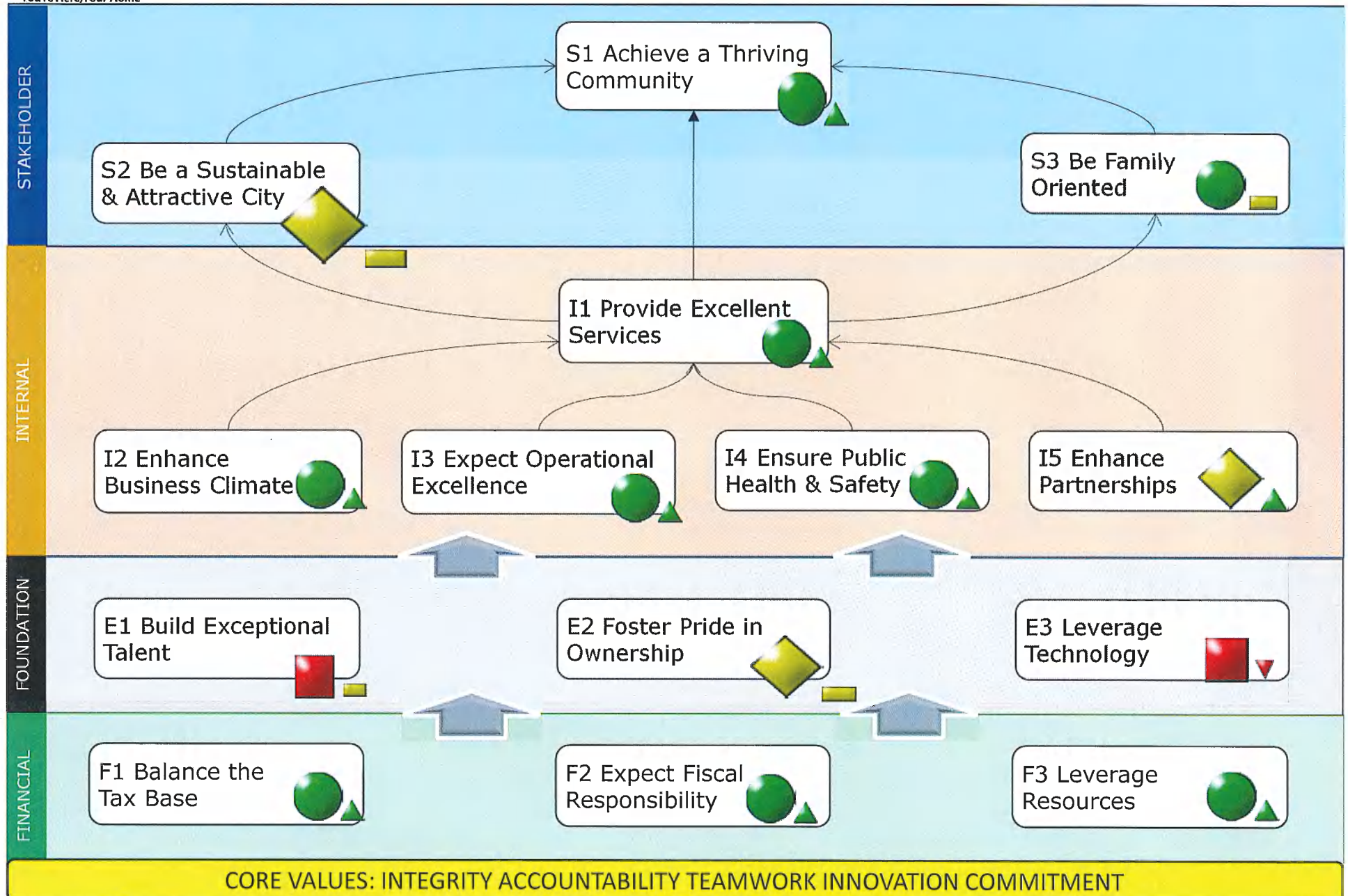
V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	Balanced Scorecard Dec 2015	Balanced Scorecard Dec2015.pdf
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Date: January 19, 2015

Agenda Item No: CONSENT ITEMS - A.

I. Subject:

Consider approval of minutes from December 15, 2014 regular meeting

II. Originated by:

Kelly Cooper, Director of Human Resources

III. Summary:

Please see the attached minutes for your approval

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	City Council Minutes.12.2014	DECEMBER 15.docx
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KENNEDALE CITY COUNCIL
MINUTES
December 15, 2014
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

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

I. CALL TO ORDER

Mayor Johnson called the meeting to order at 5:34 PM

II. WORK SESSION

A. Report from the Youth Advisory Council

Eight students presented information regarding what they learned at the National League of Cities conference. Ashley Luu provided the introduction; Cameron Johnson added information about the educational sessions; Samantha Randolph updated City Council on the stress management session; Morgan Biscoe talked about the session dealing with discussion versus debate; Jillian Melbourne mentioned the benefits of interacting with other youth councils; Danielle Quaye included that the conference was very encouraging. All members present supported using led lighting in public spaces, curbside recycling, and would like restore the relationship with the High School.

B. Report on the Brickworks Festival

April Coltharp provided an overview of the Brickworks Festival planning. The current plan includes: Alumni night on Friday, 5K and Chamber Parade on Saturday, and Pet Parade Sunday afternoon.

The Children's area will move to the front of the park and the PD parking lot will be for transitional booths specific to the daily events.

C. Discuss moving the City Council meeting in January due to the Martin Luther King holiday

Bob Hart provided the presentation. Council discussed whether to keep the meeting on the 19th or move to another date. Council determined to keep the meeting on Monday, January 19, 2015.

D. Discuss senior housing opportunities in Kennedale

Bob Hart provided the staff presentation with Rachel Roberts assisting with questions. If Council is interested it will require a resolution of support from City Council. Council discussed a variety of issues including potential building code requirements, integration into a walking community, number of units, Fire and Police resources and economics.

E. Interview board member applicant (to be conducted in the conference room)

The City Council moved to conference room to interview board applicant Dylan Black.

Discuss regular items:

A. Appointing City Secretary and Deputy City Secretary. Bob Hart informed the City Council that the City Attorney stated City Council has the authority to appoint a Deputy City Secretary, but it is better left to the City Manager to appoint.

B. Drought Contingency Plan. Larry Ledbetter, Public Works Director presented and answered questions regarding the watering plan and variance request process. City Manager stated that the State and the City of Fort Worth requires this plan because we buy water from them. It is identical to all other cities purchasing water from Fort Worth.

III. REGULAR SESSION

Mayor Johnson opened the regular session at 7:00 PM.

IV. ROLL CALL

Present: Brian Johnson, Charles Overstreet, Mike Walker, Frank Fernandez, Kelly Turner, Liz Carrington

Absent:

V. INVOCATION

VI. UNITED STATES PLEDGE

VII. TEXAS PLEDGE

VIII. VISITOR/CITIZENS FORUM

No one present requesting to speak.

IX. REPORTS/ANNOUNCEMENTS

A. Updates from the Mayor

Provided an update for the SETT meeting, announced the Eagle Scout Recognition of Boy Scout Troop #35, Ashton Williams. Announced receipt of the NLC Certificate of participation and the Youth Advisory Council picture from National League of Cities.

B. Updates from City Council

Kelly Turner announced that Alabama made it into the College Football playoffs

Mike Walker announced that Baylor did not make it into the playoffs

Frank Fernandez noted that Popeye's landscape was complete and they should be open in a few days

Liz Carrington expressed appreciation for the Christmas Tree Lighting as another successful event

Charles Overstreet stated that the Christmas Tree Lighting was bigger than last year and that the Angel Tree adopted all their angels.

Kelly Turner also mentioned that the angel tree collections from Arthur Intermediate had to go to Arlington because all of the Kennedale angels had been adopted.

C. Updates from the City Manager

A. Governance Report

B. Balanced Scorecard

C. Moody's Review

Bob Hart provided an update that included the Bond rating for Moody's will remain at an A1 level.

X. CONSENT ITEMS

- A. Consider approval of minutes from November 17, 2014 regular meeting
- B. City Council to Consider Awarding Contract For Stand Pipe Plumbing and Booster Pump Installation Project
- C. Consider approval of the City Council Special Meeting Minutes for December 12, 2014

Motion To approve the consent agenda as presented. **Action** Approve, **Moved By** Liz Carrington, **Seconded By** Frank Fernandez
Motion passed Unanimously

XI. REGULAR ITEMS

- A. Consider appointment of City Secretary and Deputy City Secretary

Bob Hart presented indicating that Council should only appoint the City Secretary. Recommendation is Leslie Galloway.

Motion To appoint Leslie Galloway to City Secretary role. **Action** Approve, **Moved By** Frank Fernandez, **Seconded By** Liz Carrington
Motion passed Unanimously

- B. Consider Ordinance 557 approving amendments to the Drought Contingency and Emergency Water Management Plan

Larry Ledbetter provided the staff presentation. Indicating the changes include the Phase I watering restrictions. The current reservoir is at 61/5%, once the reservoir is at 60%, we will be required to be at Phase II restrictions

Motion To approve Ordinance 557. **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Liz Carrington
Motion passed Unanimously

- C. City Council to consider making an appointment to the Parks and Recreation Board, Board of Adjustment/Building Board of Appeals, and/or Keep Kennedale Beautiful Commission

Motion To appoint Dylan Black to Place 8 of the Parks and Recreation Board. **Action** Approve, **Moved By** Mike Walker, **Seconded By** Kelly Turner
Motion passed Unanimously

- D. Consider the submittal of a request to the US Postal Service to modify the 76060 zip code boundary

Bob Hart provided the staff presentation regarding the request to modify the 76060 zip code boundaries to include all of Kennedale addresses.

Motion To approve the submittal request to the US Postal Service. **Action** Approve, **Motion By** Kelly Turner, **Seconded By** Liz Carrington
Motion passed Unanimously

Mayor Johnson recessed into executive session 7:10 PM

XII. EXECUTIVE SESSION

A. The City Council will meet in closed session pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property for the following:

1. Discuss Land Acquisition at 6867 Mansfield Cardinal Road

B. 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, legal issues regarding nonconforming uses, discussion of zoning issues in the city, and legal issues regarding the preparation of developer's agreements.

1. TIRZ related to development agreements

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

Mayor Johnson reconvened into open session at 7:44 PM

No action required.

XIV. ADJOURNMENT

Motion To Adjourn. **Action** to Adjourn, **Moved By** Frank Fernandez, **Seconded By** Mike Walker.
Motion passed Unanimously

The meeting was adjourned at 7:45 PM

APPROVED:

ATTEST:

Mayor Brian Johnson

Kelly Cooper, City Secretary

Date: January 19, 2015

Agenda Item No: CONSENT ITEMS - B.

I. Subject:

Consider authorizing the City Manager to sign a contract with UTA for Village Creek Water Quality Testing

II. Originated by:

Bob Hart

III. Summary:

In the efforts to understand the water quality issues within the Village Creek watershed, the City is proposing to engage the Engineering Department at the University of Texas at Arlington to evaluate sediment and stormwater quality. The proposed project includes sampling of sediment and stormwater at four different sites. The collection and analysis will be done by graduate students under the direction of Nick Fang, PhD, P.E., in the Civil Engineering Department. The actual testing will be done under a separate agreement with the Trinity River Authority. All sampling and analysis will be incorporated into the regional EPA Section 319 grant study.

The City is awaiting the a final UTA Contracts Office approved contract for execution. The total UTA estimated cost is \$79,000. The most recent negotiations has been concerning the UTA overhead charge. The UTA overhead charge is approximately 51% and the city requested a cap of 10%. The TRA testing will cost \$6,072 and will be done by separate letter agreement.

IV. Fiscal Impact Summary:

The total project cost of \$85,000 to be paid from the Stormwater Utility Fund.

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Village Creek Water Quality Testing Contract with UTA	UTA Contract.pdf
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VILLAGE CREEK SEDIMENT & STORMWATER QUALITY SAMPLING

*Nick Z. Fang, Ph.D., P.E.
Civil Engineering Department
The University of Texas at Arlington
12/12/2014*

The objective of this proposal is to evaluate sediment and stormwater quality at Village Creek in Kennedale, Texas. *The University of Texas at Arlington* (UTA) with guidance and advice from the *Trinity River Authority* (TRA) will be working closely with *the City of Kennedale* on the proposed project to accomplish seven major tasks listed in the Scope of Work. The proposed project includes sampling of sediment and stormwater at four different sites (see **Figure 1**). Sediment samples will be taken along Village Creek at the road to Southeast Landfill (32.654830, -97.241806), Kennedale St. (287), I-20, and the upstream end of Lake Arlington; while the stormwater samples will be taken at Everman Kennedale, Kennedale St. (287), I-20, and upstream end of Lake Arlington. The constituents include total metals, cadmium (Cd), chromium (Cr), lead (Pb), copper (Cu), aluminum (Al), nickel (Ni), arsenic (As), VOCs, BTEX, PAHs, and TPHs.

SCOPE OF WORK

1. To be trained to operate sampling equipment
2. To perform instrument maintenance and calibration
3. To track storms and weather conditions using available information (like NEXRAD radar rainfall data from National Weather Services (NWS) and/or local rain gage network).
4. To mobilize to the four sites to retrieve samples with four teams of two people (a total of eight people) (each team will retrieve samples from one site at a time during wet events).
5. To obtain sediment samples at the four sites for one (1) dry event
6. To obtain samples at the four sites for three (3) wet (storm) events
7. To collect and analyze a total of sixteen (16) water and sediment samples (four sediment samples and twelve water samples) for likely contaminants from salvage operations.
8. To provide sample reports in a format agreeable to the City of Kennedale

Note:

1. At least twenty hours of training by TRA (TRA will train students in TCEQ Surface Water Quality Monitoring for sediment & routine monitoring).
2. No sample delivery after 10am on Fridays
3. No sampling on weekends

PROPOSED BUDGET

We estimate that **\$XX,XXX** would be needed to monitor stormwater quality for the sites for a dry event and three wet events. The agreed service will start from **XX, 2014**. The detailed cost is listed as below:

No	Tasks	Parties	Itemized Cost
1	To be trained to operate sampling equipment	UTA	\$X,XXX
2	To perform instrument maintenance and calibration	UTA	\$X,XXX
3	To track storms and weather conditions using available information	UTA	\$X,XXX
4	To mobilize to the four sites to retrieve samples with a team of two	UTA	\$XX,XX
5	To obtain sediment samples at the four sites for one (1) dry event	UTA	\$X,XXX
6	To obtain samples at the four sites for three (3) wet (storm) events	UTA	\$X,XXX
7	To collect and analyze a total of sixteen (16) quality assurance samples	TRA	\$6,072
8	To provide sample reports in a required format	UTA	\$X,XXX
Total			\$XX,XXX

Any additional work beyond that identified in the current scope would be negotiated and will be performed upon written authorization from the City of Kennedale.

Should you have any additional questions, please don't hesitate to contact me at 817-272-5334. Thank you!

Nick Z. Fang, Ph.D., P.E.
Assistant Professor
Civil Engineering Department
The University of Texas at Arlington
P.O.BOX 19308
416 Yate St.
Tel: 817-272-5334
Email: nickfang@uta.edu



Date: January 19, 2015

Agenda Item No: CONSENT ITEMS - C.

I. Subject:

Consider authorizing the City Manager to sign a contract with H2O Supply for business incentives under Chapter 380

II. Originated by:

III. Summary:

Contract and details to be discussed during executive session.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

Date: January 19, 2015

Agenda Item No: CONSENT ITEMS - D.

I. Subject:

2014 Racial Profiling Report

II. Originated by:

Tommy Williams, Police Chief

III. Summary:

Receive the 2014 Racial Profiling Report as required by statute.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	Racial Profiling Report	racial profiling report 2014.doc
2.	Racial Profiling Data	Racial Profiling Data Sheet 2014.xls

January 19, 2015

To: City Manager, Mayor, and Council Members
From: Tommy Williams, Police Chief
Re: Racial Profiling Report

Statistical Data

As required by S.B. 1074, attached is a spreadsheet outlining the data from our citations from traffic stops during calendar year 2013. You will remember that in 2012, due to a change in the Census Bureau reporting format and data sets I dropped the Fair Roads Standard in favor of at-large population figures from the 2010 census. This allows us to collect data not only against licensed drivers, but also against those drivers who regularly operate a vehicle without benefit of a license.

Because such a large majority of our citations continue to be issued to persons outside of the city, the baseline includes the combined populations of our neighboring cities of Arlington, Forest Hill, Fort Worth, and Mansfield, as well as Kennedale. Motorists come from or through these cities in order to get to or through Kennedale. Our stops and searches are within tolerances for the percentile groups.

I will electronically file a copy of this report and spreadsheet for posting on the TCLEOSE web site.

Complaints

We had no racial profiling complaints filed during the reporting period of 2014.

Public Education

The process for filing racial profiling complaints against employees is posted in three places. The first is on our police department website, the second in the police building lobby, and the third is in the city hall lobby. A copy of the entire racial profiling policy is available to the public on request.

Employee Training

Numerous discussions occur during briefing and staff meetings throughout the year about racial profiling issues to be aware of. In addition, supervisors are required to regularly review random video tapes of stops to identify any problems that have not been reported. No issues were identified.

Kennedale Police Department
Racial Profiling Data
01-01-2014 through 12-31-2014

<i>Race</i>	<i>Traffic Stops</i>	<i>Arrests From Traffic Stops</i>	<i>Total Searches Conducted</i>	<i>Consent Searches Conducted</i>	<i>Representative Population - Kennedale Area</i>	<i>Representative Population - Tarrant County</i>
White	927	2	56	36	57.00%	57.00%
Percent of Group Total	63.45%	20.00%	76.70%	72.00%		
Black	285	6	15	9	16.00%	13.00%
Percent of Group Total	19.50%	60.00%	20.50%	18.00%		
Hispanic	201	0	0	5	26.00%	24.00%
Percent of Group Total	13.80%		0.00%	10.00%		
Asian	27	0	1	0	4.00%	4.00%
Percent of Group Total	1.80%		1.40%			
Native American	3	0	0	0	0.06%	0.01%
Percent of Group Total	0.21%		0.00%			
Middle Eastern	8	2	1	0		
Percentage of Group Total	0.55%	20%	1.40%			
Other/Unknown	10	0	0	0	0.01	0.002
Percent of Group Total	0.68%		0.00%			
Total	1461	10	73	50		

Race/Ethnicity Known
Before Stop? Yes - 235 (16.1%) No - 1226 (83.9%)

Date: January 19, 2015

Agenda Item No: CONSENT ITEMS - E.

I. Subject:

Consider authorizing the City Manager to sign an agreement with the Department of the Army for the Village Creek, Kennedale, Texas Feasibility Cost Sharing Agreement

II. Originated by:

III. Summary:

The City Council discussed and granted approval to proceed with a contract between the City and the Corps of Engineers for a Section 205 flood risk management project pursuant. The Corps has submitted a contract for final approval. Approval of the contract would permit the Corps to initiate a study of Village Creek and assuming the findings justify federal action, implementation could begin as early as 2018. Local funds, up to \$200,000 will be required as the match. This risk analysis will take approximately 18 months to complete and will utilize prior analysis done by the City or NCTCOG.

IV. Fiscal Impact Summary:

The \$200,000 match will be funded through Stormwater Utility Funds.

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Contact with the Department of the Army	Contract with the Department of the Army.pdf
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AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
CITY OF KENNEDALE
FOR THE
VILLAGE CREEK, KENNEDALE, TEXAS
FEASIBILITY COST SHARING AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2014, by and between the Department of the Army (hereinafter the "Government"), represented by the District Engineer and the City of Kennedale (hereinafter the "Non-Federal Sponsor"), represented by the City Manager.

WITNESSETH, THAT:

WHEREAS, the Government received a letter, dated November 18, 2014, , from the City of Kennedale, Texas in which it stated its desire to participate in a feasibility study for Village Creek at Kennedale, Texas, and in which it acknowledged its financial responsibilities for the study and a project, if one is recommended;

WHEREAS, the Secretary of the Army is authorized by Section 205 of the Flood Control Act of 1948, Public Law 80-858, as amended (33 U.S.C. 701s; hereinafter "Section 205") to allot from certain appropriations an amount not to exceed \$55,000,000 per *fiscal year* for the implementation of small structural and nonstructural projects for flood control and related purposes; provided that no more than \$10,000,000 shall be allotted for a project at any single locality;

WHEREAS, the Government and the City of Kennedale, Texas desire to enter into an agreement (hereinafter the "Agreement") to complete the feasibility study (hereinafter the "*Study*" as defined in Article I.A. of this Agreement) and to share equally the costs of the *Study* that exceed \$100,000;

WHEREAS, Section 105(a) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2215(a)), specifies the cost-sharing requirements applicable to the *Study*;

WHEREAS, the Non-Federal Sponsor desires to provide in-kind contributions (hereinafter the "*in-kind contributions*" as defined in Article I.I. of this Agreement) that are necessary to prepare the feasibility report and to receive credit for such contributions toward the amount of its required contribution for the *Study*;

WHEREAS, the Government and Non-Federal Sponsor have the full authority and capability to perform as hereinafter set forth and intend to cooperate in cost-sharing and financing of the *Study* in accordance with the terms of this Agreement; and

WHEREAS, the Government and the Non-Federal Sponsor, in connection with this Agreement, desire to foster a partnering strategy and a working relationship between the Government and the Non-Federal Sponsor through a mutually developed formal strategy of commitment and communication embodied herein, which creates an environment where trust and teamwork prevent disputes, foster a cooperative bond between the Government and the Non-Federal Sponsor, and facilitate the successful *Study*.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree as follows:

ARTICLE I – DEFINITIONS

A. The term “*Study*” shall mean the activities and tasks required to identify and evaluate alternatives and the preparation of a decision document that, when appropriate, recommends a coordinated and implementable solution for flood damage reduction at Village Creek, Kennedale, Texas. The term includes *in-kind contributions* described in paragraph I. of this Article.

B. The term “*total study costs*” shall mean the sum of all costs incurred by the Non-Federal Sponsor and the Government in accordance with the terms of this Agreement directly related to performance of the *Study* plus the costs of the *Study* incurred by the Government prior to the effective date of this Agreement. Subject to the provisions of this Agreement, the term shall include, but is not necessarily limited to: the Government’s costs of plan formulation and evaluation, including applicable economic, engineering, real estate, and environmental analyses; the Government’s costs of preparation of the decision document for the *Study*; the costs of *in-kind contributions* determined in accordance with Article II.B.3. of this Agreement; the Government’s costs of Agency Technical Review and other review processes required by the Government; the Government’s costs of Independent External Peer Review, if required, except for the costs of any contract for an Independent External Peer Review panel; the Government’s costs of preparation of a floodplain management plan; the Government’s supervision and administration costs; the Non-Federal Sponsor’s and the Government’s costs of participation in the Study Coordination Team in accordance with Article III of this Agreement; the Government’s costs of contract dispute settlements or awards; and the Non-Federal Sponsor’s and the Government’s costs of audit in accordance with Article VI.B. and Article VI.C. of this Agreement. The term does not include the first \$100,000 incurred by the Government for the *Study*; any costs of dispute resolution under Article V of this Agreement; any costs incurred as part of reconnaissance studies or feasibility studies under any other agreement or program; any costs of a contract for an Independent External Peer Review panel; the Non-Federal Sponsor’s costs of negotiating this Agreement; or any costs of negotiating a project partnership agreement for design and construction of a project or separable element thereof.

C. The term “*period of study*” shall mean the time from the effective date of this Agreement to the date that the decision document for the study is duly approved by the Government or the date that this Agreement is terminated in accordance with Article IX of this Agreement.

D. The term “*financial obligations for the study*” shall mean the financial obligations of the

Government and the costs for *in-kind contributions*, as determined by the Government that result or would result in costs that are or would be included in *total study costs*.

E. The term "*non-Federal proportionate share*" shall mean the ratio of the sum of the costs included in *total study costs* for *in-kind contributions*, as determined by the Government, and the Non-Federal Sponsor's contribution of funds required by Article II.B.1.b. of this Agreement to *financial obligations for the study*, as projected by the Government.

F. The term "*Federal program funds*" shall mean funds provided by a Federal agency, other than the Department of the Army, plus any non-Federal contribution required as a matching share therefor.

G. The term "*fiscal year*" shall mean one year beginning on October 1 and ending on September 30.

H. The term "*PMP*" shall mean the project management plan, and any modifications thereto, developed by the Government, and agreed to by the Non-Federal Sponsor, that specifies the scope, cost, and schedule for *Study* activities and guides the performance of the *Study* through the *period of study*.

I. The term "*in-kind contributions*" shall mean planning, supervision and administration, services, materials, supplies, and other in-kind services that are performed or provided by the Non-Federal Sponsor after the effective date of this Agreement in accordance with the *PMP* and that are necessary for performance of the *Study*.

J. The term "*Section 205 Annual Program Limit*" shall mean the statutory limitation on the Government's annual allotment for planning, design, and construction of all projects implemented pursuant to Section 205 of the Flood Control Act of 1948, Public Law 80-858, as amended (33 U.S.C. 701s). As of the effective date of this Agreement, such limitation is \$55,000,000.

ARTICLE II - OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSOR

A. The Government, subject to receiving funds appropriated by the Congress of the United States (hereinafter the "Congress") and using those funds and funds provided by the Non-Federal Sponsor, expeditiously shall conduct the *Study*, applying those procedures usually applied to Federal projects, in accordance with Federal laws, regulations, and policies. The Non-Federal Sponsor expeditiously shall perform or provide the *in-kind contributions* in accordance with applicable Federal laws, regulations, and policies.

1. To the extent possible, the Government and the Non-Federal Sponsor shall conduct the *Study* in accordance with the *PMP*.

2. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on all products that are developed by contract or by Government personnel during the *period of study*. The Government shall consider in good faith the comments of the Non-Federal Sponsor, but the final approval of all *Study* products shall be exclusively within the control of the Government.

3. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on the solicitations for all Government contracts, including relevant scopes of work, prior to the Government's issuance of such solicitations. To the extent possible, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Non-Federal Sponsor with notification of a contract modification is not possible prior to execution of the contract modification, the Government shall provide such notification in writing at the earliest date possible. To the extent possible, the Government also shall afford the Non-Federal Sponsor the opportunity to review and comment on all contract claims prior to resolution thereof. The Government shall consider in good faith the comments of the Non-Federal Sponsor, but the contents of solicitations, award of contracts or commencement of work on the *Study* using the Government's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on the *Study*, except for *in-kind contributions*, shall be exclusively within the control of the Government.

4. At the time the U.S. Army Engineer, Fort Worth District (hereinafter the "District Engineer") furnishes the contractor with the Government's Written Notice of Acceptance of Completed Work for each contract awarded by the Government for the *Study*, the District Engineer shall furnish a copy thereof to the Non-Federal Sponsor.

5. The Non-Federal Sponsor shall afford the Government the opportunity to review and comment on the solicitations for all contracts for the *in-kind contributions*, including relevant scopes of work, prior to the Non-Federal Sponsor's issuance of such solicitations. To the extent possible, the Non-Federal Sponsor shall afford the Government the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Government with notification of a contract modification is not possible prior to execution of the contract modification, the Non-Federal Sponsor shall provide such notification in writing at the earliest date possible. To the extent possible, the Non-Federal Sponsor also shall afford the Government the opportunity to review and comment on all contract claims prior to resolution thereof. The Non-Federal Sponsor shall consider in good faith the comments of the Government but the contents of solicitations, award of contracts or commencement of work on the *Study* using the Non-Federal Sponsor's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on *in-kind contributions* shall be exclusively within the control of the Non-Federal Sponsor.

6. At the time the Non-Federal Sponsor furnishes a contractor with a notice of acceptance of completed work for each contract awarded by the Non-Federal Sponsor for *in-kind contributions*, the Non-Federal Sponsor shall furnish a copy thereof to the Government.

B. The Non-Federal Sponsor shall contribute 50 percent of *total study costs* in accordance with the provisions of this paragraph.

1. The Non-Federal Sponsor shall provide a contribution of funds as determined below:

a. If the Government projects at any time that the collective value of the Non-Federal Sponsor's contributions listed in the next sentence will be less than the Non-Federal Sponsor's required share of 50 percent of *total study costs*, the Government shall determine the amount of funds that would be necessary to meet the Non-Federal Sponsor's required share without considering the credit the Government projects will be afforded for *in-kind contributions* pursuant to paragraph B.4. of this Article. The Government shall determine the amount of funds that would be necessary by subtracting from the Non-Federal Sponsor's required share of 50 percent of *total study costs* the collective value of the Non-Federal Sponsor's contributions under Article III and Article VI of this Agreement.

b. The Non-Federal Sponsor shall provide funds in the amount determined by this paragraph in accordance with Article IV.B. of this Agreement. To determine the contribution of funds the Non-Federal Sponsor shall provide, the Government shall reduce the amount determined in accordance with paragraph B.1.a. of this Article by the amount of credit the Government projects will be afforded for *in-kind contributions* pursuant to paragraph B.4. of this Article.

2. The Government, subject to the availability of funds and as limited by paragraph B.5. of this Article and the *Section 205 Annual Program Limit*, shall refund or reimburse to the Non-Federal Sponsor any contributions in excess of 50 percent of *total study costs* if the Government determines at any time that the collective value of the following has exceeded 50 percent of *total study costs*: (a) the Non-Federal Sponsor's contribution of funds required by paragraph B.1.b. of this Article; (b) the amount of credit to be afforded for *in-kind contributions* pursuant to paragraph B.4. of this Article; and (c) the value of the Non-Federal Sponsor's contributions under Article III and Article VI of this Agreement.

3. The Government shall determine and include in *total study costs* any costs incurred by the Non-Federal Sponsor for *in-kind contributions*, subject to the conditions and limitations of this paragraph. The Non-Federal Sponsor in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the amount of costs to be included in *total study costs* for *in-kind contributions*.

a. Acceptance by the Government of *in-kind contributions* shall be subject to a review by the Government to verify that all economic, engineering, real estate, and environmental analyses or other items performed or provided as *in-kind contributions* are accomplished in a satisfactory manner and in accordance with applicable Federal laws, regulations, and policies, and to verify that all analyses, services, materials, supplies, and other in-kind services provided as *in-kind contributions* are necessary for the *Study*.

b. The Non-Federal Sponsor's costs for *in-kind contributions* that may be eligible for inclusion in *total study costs* pursuant to this Agreement shall be subject to an audit in accordance with Article VI.C. of this Agreement to determine the reasonableness, allocability, and allowability of such costs.

c. The Non-Federal Sponsor's costs for *in-kind contributions* that may be eligible for inclusion in *total study costs* pursuant to this Agreement are not subject to interest charges, nor are they subject to adjustment to reflect changes in price levels between the time the *in-kind contributions* are provided and the time the costs are included in *total study costs*.

d. The Government shall not include in *total study costs* any costs for *in-kind contributions* paid by the Non-Federal Sponsor using *Federal program funds* unless the Federal agency providing the funds verifies in writing that such funds are authorized to be used to carry out the *Study*.

e. The Government shall not include in *total study costs* any costs for *in-kind contributions* in excess of the Government's estimate of the costs of the *in-kind contributions* if the services, materials, supplies, and other in-kind services had been provided by the Government. In addition, the Government shall not include in *total study costs* any costs for *in-kind contributions* that were obtained at no cost to the Non-Federal Sponsor.

4. The Government, in accordance with this paragraph, shall afford credit toward the amount of funds determined in accordance with paragraph B.1.a. of this Article for the costs of *in-kind contributions* determined in accordance with paragraph B.3. of this Article. However, the maximum amount of credit that can be afforded for *in-kind contributions* shall not exceed the least of the following amounts as determined by the Government: the amount of funds determined in accordance with paragraph B.1.a. of this Article; the costs of *in-kind contributions* determined in accordance with paragraph B.3. of this Article; or 50 percent of *total study costs*.

5. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall not be entitled to reimbursement of any costs of *in-kind contributions* determined in accordance with paragraph B.3. of this Article and included in *total study costs* that exceed the amount of credit afforded for *in-kind contributions* determined in accordance with paragraph B.4. of this Article and the Non-Federal Sponsor shall be responsible for 100 percent of all costs of *in-kind contributions* included in *total study costs* that exceed the amount of credit afforded.

C. Notwithstanding any other provision of this Agreement, Federal financial participation in the *Study* is limited by the following provisions of this paragraph.

1. In the event the Government projects that the amount of Federal funds the Government will make available to the *Study* through the then-current *fiscal year*, or the amount of Federal funds the Government will make available for the *Study* through the upcoming *fiscal year*, is not sufficient to meet the Federal share of *total study costs* that the Government projects to be incurred through the then-current or upcoming *fiscal year*, as applicable, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the

Government projects that the Federal funds that will have been made available to the *Study* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Study*, future performance under this Agreement shall be suspended and the parties shall proceed in accordance with Article IX.C. of this Agreement.

2. If the Government determines that the total amount of Federal funds provided by Congress for all studies and projects implemented pursuant to Section 205 has reached the *Section 205 Annual Program Limit*, and the Government projects that the Federal funds the Government will make available to the *Study* within the *Section 205 Annual Program Limit* will not be sufficient to meet the Federal share of *total study costs*, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Study* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Study* within the *Section 205 Annual Program Limit*, future performance under this Agreement shall be suspended and the parties shall proceed in accordance with Article IX.C. of this Agreement.

3. As of the effective date of this Agreement, \$ 0 of Federal funds is currently projected to be available for the *Study*. The Government makes no commitment to request Congress to provide additional Federal funds for the *Study*. Further, the Government's financial participation in the *Study* is limited to the Federal funds that the Government makes available to the *Study*.

D. Upon conclusion of the *period of study*, the Government shall conduct an accounting, in accordance with Article IV.C. of this Agreement, and furnish the results to the Non-Federal Sponsor.

E. The Non-Federal Sponsor shall not use *Federal program funds* to meet any of its obligations for the *Study* under this Agreement unless the Federal agency providing the funds verifies in writing that such funds are authorized to be used to carry out the *Study*.

F. This Agreement shall not be construed as obligating either party to implement a project. Whether the Government proceeds with implementation of the project depends upon, among other things, the outcome of the *Study* and whether the proposed solution is consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies and with the budget priorities of the Administration.

ARTICLE III - STUDY COORDINATION TEAM

A. To provide for consistent and effective communication, the Non-Federal Sponsor and the Government, not later than 30 calendar days after the effective date of this Agreement, shall appoint named senior representatives to a Study Coordination Team. Thereafter, the Study Coordination Team shall meet regularly until the end of the *period of study*. The Government's Project Manager and a counterpart named by the Non-Federal Sponsor shall co-chair the Study Coordination Team.

B. The Government's Project Manager and the Non-Federal Sponsor's counterpart shall keep the Study Coordination Team informed of the progress of the *Study* and of significant pending issues and actions, and shall seek the views of the Study Coordination Team on matters that the Study Coordination Team generally oversees.

C. Until the end of the *period of study*, the Study Coordination Team shall generally oversee the *Study*, including matters related to: plan formulation and evaluation, including applicable economic, engineering, real estate, and environmental analyses; scheduling of reports and work products; independent technical review and other review processes required by the Government; completion of all necessary environmental coordination and documentation; contract awards and modifications; contract costs; the Government's cost projections; the performance of, scheduling, and determining the value of *in-kind contributions*; determination of anticipated future requirements for real property and relocation requirements and performance of operation, maintenance, repair, rehabilitation, and replacement of the proposed project including anticipated requirements for permits; and other matters related to the *Study*. This oversight of the *Study* shall be consistent with the *PMP*.

D. The Study Coordination Team may make recommendations to the District Engineer on matters related to the *Study* that the Study Coordination Team generally oversees, including suggestions to avoid potential sources of dispute. The Government in good faith shall consider the recommendations of the Study Coordination Team. The Government, having the legal authority and responsibility for performance of the *Study* has the discretion to accept or reject, in whole or in part, the Study Coordination Team's recommendations.

E. The Non-Federal Sponsor's costs of participation in the Study Coordination Team shall be included in *total study costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article VI.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs. The Government's costs of participation in the Study Coordination Team shall be included in *total study costs* and shared in accordance with the provisions of this Agreement.

ARTICLE IV - METHOD OF PAYMENT

A. In accordance with the provisions of this paragraph, the Government shall maintain current records and provide to the Non-Federal Sponsor current projections of costs, financial obligations, the contributions provided by the parties, the costs included in *total study costs* for *in-kind contributions* determined in accordance with Article II.B.3. of this Agreement, and the credit to be afforded for *in-kind contributions* pursuant to Article II.B.4. of this Agreement.

1. As of the effective date of this Agreement, *total study costs* are projected to be \$500,000; the value of the Non-Federal Sponsor's contributions under Article III and Article VI of this Agreement is projected to be \$25,000; the amount of funds determined in accordance with Article II.B.1.a. of this Agreement is projected to be \$200,000; the costs

included in *total study costs* for *in-kind contributions* determined in accordance with Article II.B.3. of this Agreement are projected to be \$ 0 ; the credit to be afforded for *in-kind contributions* pursuant to Article II.B.4. of this Agreement is projected to be \$ 0 ; the Non-Federal Sponsor's contribution of funds required by Article II.B.1.b. of this Agreement is projected to be \$200,000; and the *non-Federal proportionate share* is projected to be 50 percent. These amounts and percentage are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

2. By December 31, 2014 and by each quarterly anniversary thereof until the conclusion of the *period of study* and resolution of all relevant claims and appeals, the Government shall provide the Non-Federal Sponsor with a report setting forth all contributions provided to date and the current projections of the following: *total study costs*; the value of the Non-Federal Sponsor's contributions under Article III and Article VI of this Agreement; the amount of funds determined in accordance with Article II.B.1.a. of this Agreement; the costs included in *total study costs* for *in-kind contributions* determined in accordance with Article II.B.3. of this Agreement; the credit to be afforded for *in-kind contributions* pursuant to Article II.B.4. of this Agreement; the Non-Federal Sponsor's contribution of funds required by Article II.B.1.b. of this Agreement; the total contribution of funds required from the Non-Federal Sponsor for the upcoming contract and upcoming *fiscal year*; and the *non-Federal proportionate share*.

B. The Non-Federal Sponsor shall provide the contribution of funds required by Article II.B.1.b. of this Agreement in accordance with the provisions of this paragraph.

1. Not less than 7 calendar days after the effective date of this Agreement, the Government shall notify the Non-Federal Sponsor in writing of the funds the Government determines to be required from the Non-Federal Sponsor to meet: (a) the *non-Federal proportionate share of financial obligations for the study* incurred prior to the commencement of the *period of study*; (b) the projected *non-Federal proportionate share of financial obligations for the study* to be incurred for such contract; and (c) the projected *non-Federal proportionate share of financial obligations for the study* using the Government's own forces through the first *fiscal year*. Within 30 calendar days of receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such required funds by delivering a check payable to "FAO, USAED, FORT WORTH DISTRICT, M2" to the District Engineer, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

2. Thereafter, until the work on the *Study* is complete, the Government shall notify the Non-Federal Sponsor in writing of the funds the Government determines to be required from the Non-Federal Sponsor, and the Non-Federal Sponsor shall provide such funds in accordance with the provisions of this paragraph.

a. The Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the scheduled date for issuance of the solicitation for each remaining contract for work on the *Study*, of the funds the Government determines to be required from the Non-Federal Sponsor to meet the projected *non-Federal proportionate share of financial obligations for the study* to be incurred for such contract. No later than such scheduled date, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government through any of the payment mechanisms specified in paragraph B.1. of this Article.

b. The Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the beginning of each *fiscal year* in which the Government projects that it will make *financial obligations for the study* using the Government's own forces, of the funds the Government determines to be required from the Non-Federal Sponsor to meet the projected *non-Federal proportionate share of financial obligations for the study* using the Government's own forces for that *fiscal year*. No later than 30 calendar days prior to the beginning of that *fiscal year*, the Non-Federal Sponsor shall make the full amount of such required funds for that *fiscal year* available to the Government through any of the payment mechanisms specified in paragraph B.1. of this Article.

3. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary, when considered with any credit the Government projects will be afforded for *in-kind contributions* pursuant to Article II.B.4. of this Agreement, to cover: (a) the *non-Federal proportionate share of financial obligations for the study* incurred prior to the commencement of the *period of study*; and (b) the *non-Federal proportionate share of financial obligations for the study* as *financial obligations for the study* are incurred. If at any time the Government determines that additional funds will be needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's share of such financial obligations for the current contract or to cover the Non-Federal Sponsor's share of such financial obligations for work performed using the Government's own forces in the current *fiscal year*, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within NOT TO EXCEED 60 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B.1. of this Article.

C. Upon conclusion of the *period of study* and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. If outstanding relevant claims and appeals prevent a final accounting from being conducted in a timely manner, the Government shall conduct an interim accounting and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals are resolved, the Government shall amend the interim accounting to complete the final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. The interim or final accounting, as applicable, shall determine *total study costs*, each party's required share thereof, and each party's total contributions thereto as of the date of such accounting.

1. Should the interim or final accounting, as applicable, show that the Non-Federal Sponsor's total required share of *total study costs* exceeds the Non-Federal Sponsor's total contributions provided thereto, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice from the Government, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, FORT WORTH DISTRICT, M2" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government.

2. Should the interim or final accounting, as applicable, show that the total contributions provided by the Non-Federal Sponsor for *total study costs* exceed the Non-Federal Sponsor's total required share thereof, the Government, subject to the availability of funds and as limited by Article II.B.5. of this Agreement and the *Section 205 Annual Program Limit*, shall refund or reimburse the excess amount to the Non-Federal Sponsor within 90 calendar days of the date of completion of such accounting. In the event the Non-Federal Sponsor is due a refund or reimbursement and funds are not available to refund or reimburse the excess amount to the Non-Federal Sponsor, the Government shall seek such appropriations as are necessary to make the refund or reimbursement.

D. The Non-Federal Sponsor shall provide funds in the amount determined by this paragraph in accordance with the provisions of this paragraph.

1. Not later than 60 calendar days after the effective date of this Agreement, the Government shall determine that portion of *financial obligations for the study* incurred prior to the commencement of the *period of study* and furnish the Non-Federal Sponsor with written notice of the results of such determination. If outstanding relevant claims and appeals prevent a final determination of that portion of *financial obligations for the study* incurred prior to the commencement of the *period of study* from being conducted in a timely manner, the Government shall prepare an interim determination of that portion of *financial obligations for the study* incurred prior to the commencement of the *period of study* and furnish the Non-Federal Sponsor with written notice of the results of such interim determination. Once all outstanding relevant claims and appeals are resolved, the Government shall amend the interim determination to complete the final determination and furnish the Non-Federal Sponsor with written notice of the results of such final determination of that portion of *financial obligations for the study* incurred prior to the commencement of the *period of study*. The interim or final determination, as applicable, shall determine that portion of *financial obligations for the study* incurred prior to the commencement of the *period of study* and each party's required share thereof.

2. The Government shall calculate four equal installments for payment of the Non-Federal Sponsor's required 50 percent share of that portion of *financial obligations for the study* incurred prior to the commencement of the *period of study*. The Government shall notify the Non-Federal Sponsor in writing of the Non-Federal Sponsor's required share of that portion of *financial obligations for the study* incurred prior to the commencement of the *period of study* and the amount of each installment.

3. The Non-Federal Sponsor shall pay the installments calculated pursuant to paragraph D.2. of this Article upon each six month anniversary of the date the Government notifies the Non-Federal Sponsor of the Non-Federal Sponsor's required share of that portion of *financial obligations for the study* incurred prior to the commencement of the *period of study* and the amount of the installments by delivering a check payable to "FAO, USAED, FORT WORTH DISTRICT, M2" to the District Engineer or providing an Electronic Funds Transfer in accordance with procedures established by the Government.

ARTICLE V - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VI - MAINTENANCE OF RECORDS AND AUDIT

A. Not later than 60 calendar days after the effective date of this Agreement, the Government and the Non-Federal Sponsor shall develop procedures for keeping books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to this Agreement. These procedures shall incorporate, and apply as appropriate, the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 C.F.R. Section 33.20. The Government and the Non-Federal Sponsor shall maintain such books, records, documents, or other evidence in accordance with these procedures and for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence were required. To the extent permitted under applicable Federal laws and regulations, the Government and the Non-Federal Sponsor shall each allow the other to inspect such books, records, documents, or other evidence.

B. In accordance with 32 C.F.R. Section 33.26, the Non-Federal Sponsor is responsible for complying with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by OMB Circular No. A-133 and Department of Defense Directive 7600.10. Upon request of the Non-Federal Sponsor and to the extent permitted under applicable Federal laws and regulations, the Government shall provide to the Non-Federal Sponsor and independent auditors any information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of any non-Federal audits performed in accordance with this paragraph shall be allocated in accordance with the provisions of OMB Circulars A-87 and A-133, and such costs as are allocated to the *Study* shall be included in *total study costs* and shared in accordance with the provisions of

this Agreement.

C. In accordance with 31 U.S.C. 7503, the Government may conduct audits in addition to any audit that the Non-Federal Sponsor is required to conduct under the Single Audit Act Amendments of 1996. Any such Government audits shall be conducted in accordance with Government Auditing Standards and the cost principles in OMB Circular A-87 and other applicable cost principles and regulations. The costs of Government audits performed in accordance with this paragraph shall be included in *total study costs* and shared in accordance with the provisions of this Agreement.

ARTICLE VII - FEDERAL AND STATE LAWS

In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all requirements of applicable Federal laws and implementing regulations, including, but not limited to: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto.

ARTICLE VIII - RELATIONSHIP OF PARTIES

A. In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity Non-Federal Sponsor, and neither is to be considered the officer, agent, or employee of the other.

B. In the exercise of its rights and obligations under this Agreement, neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights the other party may have to seek relief or redress against that contractor either pursuant to any cause of action that the other party may have or for violation of any law.

ARTICLE IX - TERMINATION OR SUSPENSION

A. Prior to conclusion of the *period of study*, upon 30 calendar days written notice to the other party, either party may elect without penalty to terminate this Agreement or to suspend future performance under this Agreement. In the event that either party elects to suspend future performance under this Agreement pursuant to this paragraph, such suspension shall remain in effect until either the Government or the Non-Federal Sponsor elects to terminate this Agreement.

B. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Assistant Secretary of the Army (Civil Works) shall terminate this Agreement or suspend future performance under this Agreement unless the Assistant Secretary of the Army (Civil Works) determines that continuation of performance of the *Study* is in the interest of the United

States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the *Study*.

C. In the event future performance under this Agreement is suspended pursuant to Article II.C. of this Agreement, such suspension shall remain in effect until such time that the Government notifies the Non-Federal Sponsor in writing that sufficient Federal funds are available to meet the Federal share of *total study costs* the Government projects to be incurred through the then-current or upcoming *fiscal year*, or the Government or the Non-Federal Sponsor elects to terminate this Agreement.

D. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article shall not relieve the parties of liability for any obligation previously incurred. Any delinquent payment owed by the Non-Federal Sponsor shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

ARTICLE X - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or sent by telegram or mailed by first-class, registered, or certified mail, as follows:

If to the Non-Federal Sponsor:
City of Kennedale
City Manager
405 Municipal Drive
Kennedale, Texas 76060

If to the Government:
District Engineer
U.S. Army Corps of Engineers
Fort Worth District
P.O. Box 17300
Fort Worth, Texas 76102-0300

B. A party may change the the recipient or address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

ARTICLE XI - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE XII - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not party to this Agreement.

ARTICLE XIII - OBLIGATIONS OF FUTURE APPROPRIATIONS

A. Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by the City of Kennedale of the State of Texas, where creating such an obligation would be inconsistent with Constitution of the State of Texas.

B. The Non-Federal Sponsor intends to fulfill its obligations under this Agreement. The Non-Federal Sponsor shall include in its budget request or otherwise propose appropriations of funds in amounts sufficient to fulfill these obligations for that year, and shall use all reasonable and lawful means to secure those appropriations. The Non-Federal Sponsor reasonably believes that funds in amounts sufficient to fulfill these obligations lawfully can and will be appropriated and made available for this purpose. In the event funds are not appropriated in amounts sufficient to fulfill these obligations, the Non-Federal Sponsor shall use its best efforts to satisfy any requirements for payments or contributions of funds under this Agreement from any other source of funds legally available for this purpose. Further, if the Non-Federal Sponsor is unable to fulfill these obligations, the Government may exercise any legal rights it has to protect the Government's interests related to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

City of Kennedale, Texas

BY: _____
W. NEIL CRAIG, III, P.E.
Lieutenant Colonel, U.S. Army
Acting Commander

BY: _____
BOB HART
City Manager

DATE: _____

DATE: _____



CERTIFICATE OF AUTHORITY

I, _____, do hereby certify that I am the principal legal officer of the City of Kennedale, that the City of Kennedale is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the City of Kennedale in connection with the feasibility study for the Village Creek, Kennedale, Texas, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Agreement on behalf of the City of Kennedale have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this

_____ day of _____ 20__.



Wayne Olson
City Attorney
City of Kennedale, Texas

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

BOB HART
City Manager

DATE: _____





Date: January 19, 2015

Agenda Item No: REGULAR ITEMS - A.

I. Subject:

CASE # PZ 14-09 Public hearing and consideration of Ordinance 561 approval regarding a request by Delia Vela for a zoning change from family residential district to "PD" Planned development district for approximately 1.98 acres at 6901 Mansfield Cardinal Rd. Russell Addn Lot 4.

1. Staff presentation
2. Applicant presentation
3. Public hearing
4. Applicant response
5. Staff response and summary
6. Action by the City Council

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

Request: rezone from "R2" to "PD"

Location: 6901 Mansfield Cardinal

Applicant: Delia Vela (property owner, owner of Water Tank Services, LLC)

Background.

Last year, the property at 6901 Mansfield Cardinal Rd was purchased by the owners of Water Tank Services, a company that provides water towers. The property had been in use for commercial purposes, several of the surrounding uses are intensive commercial. The current owner assured the buyers that the property was zoned for commercial use. The buyers also called the city to verify the zoning. The property was zoned commercial. The buyers purchased the property with the intent of using it for their office and to store equipment used in use at a job site.

After the current owners, Mr. and Mrs. Vela, purchased the property and attempted to obtain a certificate of occupancy for the property, they discovered the property is actually zoned for residential use. When they had called to verify the zoning prior to purchasing, the person they spoke to had not been updated to show the property's correct zoning. The Velas would like to rezone the property for commercial use for their business. The requested zoning district is a PD in order to allow greater control over the uses and appearance of the property under a straight rezoning.

Staff Review.

Compliance with the comprehensive land use plan.

This property is located at the end of an area identified as Neighborhood Corridor in the comprehensive land use plan. M

a lower level of density and intensity than urban corridors, but still identify an area where residents can come together to create a walkable environment; thereby experiencing increased quality of life" (excerpt from the comprehensive plan). Sample commercial uses include restaurant, coffee shop, corner store, retail, small-scale multi-family or townhouse residential, as well as services and professional offices.

The proposed ordinance allows for uses that fit this description. In addition, the ordinance also allows for a contractor's office and outside storage. Outside storage would not be permitted to exceed 50% of the land not occupied by a structure and would be subject to the same requirements (see Section 2 in the attached ordinance). In addition, commercial uses within the PD would be limited to commercial offices in order to decrease the likelihood of noise problems, and outdoor lighting would likewise be limited. In this way, a contractor's office within the PD is for a business office could operate on this property while still being able to accommodate some outside storage. The ordinance would not have a negative impact on surrounding properties.

The City has not yet established zoning regulations that implement the Neighborhood Corridor concept, so in creating the PD, the City adopted some requirements from recently-adopted zoning regulations. These requirements address some concerns the Commission has expressed over the years about the quality of development and the way development can affect surrounding properties. The regulations include setbacks, walls, glazing requirements, and controls for exterior commercial lighting.

Compliance with the strategic plan.

Several of the recommendations in the strategic plan relate to providing more opportunities for businesses to relocate and grow. However, none of the recommendations relate directly to this rezoning request.

Compliance with City Council priorities.

None of the City Council's priorities relate directly to this rezoning request, although the Council does place a priority on creating a healthy environment. In this kind of environment, regulations are clear yet flexible; they work with the community's market conditions and do not compromise the public health, safety, or general welfare.

Staff Recommendation.

The requested rezoning, as controlled by the draft ordinance, is in compliance with the comprehensive land use plan. The plan provides a general description of the character district in which this property is located (Neighborhood Corridor) but does not specify compatible land use types or development regulations. The proposed regulations for the request planned development district are more restrictive than development regulations above the requirements in the city's standard commercial districts and, unlike the city's standard commercial districts, the PD allows for a variety of land use types, both residential and commercial.

Staff recommends approval.

Planning & Zoning Commission Review and Consideration.

The Planning & Zoning Commission held a public hearing on this case during its meeting in November. During the public hearing, property owners spoke against the request rezoning and one neighbor spoke in favor. After a lengthy discussion during which the Commission proposed various additional conditions to add to the ordinance to make the proposed rezoning better suited for the local context, the Commission voted against the rezoning.

Additional Comments.

After the Planning & Zoning Commission meeting, the applicants met with city staff and proposed some changes to the ordinance to address concerns raised during the public hearing. The applicants have proposed the ordinance to prohibit any trucks larger than 22 feet being stored on site, as well as prohibiting any trailer (flat bed or travel trailer) larger than 22 feet. The ordinance you are reviewing includes these changes requested by the applicants.

Action by the City Council.

City code describes the Council's authority in approving requests for rezoning as a planned development district, as follows:

Upon submission of the application for a "PD" district or development in a "PD" district and after proper notice has been given and public hearings have been held, the planning and zoning commission and the city council shall review the application and approve it with or without modifications, or reject it. In approving the application, the city council may impose conditions and these conditions shall be met before a certificate of occupancy is issued for the use of land or any structure which is part of the "PD" district.

Sample Motions.

Sample motions are provided below for your reference. You are not required to use one of these motions.

I make a motion to approve Ordinance number _____.

I make a motion to approve Ordinance number _____ with the following changes: _____

I make a motion to deny Ordinance number _____.

I make a motion to postpone Case PZ 14-09 until _____.

IV. Notification:**V. Fiscal Impact Summary:****VI. Legal Impact:****VII. Recommendation:**

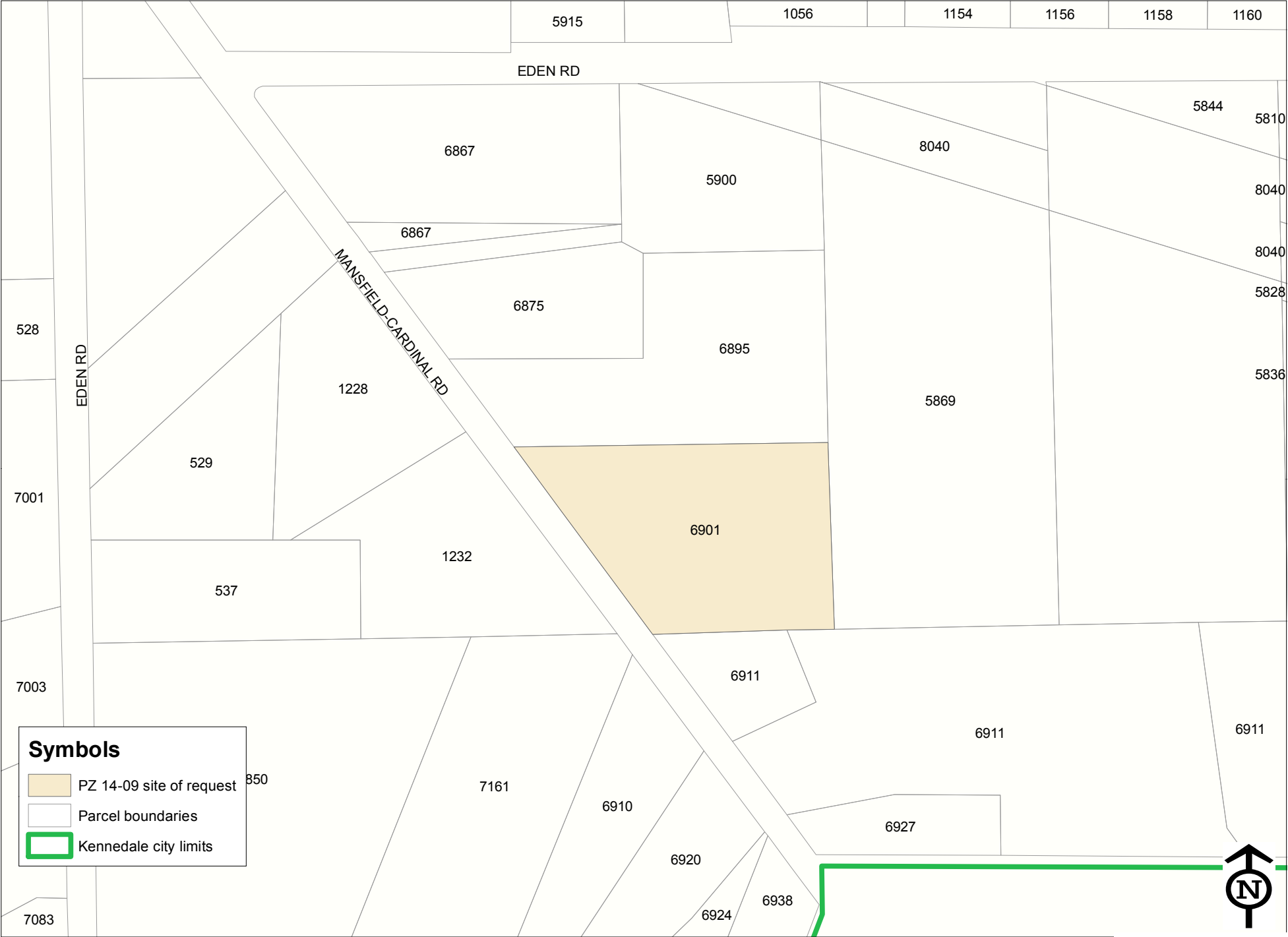
Approve

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

1.	PZ 14-09 map	PZ 14-09 map.pdf
----	--------------	------------------

2.	PZ 14-09 aerial view	PZ 14-09 aerial view.pdf
3.	PZ 14-09 FLUP excerpt	PZ 14-09 FLUP excerpt.pdf
4.	PZ 14-09 Ordinance 561	Ordinance 561.doc
5.	PZ 14-09 application	PZ 14-09 application.pdf

PZ 14-09



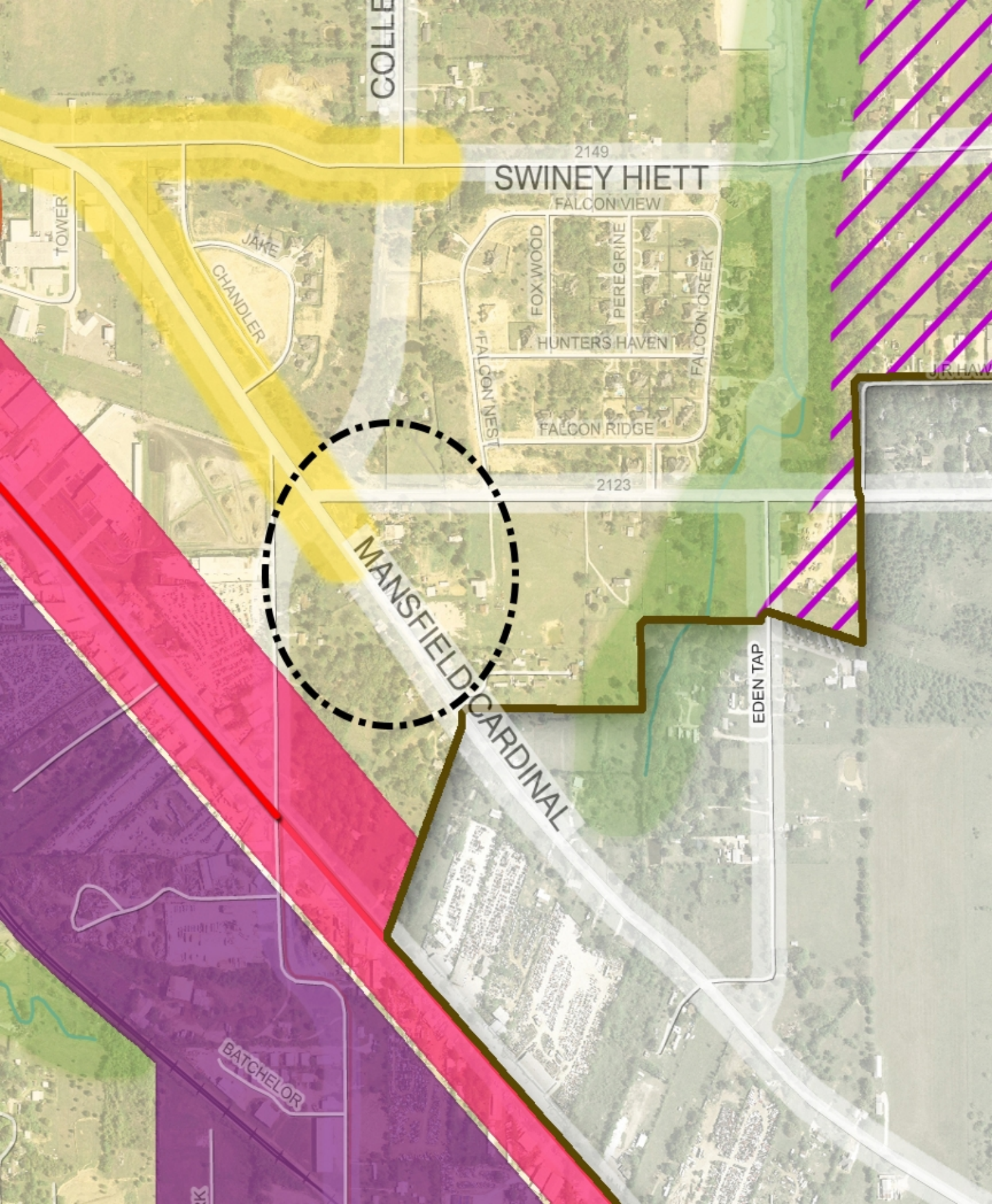
PZ 14-09 aerial view



Symbols

-  PZ 14-09 site of request
-  Parcel boundaries

0 60 120
Feet



COLLEGE

2149

SWINEY HIETT

FALCON VIEW

TOWER

CHANDLER

JAKE

FOX WOOD

PEREGRINE

HUNTERS HAVEN

FALCON CREEK

FALCON NEST

FALCON RIDGE

2123

MANSFIELD CARDINAL

EDEN TAP

BATCHELOR

ORDINANCE NO. 561

AN ORDINANCE AMENDING ORDINANCE NO. 40, AS AMENDED; REZONING CERTAIN PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF KENNEDALE FROM "R2" SINGLE FAMILY RESIDENTIAL DISTRICT TO "PD" 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 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, Delia Vela, who has a proprietary interest in said property being an approximately 1.98 acre tract in the Jesse Russell Survey A-1361, more particularly described as Jesse Russell Addition Lot 4, Tarrant County, Texas, has filed an application to rezone the property from its present classification of "R2" Single Family Residential district to "PD" Planned Development district; and

WHEREAS, the City of Kennedale's comprehensive land use plan envisions the property in question to permit land use and development of a commercial nature when such uses are compatible with surrounding residential uses; 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 20th day of November 2014 and by the City Council of the City of Kennedale on the 19th day of January 2015 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 1.98 acre tract in the Jesse Russell Survey A-1361, more particularly described as Jesse Russell Addition Lot 4, Tarrant County, Texas ("the Property"), as more particularly described on Exhibit "A" attached hereto and incorporated herein, from "R-2" Single Family Residential District to "PD" Planned Development District ("Russell PD"), as more fully described on the Concept Plan, attached hereto as Exhibit "B" 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 "B", and the Concept Plan is hereby approved. The use of the Property shall further be subject to all other applicable regulations contained in the Zoning Ordinance, the Subdivision Regulations, 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.*

- a. The only permitted uses in the "Russell PD" shall be:
 - i. Finance, Insurance, and Real Estate establishments including banks, credit unions, real estate, and property management services;
 - ii. Offices for business, professional, administrative, and technical services such as accountants, architects, lawyers, and other non-medical professionals, etc.;
 - iii. Offices for contractor uses, with outdoor storage limited to 50% of the land area not occupied by a structure(s);
 - iv. Health / Medical Clinics providing outpatient care, including physician offices, dentists, chiropractors, optometrists, etc., with no drive-thru facility (e.g., for attached pharmacy, glasses pick-up, etc.);
 - v. Food Service Uses such as full-service restaurants, fast food establishments, cafeterias, bakeries, and snack bars, with no drive-thru facility;
 - vi. Art galleries, and art, antique, or furniture studio (retail, repair or light fabrication);
 - vii. Business associations and professional membership organizations;

- viii. Child day care and preschools;
- ix. Civic uses;
- x. Religious institutions;
- xi. Home occupations (in accordance with Kennedale city code Section 17-423);
- xii. Single family detached residential;
- xiii. Single family attached residential;
- xiv. Veterinary clinic;
- xv. Park, playground, or open space, including detention or retention facilities.

b. Drive-thrus are prohibited.

2. *Hours of operation.* Operating hours for any business located within the Russell PD shall not begin earlier than 5 AM and shall not cease later 10 PM. Deliveries, moving of heavy equipment, equipment repairs, vehicle loading or unloading, or other similar activities shall be permitted only between 7 AM and 9 PM.

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

Minimum Lot Width (ft.)	Minimum Lot Depth (ft.)	Minimum Lot Area (in square feet)
50	110	5,000

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

Front Setback Minimum (ft.)	Rear Setback Minimum (ft.)	Side Setback Minimum – R-o-W Adjacent (ft.)	Side Setback Minimum – Interior (ft.)
25	20	15	10

6. *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.

7. *Building materials.* All primary structures constructed after the date this ordinance is adopted shall have exterior buildings materials of 80% masonry. All primary structures

existing at the date this ordinance is adopted shall have a masonry veneer applied to at least 80% of the exterior facades within three (3) years after the date this ordinance is adopted. "Masonry" shall be as defined in Kennedale City Code Section 17-405(f).

8. *Glazing.* Any primary structure constructed after the date this ordinance is adopted shall have a minimum of twenty percent (20%) glazing and a maximum of sixty percent (60%) glazing on the front façade and a minimum of ten percent (10%) and a maximum of sixty percent (60%) glazing on at least one other side.
 - a. Any structure in existence at the time this ordinance is adopted shall comply with the glazing requirements of this section at such time when the building is expanded by more than twenty-five (25) percent or when an existing building is renovated, repaired, remodeled, or has structural alterations, with costs for such improvements having a value of more than fifty (50) percent of the value of the building.
 - b. Ground floor glazing shall have a maximum sill height of four (4) feet.
9. *Blank walls not permitted.* For any structure constructed after the date this ordinance is adopted, blank walls longer than sixty (60) feet are prohibited. For purposes of this section, "blank wall" means any building wall that is a portion of a building wall or façade without a window or door or similar architectural feature and is over four feet in height from ground level and longer than 60 feet, as measured horizontally, without having a window, door, building modulation or other similar architectural feature meant to lessen the apparent bulk or massing of a structure.
10. *Parking.* Number of parking spaces and parking surfaces for vehicles shall be provided as required by Kennedale city code.
11. *Paving for equipment stored outside.* Equipment stored outside shall be stored on a paved, all-weather surface of asphalt or concrete as approved by city staff after review for compliance with storm water and other applicable city regulations.
12. *Size of trailers and equipment.* No vehicle larger than a Class 3 pickup truck (as classified by the Federal Highway Administration and illustrated in Exhibit "C", attached) shall be stored on site at any time, and no trailer (of any kind: flatbed, tractor-trailer, RV-type, etc.) larger than twenty-two (22) feet in length shall be stored on site at any time.
13. *Landscaping.* Landscaping shall be regulated by the Kennedale City Code except as otherwise controlled by this ordinance.
 - a. *Plants.* Use of native or adaptive xeriscape plants is encouraged. Landscaping shall be maintained in good condition.
 - b. *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.
- iv. 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.
 1. Cisterns may not exceed ten (10) percent coverage in any required yard.
 2. 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.
 3. A cistern may not be greater than six (6) feet in height.

14. *Screening.* Any area outside of a structure where equipment or other materials are stored shall be screened from view from all public street rights-of-way and adjacent properties for the entire length of the property lines except for points of necessary access. Screening shall be accomplished as follows.

- a. *Fencing.* Within one year of the date this ordinance is adopted, a wooden privacy fence or masonry screening wall shall be installed along the perimeter of any area designated for outside storage. The fencing or screening wall shall be approximately eight (8) feet in height, sufficient to screen all equipment to be stored outside.
- b. *Landscaping.* Within one year of the date this ordinance is adopted, landscaping shall be installed along the perimeter of any area designated for outside storage sufficient in height and width to screen any equipment, trailers, or other materials that exceed the height of the screening wall or fence. Such landscaping materials shall be maintained in good, living condition at all times. Because smaller, younger plants are more likely to survive transplanting, landscaping materials shall not be required to screen all equipment at time of planting, however, materials shall be required to be of sufficient size to screen materials and equipment stored outside within five (5) years of the date this ordinance is adopted.

15. *Sidewalks.* Sidewalks are required within the Russell PD and shall be constructed when new development occurs 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.

- a. Sidewalks shall be a minimum of five (5) feet in width.
- b. For the purposes of this Code, “new development” means when an application is filed for any new primary structure *or* when a building already existing when this ordinance is adopted is expanded by more than twenty-five (25) percent *or* when an existing building is renovated, repaired, remodeled, or has structural alterations, with costs for such improvements having a value of more than fifty (50) percent of the value of the building.
- c. 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.
- d. In lieu of constructing sidewalks at the time of development, the City may approve placing funds for constructing the sidewalks into an escrow account to be used for installing sidewalks at a later time, as approved by the City.

16. *Lighting.*

- a. All luminaries used primarily for illuminating off-street parking areas, lighted canopies for commercial uses, and similar lighting needs shall have a maximum height of twenty (20) feet.
- b. All luminaires used primarily for walkways, trails, security, decorative effects, lighting equipment or storage areas, fountains, art work, building walls, or similar lighting needs shall have a mounting height no higher than twelve (12) feet.
- c. Light trespass shall be minimized; light levels at the property line should not exceed 2 footcandles (fc). Footcandle means the unit of measure expressing the quantity of light received on a surface. One footcandle is the illuminance produced by a candle on a surface one foot square from a distance of one foot.
- d. Fixtures for decorative lighting must be selected, located, aimed, and shielded so that direct illumination is focused solely on the building façade, plantings, and other intended site feature, and away from adjoining properties and the public street right-of-way.
- e. The operation of searchlights for advertising purposes is prohibited.

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 **DAY OF** _____ **2014.**

APPROVED:

Mayor

ATTEST:

City Secretary

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

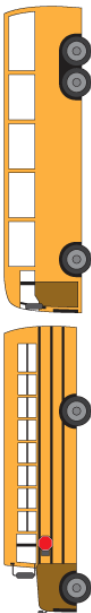
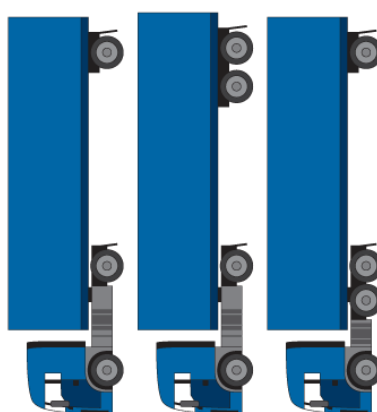
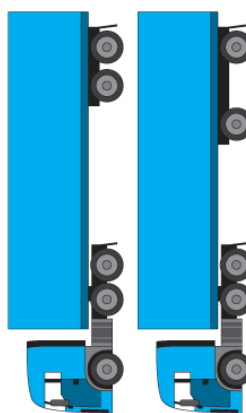
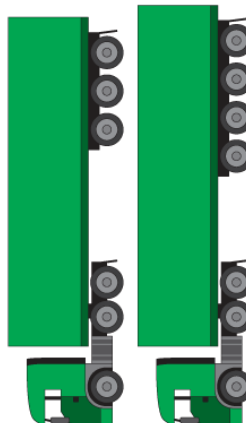
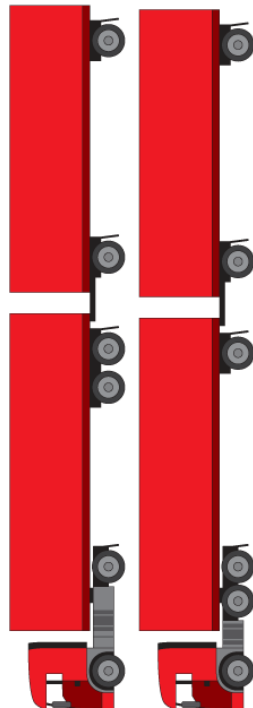
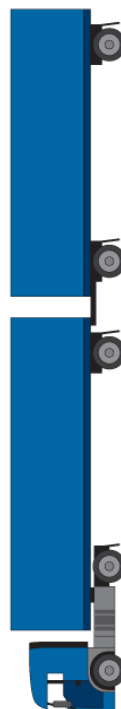
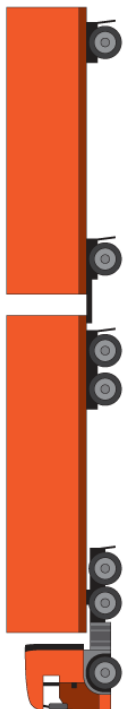
City Attorney

EXHIBIT "A"

Lot 4, Jesse Russell Addition, an addition to the City of Kennedale, Tarrant County, Texas, according to the plat recorded in Cabinet B, Slide 1247, Plat Records, Tarrant County, Texas.

Exhibit “B”

Exhibit “C”
Illustration from *Traffic Recorder Instruction Manual*,
Appendix A: Vehicle Classification Using FHWA 13-Category Scheme
published by Texas Department of Transportation (effective February 1, 2012),

FHWA Vehicle Classifications					
1. Motorcycles 2 axles, 2 or 3 tires 	2. Passenger Cars 2 axles, can have 1- or 2-axle trailers 		3. Pickups, Panels, Vans 2 axles, 4-tire single units Can have 1 or 2 axle trailers 		4. Buses 2 or 3 axles, full length 
5. Single Unit 2-Axle Trucks 2 axles, 6 tires (dual rear tires), single-unit 		6. Single Unit 3-Axle Trucks 3 axles, single unit 		7. Single Unit 4 or More-Axle Trucks 4 or more axles, single unit 	8. Single Trailer 3- or 4-Axle Trucks 3 or 4 axles, single trailer 
9. Single Trailer 5-Axle Trucks 5 axles, single trailer 		10. Single Trailer 6 or More-Axle Trucks 6 or more axles, single trailer 		12. Multi-Trailer 6-Axle Trucks 6 axles, multiple trailers 	
11. Multi-Trailer 5 or Less-Axle Trucks 5 or less axles, multiple trailers 		13. Multi-Trailer 7 or More-Axle Trucks 7 or more axles, multiple trailers 			

**PETITION FOR
CHANGE OF ZONING CLASSIFICATION**

ZONING CASE # _____
(assigned by city staff)

DATE: September 22, 2014

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

"R2" (Single Family Residential) to that of

"PD" (Planned Development), the Concept plan of which is shown in its entirety on Exhibit "B" attached. The Property totals some 1.98 acres. The planned uses for the Property are: [1] office use, as a dispatch center for Applicant's business, and [2] outside storage use. The areas within the Property where these uses are to be utilized are shown on the Concept Plan attached as Exhibit "B."

A statement of why the zoning change should be approved is attached to this application as Exhibit "C". 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.

Attached as Exhibit "D" is a list of proposed development standards which may be incorporated into the "PD" district ordinance.

Legal Description is: See attached Exhibit "A"

Present use of the property is as an office and dispatch center for the applicant's business, Water Tank Services, LLC. To my knowledge, the property has never been used for residential purposes.



KENNEDALE

Planning Department

www.cityofkennedale.com

Address of the property is 6901 Mansfield Cardinal Road, Kennedale, TX 76060

Property Owner's Name: Water Tank Services, LLC

Address: 6901 Mansfield Cardinal Road

Kennedale, Texas 76060

Telephone Number: (817) 271-8817

Applicant's Name: Delia Vela (owner of Water Tank Services, LLC)

Address: 6901 Mansfield Cardinal Road

Kennedale, Texas 76060

Telephone Number: (817) 271-8817

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 Water Tank Services, LLC is the sole owner 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

09/22/2014
Date

EXHIBIT "A"

Lot 4, Jesse Russell Addition, an addition to the City of Kennedale, Tarrant County, Texas, according to the plat recorded in Cabinet B, Slide 1247, Plat Records, Tarrant County, Texas.



KENNEDALE
Planning Department
www.cityofkennedale.com

EXHIBIT "B"

TAX TRACT 9F
NICHOLS J. & BEVERLY D. QUENTIN
12171 / 588

TAX TRACT 9E & 9E1A
YEN H. VO
022000008

TAX TRACT 9E3
ELVIS & ALDA JOHNSON
12501 / 229

APPLICATION "PD" DISTRICT

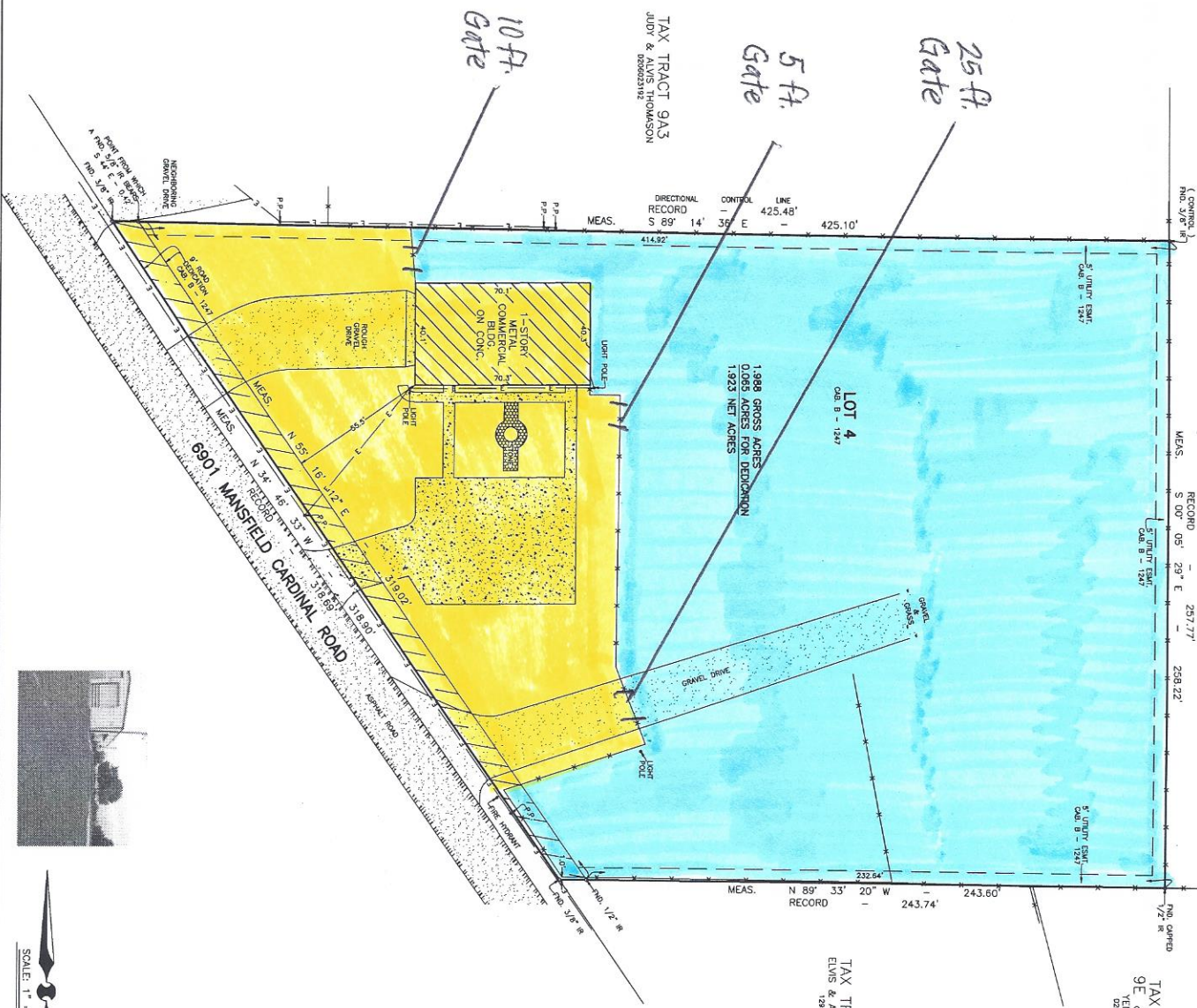
 = Office
 = Outside Storage

[Entire Outside Storage area to be perimeter fenced with 8 ft. wood privacy fencing]

Reference No: 4011Y13
Title Co: EDELSTEIN NATIONAL COMPANY
Purchaser: WATER TANK SERVICES, LLC

PROPERTY DESCRIPTION

Lot 4, Vessie Russell Addition, an Addition to the City of Kennedale, Tarrant County, Texas, according to the Plat thereof recorded in Caddell B. Slide 1247, Plat Records, Tarrant County, Texas.



	EASEMENT
	RIGHT OF WAY
	WOOD DECK
	CONCRETE

This survey is hereby accepted and approved.

Purchaser _____

Purchaser _____

Date _____

1. I, the undersigned, being a duly qualified and licensed Professional Land Surveyor, hereby certify that this survey was made in accordance with the provisions of the Texas Surveying Act, Chapter 131, Texas Occupations Code, and the rules and regulations of the Texas Board of Professional Land Surveyors. I am not aware of any fraud, mistake, or other irregularity in this survey.

PROLINE
SURVEYING LTD.
www.prolinesurveyors.com
Ph: 817-276-1148 info@prolinesurveyors.com
© Proline Surveying, Ltd. 2013



DATE: 10-16-13
DRAWN BY: MS
SURVEY ONLY: YES
GENERAL SURVEYING

EXHIBIT "C"

The Property was purchased in November, 2013 for use as a commercial property. At that time, the City of Kennedale's zoning map identified the Property as being zoned Commercial (C2), and City Staff confirmed the Commercial zoning. After I purchased the Property, I discovered that the City's zoning map was incorrect, but I could do nothing about it. I would not have purchased the Property if I had known that it was not zoned Commercial.

The Property improvements consist of a large parking lot, with 11 parking spaces, including 1 space designated for handicap parking, a large metal building, and a concrete walkway between the parking lot and the metal building. The metal building contains a small lobby area by the front door, 2 small offices, a break room, and a large open workshop area with 18 foot ceilings. The large open workshop area was constructed to service trucks and other vehicles.

The building's construction materials, floor plan, and layout make it unsuited for residential use. The Property is unusable for the purposes allowed under existing zoning, because it is not suitable for any type of residential use. The metal building on the Property would have to be either demolished, or comprehensively remodeled at substantial cost in order for the Property to support a residential use.

In addition, there are numerous commercial land uses in the immediate area of the Property that make the Property unsuitable for use as a residence. For example, there is a concrete contractor, Reb Concrete, at 6867 Mansfield Cardinal Road to the northwest of the Property, as well as the commercial business Functional Ideas, Inc., at 5869 Eden Road currently adjacent and to the northeast of the Property.

The person from whom I purchased the Property used it for commercial purposes as did the owner of the Property before him. To my knowledge, the Property has never been used for residential purposes.

I believe that the general welfare of all the City will be enhanced by a change of zoning, recognizing the obvious commercial use of the Property. My requested zoning recognizes the long standing use of the Property, its current and obvious suitability only for a commercial use, and is in harmony with the City's Neighborhood Corridor uses in the comprehensive plan, and the existing uses in my neighborhood and the City's comprehensive plan.

EXHIBIT "D"

The only proposed developments on the Property are:

1. To erect an 8 foot tall wooden privacy fence along the perimeter of the area designated for outside storage. A depiction of the type of wooden fencing to be erected is attached. There are three gates that are to be constructed in the perimeter fencing. These gates are 25 feet, 10 feet, and 5 feet in size, and are shown on the Concept Plan included as Exhibit "B." This wooden privacy fencing is contemplated to be undertaken within 1 year from the date this zoning case is formally approved.
2. The placement of a brick veneer on the outside of the existing metal building. This brick veneer is contemplated to be constructed within 3 years from the date this zoning case is formally approved.
3. There are no known drainage issues on the Property.

From: [Marco M. Lopez](#)
To: [W.M. Gomez](#)
Subject: Fwd: 8 Cedar Fence Pics
Date: Friday, June 06, 2014 6:25:13 PM

Sent from my iPhone

Begin forwarded message:

From: "Corral Fence Co." <corralfence@yahoo.com>
Date: June 6, 2014 at 6:30:43 PM CDT
To: "dmtankk@yahoo.com" <dmtankk@yahoo.com>
Subject: 8 Cedar Fence Pics
Reply-To: "Corral Fence Co." <corralfence@yahoo.com>

Fotos: 8' Cedar Fence / 1x4 boards - 2x4 treated rails / 2 3/8" steel post





Date: January 19, 2015

Agenda Item No: REGULAR ITEMS - B.

I. Subject:

Case PZ 14-10 Public hearing and consideration of Ordinance 562 approval regarding a request by the City of Kennedale to amend Section 17-430(i) "Authorized Special Exceptions" and Section 17-431 "Definitions" of Article VI "Zoning" of Chapter 17 "Planning and Land Development" of the Kennedale City Code to authorize the Board of Adjustment to grant special exceptions for special functions in single family residential districts.

1. Staff presentation
2. Public hearing
3. Staff summary and recommendation
4. Action by the City Council

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

Request: amend two sections of the city code -- definition and the list of special exceptions the Board of Adjustment is authorized to grant

Location: n/a

Applicant: City of Kennedale

Background and overview.

Because Kennedale was a primarily rural community until the last 20 years or so, there are a number of residential properties in the city that are quite large (2 acres or more) but are no longer used for agricultural purposes. Some of the properties are located in agricultural areas, but many of them abut residential subdivisions.

From time to time, owners of some of these properties would like to allow their properties to be used for entertainment purposes or special events. Because these parcels are in residential zoning districts, however, such uses are not allowed. The ordinance you are considering would amend the city code to allow the Board of Adjustment to grant special exceptions for these kinds of events to be held on properties like those described above. The special exception process allows uses to be authorized on a case-by-case basis when the requested uses meet certain standards. The standards ensure that special exceptions are granted only when the proposed use does not inhibit the ability of surrounding property owners to use their properties as permitted and expected. In other words, if surrounding properties are also residential, then the special exception would only be granted when the Board of Adjustment was persuaded that the special event could be compatible with the surrounding residential uses.

Staff review and recommendation.

The proposed ordinance was drafted to address a problem typical of growing communities that are transitioning out of a rural character, namely, balancing uses that would have been compatible with an area when the area was agricultural--uses that long-time residents may be used to and comfortable with--with uses that are comparatively new to the area, such as suburban subdivisions. The proposed ordinance provides an effective tool for allowing special events on large residential properties while ensuring that these events do not occur so frequently as to change the overall residential character of the neighborhood.

The ordinance establishes requirements concerning number of events allowed per year, noise, hours of the event(s), and number of people allowed to attend a particular event. The ordinance would also allow the Board of Adjustment to use the special exception process to add whatever conditions are needed to ensure the events do not create a nuisance for the neighborhood.

Staff recommends approval.

Planning & Zoning Commission Recommendation.

The Planning & Zoning Commission considered this ordinance during its meeting in December and postponed action on the case so that staff could make requested changes to the proposed ordinance. The Commission again considered this ordinance during its meeting on January 15. One of the Commission's primary concerns was to ensure the ordinance would not allow the special functions to change the residential character of our residential zoning districts while also ensuring adequate event facilities were provided (such as adequate parking). After making some additional changes to the proposed ordinance, the Commission voted to recommend approval of Case PZ 14-10.

Action by the City Council.

You may approve, deny, or continue Ordinance 562 (Case PZ 14-10).

For your reference, sample motions are listed below.

I make a motion to approve Ordinance 562.

I make a motion to deny Ordinance 562.

I make a motion to deny Ordinance 562 without prejudice.

IV. Notification:**V. Fiscal Impact Summary:****VI. Legal Impact:**

VII. Recommendation:

Approve

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

1.	Map of parcels 2 acres or larger in R zoning districts	parcels 2 acres or more in R districts (aerial) (web).pdf
2.	PZ 14-10 Ordinance 562	PZ 14-10 ordinance P&Z recommendation.docx

ORDINANCE NO. 562

AN ORDINANCE AMENDING CHAPTER 17, ARTICLE VI, “ZONING”, OF THE CODE OF ORDINANCES OF THE CITY OF KENNEDALE, TEXAS, AS AMENDED, BY AUTHORIZING SPECIAL EXCEPTION APPROVAL OF SPECIAL FUNCTIONS IN SINGLE FAMILY RESIDENTIAL DISTRICTS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; 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, the City Council has determined that it is appropriate to amend the Comprehensive Zoning Ordinance to allow a limited number of special functions at single family residences within the City, subject to reasonable terms and conditions established by the Board of Adjustment; and

WHEREAS, public hearings were held by the Planning and Zoning Commission of the City of Kennedale, Texas, on **December 18, 2014**, and by the City Council of the City of Kennedale, Texas, on **January 19, 2015**, with respect to the amendments described herein; and

WHEREAS, all requirements of law dealing with notice and publication and all procedural requirements have been complied with in accordance with the Comprehensive Zoning Ordinance and Chapter 211 of the Local Government Code.

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

SECTION 1.

Chapter 17, Article VI, Section 17-431 of the Kennedale City Code is hereby amended by adding the following definition:

Special Function means a gathering, party or other event held on a limited occasion at a single family residence, including but not limited to, wedding/anniversary receptions, graduation/birthday parties, and benefits. Special Functions other than for persons or families that reside at the residence shall only be allowed upon approval of a special exception by the Board of Adjustment. A special exception shall not be required for a person residing at the

residence to hold a special function for himself or another person residing at that residence, or for a family member or personal friend of a person residing at the residence, provided that no fee is charged or donation required as part of the special function. Even when a special exception is not required, any special function shall still be required to comply with the general regulations governing public safety and health and with the requirements of Kennedale City Code, including nuisance, parking, and traffic regulations.

SECTION 2.

Chapter 17, Article VI, Section 17-430 of the Kennedale City Code is hereby amended by adding a new subsection (i)(3) to read as follows:

(i) *Authorized special exceptions.*

* * *

- (3) Special Functions in Single Family Residential Districts. A special function as defined in Section 17-431 may be permitted in an R-1, R-2 or R-3 Residential District. The maximum term of initial special exception approval will be for a period of one year. The special exception may thereafter be renewed for longer periods of time if the use is in compliance with all applicable conditions. Special exceptions for special events shall only be granted to non-profit organizations or for events for which all proceeds benefit a non-profit organization. The applicant for a special exception for special functions shall submit documentation with the application sufficient to demonstrate that the special event will meet this requirement. A special function approval is subject to the following conditions:
- a. Regardless of the granting of a special exception for special functions, no special function shall be permitted unless the recipient of a special function special exception has applied for and received a special function permit from the City. The application for a special function permit shall be submitted to the City at least 30 calendar days before the date the special function is proposed to be held. The application shall state, at a minimum, the date and hours of the event, the number of people expected to attend, and the type of event;
 - b. Each applicant for a special function special exception shall be required to submit a venue plan as part of the application, in addition to any other standard application requirements for a special exception. The applicant must include at least the following information in the venue plan:
 - 1. Proposed hours of events, including set-up and take-down time;
 - 2. Proposed number of people who will attend events at the property;
 - 3. The type of screening that will be installed between the property on which the events will be held and adjacent properties;

4. Plans for maintaining adequate traffic flow and preventing traffic congestion on the property and on public streets providing access to the property;
 5. A description of any special sound equipment that may be used;
 6. A copy of the TABC permit for any events at which alcohol will be served;
 7. A description of any security that will be provided, as needed; and
 8. A description of sanitation facilities provided that will serve the number of people who will be attending the events;
- c. Maximum of six events per calendar year;
 - d. The Board of Adjustment shall designate the maximum number of persons allowed per function based on the recommendation of the building official or fire department on a case by case basis;
 - e. Each function may only occur during hours specifically prescribed by the Board, but in no case shall any event last past midnight, with all take-down for the event to be completed by 2 AM;
 - f. Parking shall be in compliance with Kennedale City Code Section 17-424. Parking in a yard is prohibited except on paved surfaces as described in sub-section (g) and approved by the Board of Adjustment. The number of paved parking spaces required shall be set by the Board of Adjustment, with a minimum of one paved space required per 10,000 square feet of site area of the property for which the special exception is to be granted. Notwithstanding the minimum requirement for number of parking spaces, the Board of Adjustment may set a requirement for more or fewer parking spaces based on past performance of the applicant and/or the venue plan;
 - g. Notwithstanding the parking requirements under sub-section (f) and Kennedale City Code Section 17-424, paving materials shall be adequate to prevent wear and tear on any yards in which parking will occur and to prevent tracking mud, dirt, or other materials onto public streets but shall also be practical and unobtrusive in a residential zoning district. Asphalt and concrete are prohibited paving materials for parking provided in a front or side yard but may be used for parking in a rear yard if located behind the primary structure. Permitted paving materials include, but are not limited to: pervious reinforced concrete covered with grass, such as Grasscrete® or Turfstone; pervious pavement covered or interspersed with grass, including plastic grid pavers, such as or Grasspave²; crushed rock or flex base, if screened so that the parking area appears vegetated from the public street and adjoining properties; grass stabilizers such as Turfguard; and brick or stone pavers interspersed with grass. Proposed paving materials are subject to review and approval of the Board of Adjustment as part of the application for a special exception;

- h. Applicants for a special function permit shall send two (2) notices to each adjacent property owner for each special function. The first notice shall be sent within three (3) days of submitting the application to the City. The second notice shall be sent within three (3) days of receiving the permit from the City but no fewer than ten (10) days before the special function is to be held, provided the permit is issued at least ten days before the special function. Such notice shall state the date, time, and location of the permitted special function and may be given by depositing the same properly addressed and postage paid in the United States Post Office;
- i. Screening required for incompatible zoning districts, as described in Section 17-425(a) of the Kennedale City Code, shall be provided to protect the neighbors from adverse effects of the special function regardless of the zoning district classification of adjoining properties;
- j. Light levels from the special function or from the facilities or equipment used for the special function shall not exceed 2 footcandles (fc) at the property line;
- k. The special function shall not create noise levels that are in violation of City noise regulations. No single event maximum sound disturbance shall exceed 70db, measured from the property line. In addition, the owner of any property on which more than four special events per calendar year is permitted to be held shall be required to submit a sound mitigation plan under Section 15-158 of the Kennedale City Code, as approved by City staff, as part of the special exception application;
- l. There must be at least 14 days between special functions;
- m. If alcohol is to be served at a special function, the property owner shall submit documentation that appropriate permissions from the Texas Alcoholic Beverage Commission have been received. If the documentation is not required at the time the venue plan is approved by the Board of Adjustment, the documentation shall be submitted to City staff as part of the application for a special function permit;
- n. Documentation of the 501(c)(3) status of the non-profit hosting the event or benefiting from the event shall be submitted as part of the application for a special exception;
- o. The Board of Adjustment shall consider the density and kind of development surrounding the property as part of its decision for any terms or conditions that may be applied to a special exception granted for a special function;
- p. Such other reasonable terms and conditions as may be prescribed by the Board of Adjustment to assure that the special function will not unreasonably impact the use and enjoyment of adjoining properties.

The Board shall have the authority to revoke the special exception upon a determination that the special functions are being conducted in a manner that adversely impacts the use and enjoyment of adjoining properties.

SECTION 3.

This Ordinance shall be cumulative of all other ordinances of the City of Kennedale, and shall not repeal any of the provisions of such ordinance except in those instances when provisions of such ordinances are in direct conflict with the provisions of this ordinance, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, 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 5.

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 6.

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 7.

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 8.

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 ____ day of _____, 2015.

MAYOR

Attest:

CITY SECRETARY

Effective Date: _____

Approved As To Form And Legality:

CITY ATTORNEY



Date: January 19, 2015

Agenda Item No: REGULAR ITEMS - C.

I. Subject:

Case PZ 14-11 Public hearing and consideration of Ordinance 563 approval regarding a request by the City of Kennedale to amend Section 17-421 "Schedule of uses and off-street parking requirements" of Article VI "Zoning" of Chapter 17 "Planning and Land Development" of the Kennedale City Code and Section 17-431 "Definitions" of Article VI "Zoning" of Chapter 17 "Planning and Land Development" of the Kennedale City Code.

1. Staff presentation
2. Public hearing
3. Staff summary and recommendation
4. Action by the City Council

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

Request: amend the Schedule of Uses and definitions sections of the city code

Location: n/a

Applicant: City of Kennedale

The ordinance under consideration would amend the Schedule of Uses to allow for a transition in the Industrial zoning district to a more light industrial character. Some very intensive industrial uses would no longer be permitted as new uses, but for the most part, heavy industrial uses are not recommended to be removed from the Schedule of Uses entirely. Instead, these uses would (if the ordinance is approved) require a special exception or conditional use permit for new instances of these uses to be permitted. Please note that existing heavy industrial uses would not be eliminated with this change to the Schedule of Uses. Such uses would be considered legal non-conforming uses and could remain in operation. In addition, please note that existing heavy industrial uses that have received a special exception are considered conforming uses, rather than "grandfathered" or legal non-conforming uses.

The attached ordinance for your consideration includes a copy of the table from section 17-421 as an exhibit. Additions or edits to the Schedule of Uses are marked with underlined text, except for uses that are proposed to be eliminated, which are struck out. There are a few changes from the suggestions I brought to you before; the changes were based on comments from staff persons on the Development Review Committee.

Recommendation from the Planning & Zoning Commission.

The Planning & Zoning Commission considered this case during its meeting on December 18th and voted to

recommend approval. No one attended the public hearing.

Action by the City Council.

The Council may vote to approve or recommend the request, or you may postpone the case until a later date.

For your reference, sample motions are listed below.

Sample motions.

I make a motion to recommend approval of Case PZ 14-10.

I make a motion to recommend denial of Case PZ 14-10.

I make a motion to continue Case PZ 14-10 until .

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

Approve

VIII. Alternative Actions:

IX. Attachments:

1.	PZ 14-11 Ordinance 563	Ordinance 563.docx
2.	PZ 14-11 Ordinance Exhibit A	PZ 14-11 ordinance Exhibit A.docx

ORDINANCE NO. 563

AN ORDINANCE AMENDING ARTICLE VI OF CHAPTER 17 OF THE KENNEDALE CITY CODE (1991), AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF KENNEDALE, TEXAS BY AMENDING SECTION 17-421 "SCHEDULE OF USES AND OFF-STREET PARKING REQUIREMENTS" AND SECTION 17-431 "DEFINITIONS" OF ARTICLE VI "ZONING" OF CHAPTER 17 "PLANNING AND LAND DEVELOPMENT" OF THE KENNEDALE CITY CODE; 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, in order to promote the public health, safety and general welfare the City Council desires to adopt the proposed amendment to its city code in order to implement the portions of the comprehensive land use plan pertaining to the Light Industrial character zone; 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 Planning and Zoning Commission of the City of Kennedale, Texas held a public hearing on December 18, 2014, and the City Council of the City of Kennedale, Texas held a public hearing on January 19, 2015, 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.

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

SECTION 1.

The Zoning Ordinance of the City of Kennedale, Texas, as amended, is hereby amended by amending Section 17-421 "Schedule of uses and off-street parking requirements" as shown on Exhibit A, attached to this ordinance.

ORDINANCE NO. 563

SECTION 2.

The Zoning Ordinance of the City of Kennedale, Texas, as amended, is hereby amended by amending Section 17-431 "Definitions" to add the following definitions.

Cold storage plant means a facility, area, or apparatus where refrigerated or frozen materials, such as food, furs, or other products, are processed, sold, packaged, or kept in protective storage.

Electroplating means the process of applying a metal coating onto an object, through use of an electrochemical process. An electroplating operation may be a captive shop, which is part of a larger plant or operation that electroplates products within the same operation, or may be a job shop, which does electroplating work on products produced by other companies, rather than on its own products.

Light fabrication means the variety of industrial activities involving the manufacture and assembly of items when such activities employ substantially noiseless and inoffensive power sources, use hand labor or quiet machinery and processes, and are free from neighborhood disturbing agents, such as odors, gas, fumes, smoke, cinders, flashing or excessively bright lights, excessive refuse matter, electromagnetic radiation, heat, or vibration.

Machine shop means an establishment, including tool and die shops, that turns, shapes, planes, mills, or otherwise reduces or finishes metal by machine-operated tools.

Metal fabrication means a facility that forms, welds, and assembles metal pieces in order to manufacture, service, or repair sheet metal products, including for the purposes of creating art, but does not conduct metal finishing as that term is defined by the EPA in 40 CFR, Part 433, and where welding may be an incidental activity but is not the primary activity conducted at the facility.

Mining, extraction operation means an establishment that extracts, removes, or stockpiles naturally occurring earth materials, including soil, sand, gravel, coal, or other materials found in the earth, and also including the excavation of materials for ponds or lakes. Such activities incidental to an approved plat or excavation permit, incidental to construction with a building permit, or for governmental or utility construction projects such as streets, alleys, drainage, gas, electrical, water, and telephone facilities and similar projects, or the extraction, removal, or stockpiling of earth materials incidental to construction of landscaping, retaining walls, fences, and similar activities consistent with the land use allowed at the site of removal, or gas drilling and production are not considered mining or extraction operations under this definition.

Packaging operation means an establishment encompassing the activities involved in combining a product with its packaging on a packaging line.

ORDINANCE NO. 563

Vehicle conversion facility means an establishment that, before the retail sale of a motor vehicle: (a) assembles, installs, or affixes a body, cab, or special equipment to a chassis; or (b) substantially adds to, subtracts from, or modifies a previously assembled or manufactured motor vehicle other than a motor home, ambulance, or fire-fighting vehicle.

Welding shop means an establishment whose primary function is to perform the joining together of metal pieces or parts through riveting, welding, flame-cutting, or other fire or spark-producing operation, otherwise known as "hot work." A welding operation may include related operations such as joining, cutting, and soldering. A welding shop may be a captive shop, which is part of a larger plant or operation that welds products within the same operation, or may be a job shop, which conducts welding on products produced by other companies, rather than on its own products.

SECTION 3.

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 4.

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 5.

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 6.

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.

ORDINANCE NO. 563

SECTION 7.

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 8.

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 DAY OF JANUARY 19, 2015.

MAYOR

ATTEST:

CITY SECRETARY

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY

Exhibit "A"

Proposed changes to the Schedule of Uses are marked as follows.

~~Strike through~~ means the use will no longer be permitted with the zoning district indicated.

Underline means the Schedule of Uses has been amended to change the permitted status of the land use. For example, the use may have been allowed by right but will now require a special exception, or it may not have been permitted before but is permitted now.

Uses with no changes are marked with a gray background.

Sec. 17-421. - Schedule of uses and off-street parking requirements.

- (a) *Schedule of uses and off-street parking established.* Land and buildings in each of the following classified districts may be used for any of the following listed uses but no land shall hereinafter be used and no building or structure shall hereinafter be occupied, used, erected, altered, removed, placed, demolished, or converted which is arranged or designed to be used for other than those uses specified for the district in which it is located as set forth by the following schedule of uses:

X	Designates use permitted in district
	Designates use prohibited in district
S	Use permitted with special exception
CUP	Designates use permitted with conditional use permit

Note: Gross floor area is abbreviated as g.f.a. Also, any numbers in parenthesis represents a footnote and all footnotes are found at the end of this schedule of uses.

	AG	R-1	R-2	R-3	OT	D	MF	MH	C-0	C-1	C-2	I	PARKING
Residential Use:													
Single-family dwelling	X	X	X	X	X	X	X	X			(1)	(1)	2/Dwelling unit
Two-family dwelling						X	X						2/Dwelling unit
Three-family dwelling							X						2/Dwelling unit
Four-family dwelling							X						2/Dwelling unit
Apartment or multi-family building							X						2.5/Dwelling unit
Manufactured home								X					2/Dwelling unit
Industrialized housing	X	X	X	X	X	X	X	X					2/Dwelling unit
Manufactured home park								X					2/Dwelling unit

Townhouse							X							2/Dwelling unit
Condominium							X							2/Dwelling unit
Recreational vehicle park								X						1/Dwelling unit
Boarding (rooming) house							X							1/Dwelling unit
Child day care home	X	X	X	X	X	X	X	X						2/Dwelling unit
Group home	S	S	S	S	S	S	X	S						2/Dwelling unit
Group day care home	S	S	S	S	S	S	S	S						Specified by
Special Exception														
Halfway house	S	S	S	S	S	S	X	S						1/2 Occupants
Guest house/servant quarters	S	S	S	S	S	S	S	S						1/Dwelling unit
Basketball court (private)	X	X	X	X	X	X	X	X			<u>X</u>	<u>X</u>		<u>4 per court</u>
Tennis court (private)	X	X	X	X	X	X	X	X			<u>X</u>	<u>X</u>		<u>1 per court</u>
Swimming pool (private)	X	X	X	X	X	X	X	X			<u>X</u>	<u>X</u>		None <u>10 minimum</u>
Home occupation (2)	X	X	X	X	X	X	X	X						None
Agriculture/Ranch Uses:														
Farm or ranch	X	S	S	S	S									2/Dwelling unit
Farmer's market	S									<u>X</u>	X	X		2/Stall
Grainery or gin ⁽⁶⁾	S											<u>S</u>		1/2,000 Site area

Micro-winery, with vineyard	X													1/300 G.F.A. of area open to public, plus 1/2,000 sq. ft. of site area not open to public; 1/2,000 sq. ft. of site area if not open to public
Orchard	X	X	X	X	X	X	X	X		X	X	X		1/Employee
Produce stand	S								X	X	X	<u>X</u>		1/200 G.F.A.
Rodeo ground, arena (public)	S											S		Specified by Special Exception
Stable, private	X	S	S	S	S	S	S	S		S	S	S		None
Stable, public	X										<u>S</u>	S		1/2 Stalls
Vineyard	X													1/300 G.F.A. of area open to public, plus 1/2,000 sq. ft. of site area not open to public; 1/2,000 sq. ft. of site area if not open to public
Winery, with vineyard	X													1/300 G.F.A. or see subsection 17-416(e), whichever is greater

Utility/Solid Waste Uses:													
Cable TV lines	X	X	X	X	X	X	X	X	X	X	X	X	None
Electric substations	S	S	S	S	S	S	S	S	S	S	S	X	None
Gas regulations/gate station	S	S	S	S	S	S	S	S	S	S	S	X	None
Gathering station	S	S	S	S	S	S	S	S		S	S	S	None
Microwave tower	S	S	S	S	S	S	S	S	S	S	S	X	None
Radio & television tower	S	S	S	S	S	S	S	S	S	S	S	X	None
Railroad freight terminal												<u>X</u> <u>S</u>	1/Employee
Railroad yard												<u>X</u> <u>S</u>	1/Employee
Recycling collection facility										S	S	S	1/Employee
Refuse transfer station	S											S	1/Employee
Sewer lift station	X	X	X	X	X	X	X	X	X	X	X	X	None
Telephone exchange	S	S	S	S	S	S	X	X	X	X	X	X	None
Utility poles and lines	X	X	X	X	X	X	X	X	X	X	X	X	None
Utility mains and lines	X	X	X	X	X	X	X	X	X	X	X	X	None
Wastewater treatment plant	S	S	S	S	S	S	S	S	S	S	S	X	2 Minimum
Water pump station	X	X	X	X	X	X	X	X	X	X	X	X	None
Water storage tank	X	X	X	X	X	X	X	X	X	X	X	X	None
Water treatment plant	S	S	S	S	S	S	S	S	S	S	S	X	2 Minimum

Water well	S	S	S	S	S	S	S	S	S	S	S	S	S	None
Government & Institutional Uses:														
Athletic field or stadium	S	S	S	S	S	S	S	S	S	S		X	X	1/4 Seats
Auditorium or amphitheater											X	X	X	1/4 Seats
Basketball courts (public)	S	S	S	S	S	S	S	S	S	S		X	X	<u>4 per court</u>
Baseball/softball (public)	S	S	S	S	S	S	S	S	S	S		X	X	<u>4 per field</u>
Cemetery or mausoleum	S	S	S	S	S	S	S	S	S	S	S	S	S	None
Church or rectory	X	X	X	X	X	X	X	X	X	X	X	X	X	1/4 Seats
College or university		S	S	S	S	S	S	S	S	X	X	X	X	1/3 Students
Community center	S	S	S	S	S	S	X	X	X	X	X	X	X	1/200 G.F.A.
Convalescent center							X				X			1/3 Beds
Fire station	X	X	X	X	X	X	X	X	X	X	X	X	X	2/Bay
Government office										X	X	X	X	1/300 G.F.A.
Hospital	S	S	S	S	S	S	S	S	S	S		X	X	1/Bed
Library	X	X	X	X	X	X	X	X	X	X	X	X	X	1/300 G.F.A.
Museum or art gallery	S	S	S	S	S	S	S	S	S	X	X	X	X	1/200 G.F.A.
Park or playground	X	X	X	X	X	X	X	X	X	X	X	X	X	1/2000 Site area

Police station	S	S	S	S	S	S	S	S	S	X	X	X	X	2 Visitor spaces
Post office	X	X	X	X	X	X	X	X	X	X	X	X	X	1/400 G.F.A.
Prison or penitentiary													S	1/6 Cells
Sanitarium													S	1/6 Beds
School (nursery or kindergarten)	S	S	S	S	S	S	S	S	S	X	X	X	X	1/10 Children
School (trade or business)										S	S	X	X	1/3 Students
School (elementary or middle)	X	X	X	X	X	X	X	X	X	X	X	X	X	1/10 Students
School (high school)	X	X	X	X	X	X	X	X	X	X	X	X	X	1/3 Students
Soccer fields (public)	S	S	S	S	S	S	S	S	S	S		X	X	
Swimming pool (public)	S	S	S	S	S	S	S	S	S	S		X	X	10 Minimum
Tennis court (public)	S	S	S	S	S	S	S	S	S	S		X	X	2/Court
Commercial Uses:														
Amusement park (outside)												X	X	1/500 Site area
Animal shelter	S											X	X	1/500 G.F.A.
Antique shop										X	X	X	X	1/200 G.F.A.
Apparel or clothing store										CUP	X	X		1/200 G.F.A.
Appliance repair shop											X	X	X	1/400 G.F.A.

Appliance store (retail)									X	X	X	X	1/400 G.F.A.
Arcade										X	X	X	1/200 G.F.A.
Art supply store									X	X	X	X	1/300 G.F.A.
Athletic or fitness club										X	X	X	1/200 G.F.A.
Auction										X	X	X	1/200 G.F.A.
Audio store (retail)									X	X	X	X	1/200 G.F.A.
Auto inspection station										S	X	X	2/Service Bay
Auto paint & body shop											X	X	1/200 G.F.A.
Auto parts store									S	X	X	X	1/300 G.F.A.
Auto rental									S	S	X	X	1.25/Rental car
Auto repair garage											X	X	3/Service bay
Auto sales lot											X	X	1/1000 Site area
Bakery (retail)									X	X	X	S	1/200 G.F.A.
Bank or financial institution										X	X	<u>X</u>	1/300 G.F.A.
Bed & breakfast accommodations	S	S	S	S	S	S	S	X	S	X	X		1/Guest room
Barber or beauty shop	S	S	S	S	S	S	S	S	X	X	X		3/Chair
Bicycle sales and repair									X	X	X	<u>X</u>	1/300 G.F.A.
Boat sales											X	X	1/400 G.F.A.
Boat storage											X	X	1/1000 Site area

Book store										CUP	X	X		1/200 G.F.A.
Bowling alley											X	X	X	6/Lane
Brewery												X	X	See subsection 17-416(e)
Building materials/lumber yard												X	X	1/500 G.F.A.
Bus terminal											X	X	X	1/300 G.F.A.
Business office											X	X	X	1/300 G.F.A.
Cabinet shop											S	X	X	1/400 G.F.A.
Camera store (retail)										X	X	X		1/200 G.F.A.
Car wash											S	X	X	1/Wash Bay
Carnival or circus											S	S	S	Specified by Special Exception
Carpet store (retail)										X	X	X	<u>X</u>	1/400 G.F.A.
Cemetery monument sales												X	X	1/400 G.F.A.
Child care center or facility											X	X	X	1/6 Children
Christmas tree sales	S									S	S	X	X	1/1000 Site area
Computer store (retail/service)										X	X	X		1/200 G.F.A.
Contractor yard (outside storage)												X	X	1/2000 Site area
Convenience stores											X			1/400 G.F.A.

Dental clinic or office										X	X		1/200 G.F.A.
Department store									X	X	X		1/200 G.F.A.
Electrical sales & service									S	X	X	X	1/400 G.F.A.
Electronics store (retail)									X	X	X		1/200 G.F.A.
Employment agency										X	X		1/200 G.F.A.
Farm implement sales											X	X	1/400 G.F.A.
Feed store											X	X	1/400 G.F.A.
Feed store with animal sales											S	S	1/400 G.F.A.
Firewood sales	S										X	X	1/1000 Site area
Florist shop									X	X	X		1/300 G.F.A.
Flea market (inside)											S	S	1/200 G.F.A.
Flea market (outside)											S	S	1/1000 Site area
Fraternity/sorority lodge										X	X		1/200 G.F.A.
Furrier										S	<u>S</u>	<u>S</u>	1/400 G.F.A.
Furniture store (retail)									X	X	X		1/400 G.F.A.
Game hall										S	X	X	1/100 G.F.A.
Gift or novelty shop									CUP	X	X		1/200 G.F.A.
Golf course	X	S	S	S	S	S	S	S			X	X	2/Green
Golf course, miniature											X	X	1.5/Hole

Golf driving range	X										X	X	1/Driving tee
Grocery store									X	X	X		1/200 G.F.A.
Gun shooting range (indoor)	S										S	X	1/500 G.F.A.
Gunsmith shop									X	X	X	X	1/300 G.F.A.
Hardware store									X	X	X	<u>X</u>	1/400 G.F.A.
Heating/AC sales & service										X	X	X	1/400 G.F.A.
Heavy equipment sales											X	X	1/1000 Site area
Hobby shop									X	X	X		1/200 G.F.A.
Hotel or motel									S	S	X	X	1/Guest room
Impounded vehicle storage facility												S	
Insurance sales office										X	X		1/400 G.F.A.
Jewelry store									X	X	X		1/200 G.F.A.
Kennel	S									S	<u>S</u>	<u>S</u>	1/400 G.F.A.
Laboratory, medical or dental										S	X	X	1/400 G.F.A.
Large retail facility ⁴									CUP	CUP	CUP	CUP	1/200 G.F.A.
Laundry or dry cleaners									X	X	X	X	1/400 G.F.A.
Lawnmower sales & service										S	X	X	1/400 G.F.A.
Leather goods shop (retail)									X	X	X	X	1/400 G.F.A.
Lithographic shop										X	X	X	1/300 G.F.A.

Locksmith shop											X	X	X	1/300 G.F.A.
Meat, poultry & fish market									S		X	X	X	1/300 G.F.A.
Medical clinic or office											X	X		1/300 G.F.A.
Micro-brewery											X	X	X	1/300 G.F.A.
Micro-winery, without vineyard											X	X	X	1/300 G.F.A.
Mini-warehouse												X	X	1/500 G.F.A.
Manufactured home sales lot												X	X	1/1000 Site area
Massage establishment												S	S	1/200 G.F.A.
Mortuary or funeral home											S	X	X	1/Sanctuary Seats
Motorcycle sales												X	X	1/200 G.F.A.
Movie theater (drive-in)												X	X	1/Employee
Movie theater (indoor)									CUP		X	X	<u>S</u>	1/3 Seats
Musical instrument store									X		X	X		1/200 G.F.A.
Newspaper office											X	X		1/200 G.F.A.
Newsstand									CUP		X	X		1/200 G.F.A.
Nightclub or dance hall											S	X	X	1/100 G.F.A.
Office supply store									X		X	X		1/200 G.F.A.
Optical clinic or office											X	X		1/200 G.F.A.
Optical dispensary store									X		X	X		1/200 G.F.A.

Paint sales store (retail)									X	X	X	<u>X</u>	1/200 G.F.A.
Paintball sports, survival games	S										X	X	1/500 Site area
Parking lot (commercial, for fee)	S									S	S	X	
Pawnshop										S	X		1/200 G.F.A.
Pet grooming shop									S	X	X		1/200 G.F.A.
Pet shop									X	X	X		1/200 G.F.A.
Pharmacy or drug store									X	X	X	<u>X</u>	1/200 G.F.A.
Photography studio									CUP	X	X		1/200 G.F.A.
Picture framing shop									X	X	X		1/200 G.F.A.
Plant nursery	S										X	X	1/400 G.F.A.
Plumbing sales and service										X	X	X	1/400 G.F.A.
Pool or billiard hall										S	X	<u>S</u>	1/100 G.F.A.
Print shop									S	X	X	X	1/400 G.F.A.
Private club (serving alcohol)										S	X	X	1/100 G.F.A.
Professional offices										X	X	X	1/300 G.F.A.
Racquetball court										X	X	X	2/Court
Real estate or leasing office	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)		X	X	X	1/300 G.F.A.
Recording studio										X	X	<u>X</u>	1/300 G.F.A.
Recreational vehicle sales											X	X	

Recreational vehicle storage											X	X	1/400 G.F.A.
Rental store										X	X	X	1/400 G.F.A.
Restaurant or cafe (inside)									X	X	X	X	1/3 Seats
Restaurant (drive-in)									X	X	X	X	1/100 G.F.A.
Restaurant (kiosk)									X	X	X	X	1/100 G.F.A.
Retail sales, alcohol									X	X	<u>X</u>		1/200 G.F.A.
Secondhand store									X	X	X	X	1/200 G.F.A.
Service station										X	<u>X</u>	<u>X</u>	4 Minimum
Sexually oriented business											X	X	1/100 G.F.A.
Shoe or boot store									X	X	X		1/200 G.F.A.
Sign shop										X	X	X	1/400 G.F.A.
Skating rink										X	X	X	1/400 G.F.A.
Snow cone stand									S	X	X		2 Minimum
Sporting goods store									X	X	X		1/200 G.F.A.
Tack store										X	X	X	1/400 G.F.A.
Tailor or seamstress shop										X	X		1/300 G.F.A.
Tanning salon									S	X	X	X	1/200 G.F.A.
Tattoo shop										S	X	<u>S</u>	1/200 G.F.A.
Taxidermist											S	<u>S</u>	1/400 G.F.A.
Tire sales, repair, & installation										S	X	X	1/400 G.F.A.

Title & abstract office										X	X		1/200 G.F.A.
Tool & equipment rental											X	X	1/400 G.F.A.
Trailer sales & rental											<u>CUP</u>	X	1/1000 Site area
Travel agency										X	X		1/300 G.F.A.
Truck rental											<u>CUP</u>	X	1/400 G.F.A.
Truck repair											<u>CUP</u>	X	1/400 G.F.A.
Truck sales											<u>CUP</u>	X	1/1000 Site area
Truck wash											<u>CUP</u>	X	2/Wash bay
Upholstery shop										X	X	X	1/400 G.F.A.
Vehicle storage facility												S	Specified by Special Exception
Vehicular racing facility											S	S	Specified by Special Exception
Veterinary clinic										X	X	X	1/300 G.F.A.
Veterinary hospital											S	S	1/300 G.F.A.
Video store									CUP	X	X	X	1/200 G.F.A.
Washateria (self-service)							X	X		X	X	X	1/Wash machine
Winery, without vineyard											X	X	See subsection 17-416(e)

Industrial Uses:													
Airport											S	S	Specified by Special Exception
Ammonia manufacturing												<u>S</u>	See subsection-17-416(e)
Amusement complex												<u>S</u>	1 per 4 occupant load
Apparel manufacturing												<u>S</u>	See subsection 17-416(e)
Appliance manufacturing												<u>S</u>	See subsection 17-416(e)
Artificial limb manufacturing												<u>S</u>	See subsection 17-416(e)
Asphalt batching plant												S	See subsection 17-416(e)
Bakery, commercial												X	See subsection 17-416(e)
Bleach manufacturing												S	See subsection-17-416(e)
Bookbinding & publishing											S	X	See subsection 17-416(e)
Bottling plant											S	<u>S</u>	See subsection 17-416(e)
Box manufacturing												X	See subsection 17-416(e)

Brick or tile manufacturing												<u>S</u>	See subsection 17-416(e)
Canning operation												<u>S</u>	See subsection 17-416(e)
Carpet manufacturing												<u>S</u>	See subsection 17-416(e)
Chemical storage or manufacturing												S	See subsection 17-416(e)
Chlorine manufacturing												S	See subsection 17-416(e)
Cold storage plant												X	See subsection 17-416(e)
Composite manufacturing												S	See subsection 17-416(e)
Composting (commercial)	S											S	See subsection 17-416(e)
Concrete batching plant											S	<u>S</u>	See subsection 17-416(e)
Concrete product casting plant												X	See subsection 17-416(e)
Contractor yard (outside storage)											X	X	See subsection 17-416(e)
Creamery												X	See subsection 17-416(e)
Creosote manufacturing												S	See subsection 17-416(e)
Distribution center (small)										S	X	X	See subsection

													17-416(e)
Distribution center (large)											S	X	See subsection 17-416(e)
Distillation plant												S	See subsection 17-416(e)
Dyeing plant												<u>S</u>	See subsection 17-416(e)
Electrical components manufacturing												X	See subsection 17-416(e)
Electroplating ⁽⁵⁾												<u>S</u>	See subsection 17-416(e)
Envelope manufacturing												X	See subsection-17-416(e)
Explosives manufacturing												S	See subsection 17-416(e)
Fertilizer manufacturing	S											S	See subsection-17-416(e)
Fiberglass manufacturing												S	See subsection-17-416(e)
Fireworks manufacturing												S	See subsection-17-416(e)
Food processing												X	See subsection 17-416(e)
Foundry												S	See subsection 17-416(e)
Freight terminal, motor												<u>S</u>	See subsection-17-416(e)

freight terminal, railroad												<u>S</u>	See subsection- 17-416(e)
Furniture manufacturing											S	<u>S</u>	See subsection 17-416(e)
Garment manufacturing												<u>S</u>	See subsection- 17-416(e)
Glass manufacturing												<u>S</u>	See subsection 17-416(e)
Glue manufacturing												S	See subsection 17-416(e)
Grainery or gin ⁽⁶⁾												<u>S</u>	See subsection 17-416(e)
Gypsum manufacturing												S	See subsection- 17-416(e)
Heliport or helistop											S	S	See subsection 17-416(e)
Ice cream plant												X	See subsection 17-416(e)
Ice plant												X	See subsection 17-416(e)
Incinerator												S	See subsection- 17-416(e)
Insecticide processing												S	See subsection- 17-416(e)
Junk yard												S	See subsection 17-416(e)
Laundry plant												X	See subsection-

													17-416(e)
Light fabrication plant											S	X	See subsection 17-416(e)
Machine shop											S	X	See subsection 17-416(e)
Marble manufacturing												X	See subsection-17-416(e)
Mattress manufacturing												X	See subsection-17-416(e)
Meat, poultry & fish-processing											S	X	See subsection-17-416(e)
Metal fabrication												<u>S</u>	See subsection 17-416(e)
Metal plating ⁽⁵⁾												<u>S</u>	See subsection 17-416(e)
Metal stamping and extrusion												<u>S</u>	See subsection 17-416(e)
Mining, extraction operation												S	See subsection-17-416(e)
Monument works												X	See subsection 17-416(e)
Packaging operation											S	<u>S</u>	See subsection 17-416(e)
Paint manufacturing												X	See subsection-17-416(e)
Pallet manufacturing												X	See subsection 17-416(e)

Paper mill													X	See subsection- 17-416(e)
Paper products- manufacturing													X	See subsection- 17-416(e)
Pesticide processing													S	See subsection- 17-416(e)
Petroleum products- (wholesale)													S	See subsection- 17-416(e)
Petroleum refinery or- storage													S	See subsection- 17-416(e)
Pharmaceutical manufacturing													X	See subsection 17-416(e)
Planing mill													X	See subsection 17-416(e)
Plastic product manufacturing													S	See subsection 17-416(e)
Pottery manufacturing													X	See subsection 17-416(e)
Radio transmitting station											S	S	S	See subsection 17-416(e)
Recycling processing plant													S	See subsection- 17-416(e)
Rendering plant													S	See subsection- 17-416(e)
Rock crushing plant													S	See subsection- 17-416(e)
Salvage yard													S	See subsection

													17-416(e)
Smelter plant												S	See subsection- 17-416(e)
Tanning plant												S	See subsection 17-416(e)
Television transmitting station										S	S	S	See subsection 17-416(e)
Temporary construction office	S	S	S	S	S	S	S	S		S	S	X	See subsection 17-416(e)
Textile manufacturing												X	See subsection 17-416(e)
Tire manufacturing												S	See subsection- 17-416(e)
Tire recapping plant												S	See subsection- 17-416(e)
Vehicle conversion facility											X	X	See subsection 17-416(e)
Warehouse											S	X	See subsection 17-416(e)
Welding shop ⁽⁵⁾											S	X	See subsection 17-416(e)

Notes to schedule of uses:

- (1) Allowed with mini-warehouse use only.
- (2) Home occupations are permitted when in accordance with section 17-423 hereof. Home occupations not specifically permitted in section 17-423 may be permitted only with a specific use permit.
- (3) Allowed for a period of one (1) year or until the development is sold out, whichever is longer.

- (4) A facility offering retail sales and/or services, whether occupied by one (1) or multiple tenants, that is comprised of more than fifty thousand (50,000) square feet of floor area, which includes gross floor area, outdoor storage areas, and any outside area that provides associated services to the public, including, without limitation, outdoor merchandise display. The floor area does not include outdoor motor vehicle parking or loading areas. In addition to other parking regulations that apply, parking for a large retail facility is permitted only as an accessory use, and is allowed only when immediately adjacent to a large retail facility that is located within the corporate limits of the city.
- (5) A captive shop shall not require a special exception if (a) the shop does not take up more than twenty-five (25) percent of the gross floor area of the establishment and (b) the business establishment is not located adjacent to a property zoned for residential use or adjacent to a residential use that existed prior to the establishment of the business at that location.
- (6) A grainery shall be permitted by right in an "I" Industrial zoning district if: (1) the operations are entirely enclosed in a structure of 5,000 square feet or less, and (2) the facility and operations no noise, odors, dust, or pollutants are emitted. In addition, no tractor-trailers or other such oversize vehicles are permitted on site.

Date: January 19, 2015

Agenda Item No: REGULAR ITEMS - D.

I. Subject:

Consider approval of Resolution 442 adopting a community revitalization plan for a portion of Kennedale overlapping with the Tax Increment Reinvestment Zone boundaries

1. Staff presentation
2. Public hearing
3. Staff response and summary
4. Action by the City Council

II. Originated by:

III. Summary:

Over the past year, the City has been contacted by several developers interested in building tax credit housing in Kennedale. The State of Texas supports two kinds of tax credit housing: multi-family housing and senior housing. Kennedale has a need for the development of senior housing, both affordable and market rate, because it lacks a range of housing options for seniors now. At this time, seniors have only two options if they would like to remain in Kennedale: (1) continue to live in their homes as they age, even if they can no longer physically maintain the home and its yard or if they can no longer afford to maintain due to living on a fixed income; or (2) move into the nursing home. Any senior resident looking for a home designed to accommodate active seniors must move away from Kennedale.

The comprehensive plan calls for providing a range of housing options. Under Principle # 2 -- Economic Prosperity, the goals include:

"Promote access to housing. The 1949 Housing Act promised a 'decent home...for every American family.' This necessitates providing housing options for people of varying financial means and residential preferences. Provide the regulatory framework and developer support to provide quality housing for residents."

It would be to the city's benefit, therefore, if a developer were to build senior housing in Kennedale, preferably a mix of market-rate and affordable housing to serve a variety of residents.

In addition to needing senior housing, Kennedale also needs residential development in the TIRZ. Development would provide revenue for the TIRZ and would also provide much-needed customers for businesses in Kennedale and in TownCenter in particular.

Staff Recommendation.

With these factors in mind, staff recommends adoption of a Community Revitalization Plan in order to support establishment of a tax credit senior housing development within the TIRZ. A Community Revitalization Plan is included with this staff report for your consideration. The ideal location would be the property just south of Sonora Park so that seniors living there would have easy access to a city park, as well as the senior center and the urgent care clinic. However, since the City is not working with a specific developer at this time, the Plan does not identify a location for housing.

Please note that adoption of the resolution and plan does not guarantee senior housing will be built. Any

developer wishing to build senior housing using tax credits in Kennedale will first have to go through a competitive application and selection process through the State of Texas's Department of Housing and Community Affairs. Adopting the attached plan is the first step in achieving a senior housing development.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution No. 442, adopting community revitalization plan	Resolution, community revitalization plan FINAL.docx
2.	Kennedale CRP	community revitalization plan.docx

CITY OF KENNEDALE

RESOLUTION NO. 442

A RESOLUTION OF THE CITY OF KENNEDALE ADOPTING THE SOUTHWESTERN KENNEDALE COMMUNITY REVITALIZATION PLAN

WHEREAS, the City of Kennedale, Texas, (the "City ") 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 expects that the Southwestern Kennedale Community Revitalization Plan will revitalize the neighborhood known as the Tax Increment Reinvestment Zone Number One and address in a substantive and meaningful way the following material factors:

1. *Adverse environmental conditions, natural or manmade, that are material in nature and are inconsistent with the general quality of life in typical average income neighborhoods;*
2. *Presence of inadequate transportation or infrastructure;*
3. *Presence of blight, such as excessive vacancy, obsolete land use, significant decline in property value, or other similar conditions that impede growth;*
4. *The lack of local businesses providing employment opportunities; and*
5. *Efforts to promote diversity in housing.*

WHEREAS, the City Council posted notices and conducted a public hearing regarding the Southwestern Kennedale Community Revitalization Plan, attached hereto as Exhibit "A", and;

WHEREAS, the City Council has determined that it is in the interests of the public health, safety, and welfare to approve and adopt the Southwestern Kennedale Community Revitalization Plan.

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

Section 1. The recitals, findings, and determinations contained in the preamble to this Resolution are incorporated into the body of this Resolution as if fully set forth herein and are hereby found and declared to be true and correct legislative findings and are adopted as part of this Resolution for all purposes.

Section 2. The City Council hereby approves the Southwestern Kennedale Community Revitalization Plan, attached hereto as Exhibit "A" and incorporated herein for all purposes.

Section 3. This Resolution shall take effect immediately upon its passage.

PASSED AND APPROVED by the City Council of the City of Kennedale, Texas on the 19th day of January, 2015.

Brian Johnson, Mayor

ATTEST:

Leslie Galloway, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Wayne Olson, City Attorney

Kennedale Community Revitalization Plan

Located in the southern/southwestern region of
Kennedale and contiguous with Tax Increment
Reinvestment Zone Number One

Adopted by the City of Kennedale

1/19/2015



Kennedale community revitalization plan

Overview

Kennedale is a city of approximately 7,500 people located immediately southeast of Fort Worth in the Dallas-Fort Worth Metroplex. One of the largest selling points for the City of Kennedale is its location between Fort Worth's vibrant downtown and the booming development of Arlington. The location gives residents and businesses the ability to be somewhat removed from the hustle and bustle of the larger cities, while remaining within a "stone's throw" of many major regional attractions.

Though it was not incorporated until 1947, Kennedale was founded in the 1880s. Kennedale was known in the late 19th and early 20th century for its agriculture, brickyards, and mineral wells. These elements of the local economy, along with the city's location along the Fort Worth and New Orleans Railway (today the Union Pacific Railroad) and the Mansfield Cardinal Road, led to Kennedale's early prosperity. Most of the city's downtown was destroyed by a fire in 1908 and was not rebuilt, which resulted in few historic structures remaining in Kennedale. As development in Arlington grew out toward Kennedale, business migrated toward this neighboring city, and Kennedale no longer has a strong retail or service economy. Although the city has made good strides in attracting new commercial businesses, it still has not reached its goal to provide a good range of retail and commercial services to residents, and the continued growth in the non-industrial sector of the local economy depends heavily on increasing the city's population in the southern/southwestern portion of the city.

In the past, one of Kennedale's greatest challenges has been the presence of sexually oriented businesses within the city. These businesses were primarily located near the intersection of Kennedale Parkway and IH-20 – the city's front door. Over the last year, these businesses have closed or relocated outside of Kennedale. In light of the relocation of these businesses, the City of Kennedale has positioned itself for rebranding and redevelopment. However, the city still faces significant obstacle to development in the southern portion of the city, largely due to the presence of race tracks.

Kennedale has also been historically known for its three race tracks. All of these facilities are located in the south-southwest part of the city along Kennedale New Hope Road between downtown and Hudson Village Creek Road. These race tracks have long been a barrier for development within the City of Kennedale. Developers shy away from this area due to the stigma associated with the race tracks. In addition, they are a nuisance to many of the current residents, who have long complained about the elevated noise levels.

In July 2012, the City of Kennedale City Council adopted a Tax Increment Reinvestment Zone ("TIRZ") as a way of targeting assistance to the designated area to encourage new development and redevelopment. The establishment of the New Hope Road TIRZ is expected to aid in transitioning the race track properties and other obsolete uses to more suitable uses, and the Community Revitalization Plan ("Plan") is expected to encourage redevelopment in the TIRZ and Plan area.

Community Revitalization

The Southwestern Kennedale Community Revitalization Plan provides a framework for planning for the portion of Kennedale within the recently-adopted TIRZ located in the southwestern part of the city. The Plan also provides a framework for designation as a Community Revitalization Plan under the Texas Department of Housing and Community Affairs Qualified Allocation Plan. Additional planning specific to this area will use this Plan as a guide and foundation for more detailed work.

As part of encouraging a transition from incompatible uses to residential and mixed-use/small-scale and appropriate commercial uses, one purpose of the TIRZ and of the Community Revitalization Plan is to remove barriers to development. In the case of the TIRZ, lack of public infrastructure has been a barrier to redevelopment, which will be addressed through use of TIRZ revenues to build the needed infrastructure. This Plan addresses another barrier, which is hesitation on the part of developers to provide much-needed housing in this area. The City of Kennedale has already worked with property owners in the area to remove some land uses that are incompatible with residential use and to rezone some small properties to residential use. The City intends to continue working to transition the land uses in the TIRZ and Plan area by paving the way for additional housing opportunities for Kennedale residents, and for the City's growing senior population in particular.

Plan Goals

This Plan provides for action items to address specific goals in support of the TIRZ project plan and in support of the Texas Department of Housing and Community Affairs Qualified Allocation Plan's Revitalization Factors. The factors to be addressed are as follows.

1. **Environmental Conditions:** adverse environmental conditions, natural or manmade, that are material in nature and are inconsistent with the general quality of life in typical average income neighborhoods;
2. **Transportation:** presence of inadequate transportation or infrastructure;
3. **Presence of blight:** this may include excessive vacancy, obsolete land use, significant decline in property value, or other similar conditions that impede growth;
4. **Employment:** the lack of local businesses providing employment opportunities; *and*
5. **Diversity:** efforts to promote diversity, including multigenerational diversity, economic diversity, etc., where it has been identified in the planning process as lacking.

With these factors in mind, the **primary goals** of this Plan are as follows.

1. Improve housing quality and variety, with a focus on providing affordable and market-rate housing for the community's senior population.
2. Improve adverse environmental conditions and blight by eliminating potentially damaging land uses and obsolete land uses, and by providing access to public waste water facilities through the extension of public sewer lines.
3. Improve access to and quality of the roadway network within the Plan area.
4. Increase accessibility to adequate social and recreational facilities, including the public library and senior center.
5. Increase job opportunities for existing residents.
6. Improve the quality of public infrastructure.

Plan Objectives

The following objectives may be used to address Plan goals and the revitalization factors.

(1) EXTEND WASTE WATER LINES TO THE SECTIONS OF THE PLAN AREA NOT ALREADY SERVED.

The lack of adequate waste water infrastructure is an impediment to development and, over time, could become an environmental hazard and/or health hazard. Providing public sewer facilities will encourage development and avoid potential environmental problems stemming from use of septic/aerobic systems. The City will use funds generated through the TIRZ to install waste water facilities in the Plan area.

(2) IMPROVE THE MAIN ROADWAY IN THE PLAN AREA (NEW HOPE RD).

New Hope Road provides the main access--and in some cases, the only access--to many of the properties within the Plan area. The road was built as a rural county road some years ago and has one lane in each direction, with no shoulder, sidewalk, turn lanes, or curb and gutter. The lack of better access is a major impediment to development of this area. The City is therefore proposing to use money generated by the TIRZ to improve the roadway so that it has sidewalks, curb and gutter storm water conveyance, and a landscaped median. The improved road is proposed to be one lane in each direction, but the width of the travel lanes and design of the median will allow for vehicle passing in an emergency situation.

(3) ENCOURAGE DEVELOPMENT OF HOUSING FOR SENIORS.

Kennedale suffers from a lack of housing diversity. The current housing stock is somewhat homogenous in size and price. Moreover, there are no housing options designed specifically for the needs of senior residents who do not need full-time nursing care. The City of Kennedale is aware of the need to provide the means for residents to remain in Kennedale as they age, and this may include coordinating with developers to encourage the development of senior housing, including affordable senior housing.

(4) ENCOURAGE DEVELOPMENT OF A SMALL-SCALE MIXED USE DEVELOPMENT, PROVIDING JOBS AND SERVICES WITHIN THE PLAN AREA THROUGH ESTABLISHMENT OF NEW ZONING REGULATIONS TO ALLOW FOR CREATION OF AN URBAN VILLAGE.

The City of Kennedale intends to develop new zoning regulations over the next two fiscal years, including zoning codes to require or permit a mixed-used development within the Plan and TIRZ area. Kennedale's Future Land Use Plan has already designated an area within the Plan area for this kind of land use, and the City's next step is to create zoning regulations that permit a mix of uses on a small scale. A mixed-use development within the Plan area will provide jobs and can also provided needed services for residents living within the Plan area.

(5) WORK WITH OWNERS OF RACE TRACKS AND OTHER POTENTIALLY ENVIRONMENTALLY-HARMFUL BUSINESSES AND/OR OBSOLETE LAND USES TO TRANSITION THEIR PROPERTIES TO OTHER USES.

The City has already begun negotiations with several land owners who have environmentally-harmful or obsolete land uses within the Plan and TIRZ area. One race track owner has signed a development agreement with the City to transition to residential uses, and the City is in discussions with several other land owners in the area. As part of the Community Revitalization Plan, the City may act as facilitator, connecting current land owners with potential buyers or developers in order to encourage redevelopment and revitalization.

(6) ENCOURAGE DEVELOPMENT OF TRAILS ALONG NEW DEVELOPMENT TO PROVIDE ACTIVE TRANSPORTATION OPTIONS FOR RESIDENTS AND VISITORS.

As part of the zoning code updates described above under Objective 4, the City is considering adopting additional regulations to require trails as part of development near creeks within the Plan and TIRZ area. In addition, the City intends to develop trail standards and a trails master plan within the next several years. Having these documents in place will make it easier for developers to include trails as part of their projects, and it will ensure consistency and accessibility of the trail system throughout the Plan area. This will eventually connect residents in the Plan area to parks

and to civic buildings, such as the library and senior center, as well as to retail and services available in the TownCenter (downtown).

Role of Housing

The role of housing is crucial to the success of the TIRZ district and to the Community Revitalization Plan. Additional residents will provide much needed customers for local businesses, and higher property taxes generated through housing development will add to TIRZ revenues. But while any housing development would help with these two factors (customers and property taxes), development of only single family subdivisions would not meet the City's housing goals. Kennedale needs a variety of housing options, but by far the majority of the City's housing is large lot single family housing, and very little of this housing could be considered affordable, nor is it suitable for the community's older residents who do not need nursing care or assistance but can no longer maintain a single family home or a large yard. The establishment of senior housing facilities would greatly assist the City in meeting its goal of providing a range of housing options for residents of varying income levels. To this end, the City is prepared to consider proposals from developers of senior housing, affordable and market-rate, and to leverage its resources to assist quality developers in building in Kennedale.

Public Input & Plan Implementation

The City of Kennedale has gathered input on development and concerns in the Plan area through several processes. The strategic plan, *Imagine Kennedale 2015*, was developed through a year-long community input process and was adopted in 2009. This plan identified the project area as an area of concern in terms of obsolete land uses and desire for redevelopment. The goals of the comprehensive plan, adopted in 2012, were created based on input from public meetings and from an advisory group made up community members. This plan calls for development of housing in the Plan area and for establishment of a mixed-use, "Urban Village" district.

The Community Revitalization Plan is an extension of these public input efforts. The Plan was posted on the City's website for public review and input, and a public hearing on the Plan was held by the City Council prior to the Plan's adoption. The Plan will be implemented through two means. First,

the zoning code updates will take place over the next two fiscal years after the City has selected a consultant to assist with developing new regulations. Second, the infrastructure improvements will be provided on the same timeline as the TIRZ project (see TIRZ project plan) as funding is generated through the TIRZ.

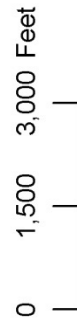
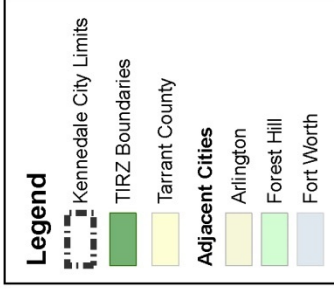
Budget

The Plan budget shall be the same as the budget for the City of Kennedale Reinvestment Zone Noncontiguous Geographic Area Number One, as described in the Project Plan for that zone.

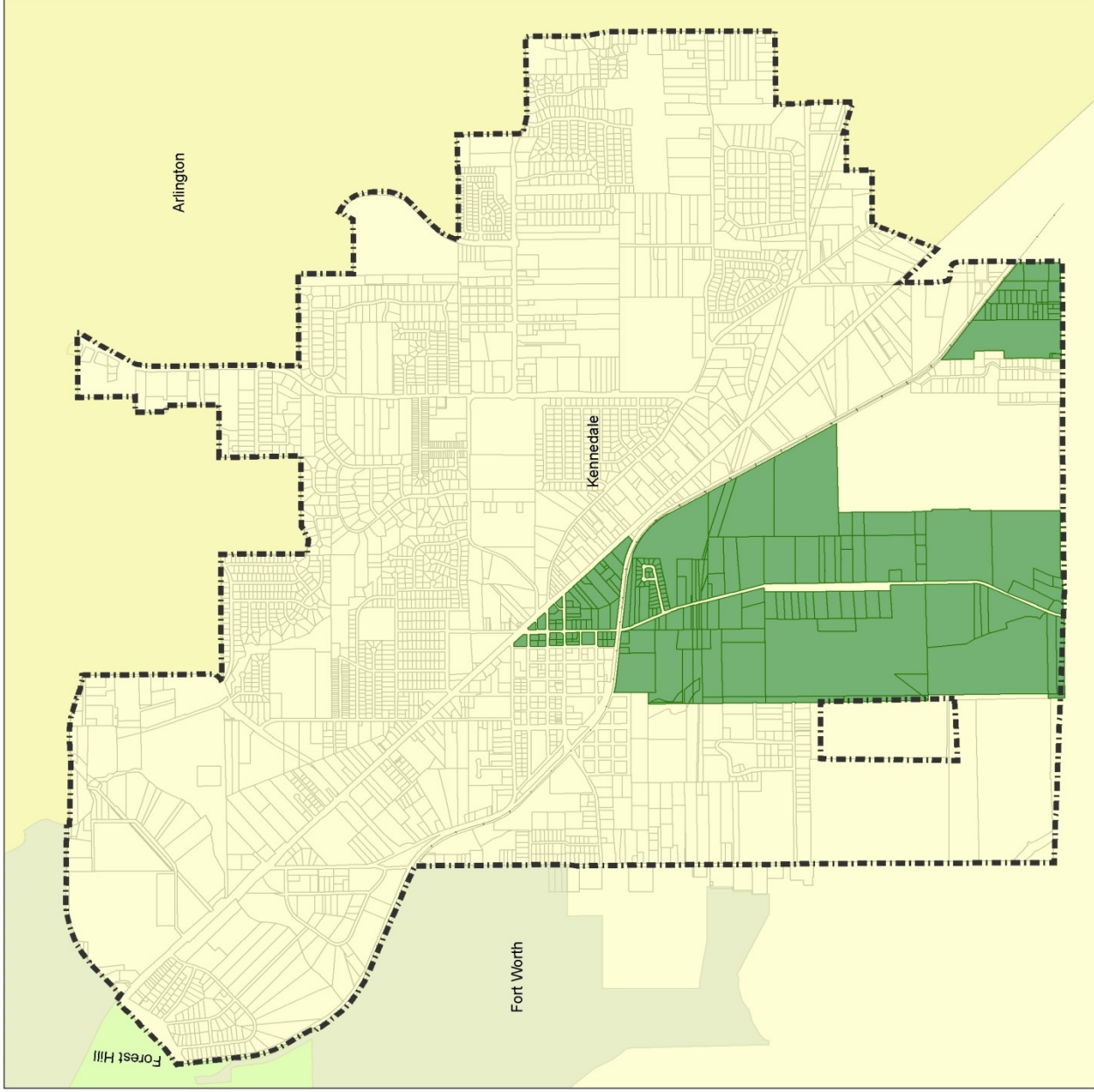
Plan Area

The Community Revitalization Plan boundaries are identical to the TIRZ boundaries (see map below).

Location of TIRZ in Kennedale



1 inch = 0.44 miles



Date: January 19, 2015

Agenda Item No: REGULAR ITEMS - E.

I. Subject:

Consider approval of a citywide curbside recycling program and authorize the City Manager to sign the agreement

II. Originated by:

Bob Hart

III. Summary:

In August of 2014 staff approached Steeplechase HOA regarding the possibility of a recycling pilot program. Both Steeplechase HOA and Progressive Waste solutions agreed to participate. 180 homes received recycling carts for a once per week recycling pick up. The first pick up occurred Wednesday October 1, 2014. Progressive Waste picked up recycling from an average of 87 homes each week with the highest week's participation of 105 homes. The average number of pounds collected during the week was 1,839 with the highest week collecting 2,200 lbs. In total from October 1, 2014 through December 31, 2014, Progressive Waste collected 25,740 pounds or 11.7 tons of material diverted from the landfill.

The attached report is a result from the pre and post surveys completed to gauge public interest in the program. KKB has reviewed the results of the survey data and voted unanimously at Tuesday's board meeting to recommend to City Council implementation of a curbside recycling program citywide.

Should City Council approve the program, trash pick up would remain at twice per week on the same schedule. The recycling would cost an additional \$3.60 per month for once per week pickup. Implementation would not occur April 2015. This will allow ample time for ordering and delivery of the carts, set-up of the recycling through utility billing and communication campaign to the public.

If Council is hesitant to increase the rate by \$3.60, you may wish to consider once a week trash collection and once a week recycling.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:



Date: January 19, 2015

Agenda Item No: REGULAR ITEMS - F.

I. Subject:

CASE # PZ 14-12 Public hearing and consideration of Ordinance 564 approval regarding a request by the City of Kennedale for a zoning change for approximately 19.46 acres from "AG" Agricultural district to "PD" Planned Development district at 1001 Corry A Edwards Dr, an unaddressed parcel on Bowman Springs Rd, 1021 Bowman Springs Rd, 1083 Bowman Springs Rd, & 1029 Bowman Springs Rd, legal description of Woodlea Acres Addn Blk 1 Lots 18A, 18B, 19R, 20R1.

1. Staff presentation
2. Public hearing
3. Staff summary and response
4. Action by the City Council

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

Request: rezone from AG to PD

Location: various properties on Bowman Springs, near intersection with Corry A Edwards Dr

Applicant: City of Kennedale

Surrounding land uses: commercial, industrial, educational, residential (see attached map)

Background.

The properties in question are zoned Agricultural and are identified in the Future Land Use Plan as Neighborhood, Park & Open Space, and School (see attached excerpt from the Future Land Use Plan). Several of the properties are undeveloped. The property located at 1021 (Lot 20R1) Bowman Springs Rd is owned by and is in use by Fellowship Academy, a private school. The property at 1083 Bowman Springs was acquired by the City of Kennedale as part of the Bowman Springs Rd realignment, and the remaining, unneeded portion was later conveyed to the Kennedale Economic Development Corporation, its current owner. The property at 1001 Corry A Edwards is in use as a residence, and the unaddressed parcel is classified by Tarrant Appraisal District as vacant commercial.

Suitability of Existing Zoning

The surrounding land uses are a blend of residential, commercial, and industrial. The largest property included in the rezoning request (recently replatted; shown on your map as two lots) is already developed with a private school. Of the remaining three parcels, only one could meet the size requirements for keeping of livestock. And although these parcels are permitted to be used for farming (no livestock), their small size makes it unlikely they would be used for any kind of farming other than hobby farming incidental to other uses.

In addition, due to the location of these properties, they are unlikely to be developed for residential use. Bowman Springs is a busy thoroughfare not designed for residential frontage, and moreover, most of the properties are surrounded by or abut non-residential uses. For example, the unaddressed property on Bowman Springs is between a school and an industrial complex. 1001 Corry A Edwards is across the street from the junior high, across the street from Fellowship Academy, and next to a church. 1083 Bowman Springs is located at an intersection between a residential and non-residential street, and the kind of traffic generated on Bowman Springs makes this property unattractive for residential use. And unlike the undeveloped property on the other corner across Corry A Edwards (Emerald Crest, a 5-lot, undeveloped subdivision), this property does not abut a residential subdivision, which would help lend a residential feel to the property. If these properties were large, it might be possible to develop a small residential subdivision in a way that would be buffered from the major street and surrounding non-residential uses, but the size of these properties greatly limits that option.

Staff Review.

Compliance with Comprehensive Land Use Plan.

The comprehensive land use plan describes the Neighborhood and Park & Open Space categories as follows (excerpts).

Neighborhoods

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.

Park & Open Space

Parks and Open Space follow Kennedale's "green infrastructure" system—a composite of the city's existing and new parks, open spaces, and linear greenways along the creeks and floodplain corridors in the city. The greenways offer an opportunity to enhance the city's recreational and transportation networks by connecting parks, neighborhoods, and destinations throughout the community.

The proposed ordinance would continue to allow single-family residential as a permitted use, but it would also allow for commercial uses that fit with the surrounding educational uses (Kennedale Junior High and Fellowship Academy). Such uses would fit with the neighborhood character of surrounding properties and would also be compatible with nearby parks and open spaces.

Compliance with the strategic plan.

One recommendation from the strategic plan relates to this rezoning request, albeit indirectly. The plan describes the need for a community recreation center and recommends that steps be taken to establish a youth recreation center in Kennedale. While this rezoning would not create a recreation center, it could

facilitate attracting a recreation center, as the City would be making an effort to create a district meant for this kind of use.

Compliance with City Council priorities.

The Council's priorities do not directly address this case. However, at least two of the Council's priorities relates to this rezoning request. Leverage resources is one of the Council's financial goals; if the rezoning leads to development of an after-school facility of some sort, the City may be able to partner with the business to provide a youth recreation center, boys' or girls' club, or similar facility. Of course, this depends on a relevant business opening in Kennedale, but the establishment of the requested PD could help the City's economic development efforts to attract this kind of business. And encouraging after-school and educational uses fits with another Council goal, Be Family Oriented.

Staff Recommendation.

Staff considers this rezoning request to be in compliance with the comprehensive land use plan. While the City is required to be guided by the comprehensive land use plan in making decisions on rezoning requests, it is not required to strictly follow the boundaries of the character districts shown in the Future Land Use Plan. These boundaries are guidelines, and while they are not to be taken lightly, the City is allowed some flexibility in interpreting them in cases such as this -- when the character districts indicated in the FLUP are not in line with what is really feasible. Given the size of the properties in question and their location, development as residential neighborhoods or parks is unrealistic. The proposed planned development district allows for single family residential use, in keeping with the neighborhood character district, but it also allows for more feasible non-residential uses. The restricted list of permitted uses helps to ensure compatibility with surrounding residential and educational uses.

Staff recommends approval.

Action by the Planning & Zoning Commission.

The Planning & Zoning Commission considered this case during its meeting on January 15th. The Commission believes this zoning case allows for implementation of the Urban Village character district described in the comprehensive plan and voted to recommend approval of the ordinance after making some changes to the ordinance submitted by staff.

Staff recommends amending one item added by the Commission, which is the frontage requirement. In general, staff supports to requirement that at least 50% of the primary facade of the main structure be located within the minimum and maximum setbacks. This kind of requirement helps ensure consistency of building walls along the street and can help make streets more appealing to pedestrians. However, two of the properties in this ordinance are quite oddly-shaped, and meeting the frontage requirement may be difficult. Therefore, staff recommends allowing a reduction of the 50% requirement for these two properties upon written approval from the zoning administrator. This change is included in the ordinance for your consideration.

Action by the City Council.

For your reference, sample motions are listed below.

- * I make a motion to approve Ordinance 564.
- * I make a motion to approve Ordinance 564, with the following changes to {list changes}.
- * I make a motion to deny Ordinance 564.
- * I make a motion to deny Ordinance 564, without prejudice.

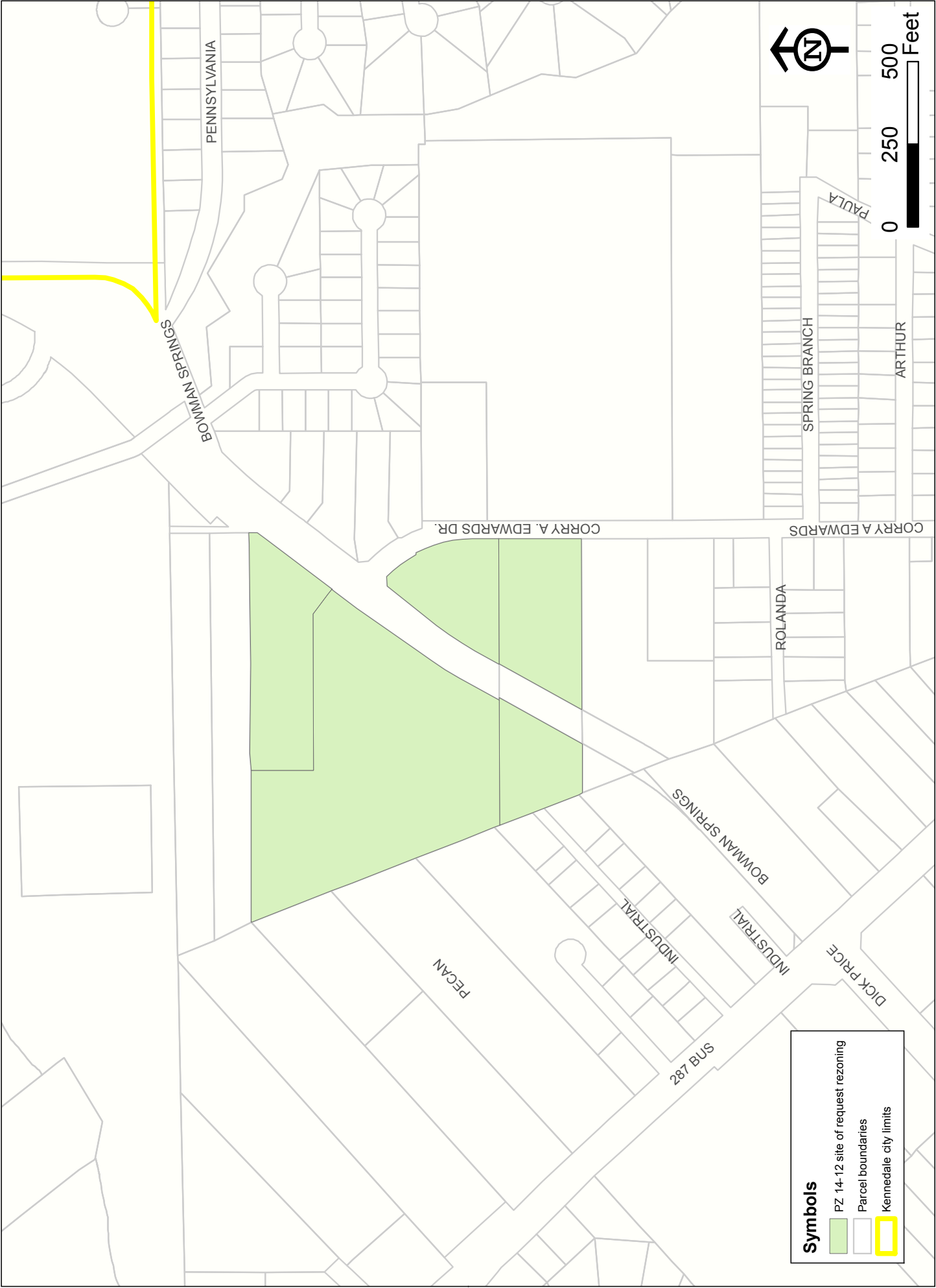
IV. Notification:**V. Fiscal Impact Summary:****VI. Legal Impact:****VII. Recommendation:**

Approve

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

1.	PZ 14-12 map showing site of request	PZ 14-12 site of request.pdf
2.	PZ 14-12 aerial view	PZ 14-12 aerial view compressed.pdf
3.	PZ 14-12 surrounding land uses	PZ 14-12 surrounding land uses.pdf
4.	State Use Codes	TAD state use codes.pdf
5.	FLUP excerpt	PZ 14-12 FLUP excerpt.pdf
6.	PZ 14-12 Ordinance 564	PZ 14-12 ordinance -- PZ recommendation.docx

PZ 14-12 Rezoning Requested: Location of Site



PZ 14-12 Rezoning Requested: Aerial View



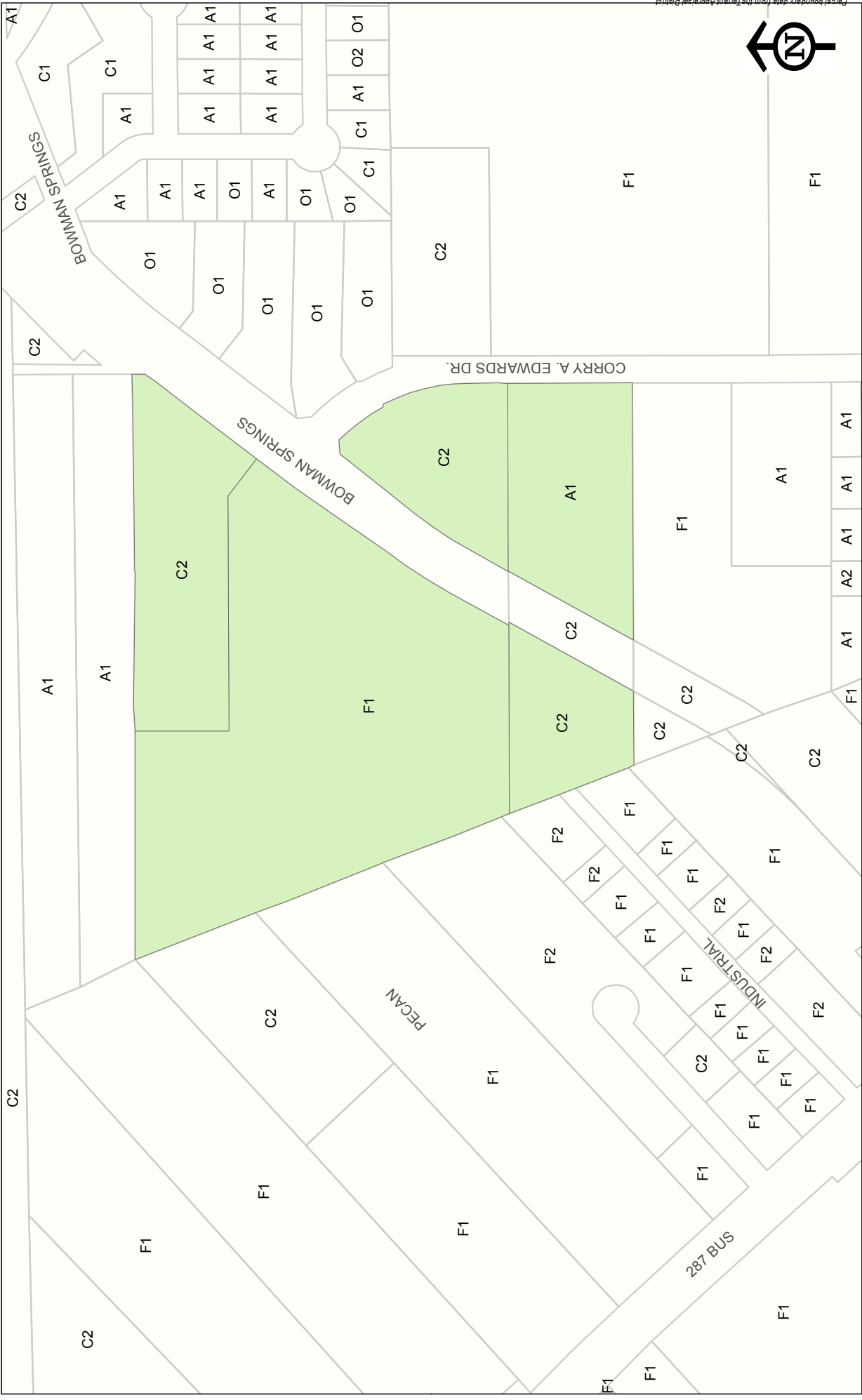
Symbols

-  PZ 14-12 site of request rezoning
-  Parcel boundaries



0 250 500 Feet

PZ 14-12 Rezoning Requested: Surrounding Land Uses



Surrounding Land Uses (per Tarrant Appraisal District)

- A1 Single family residential
- C1 Vacant residential lot or tract
- C2 Vacant commercial lot or tract
- F1 Commercial
- F2 Industrial

Symbols

PZ 14-12 site of request rezoning

Parcel boundaries

Parcel boundary data from the Tarrant Appraisal District
Road data from North Central Texas Council of Governments

STATE USE CODES

A RESIDENTIAL	
A1	Single-Family
A2	Mobile Homes
A3	Condominiums
A4	Townhomes
A5	Planned Unit Development (PUD)
A9	Interim use

B RESIDENTIAL	
B1	Multi-Family
B2	Duplex
B3	Triplex
B4	Quadraplex

C VACANT PLATTED LOTS/TRACTS	
C1	Residential
C2	Commercial
C3	Rural
C6	Vacant Exempt (Right-of-Way)

D ACREAGE	
D1	Ranch Land
D2	Timberland
D3	Farmland
D4	Undeveloped

E FARM/RANCH	
E1	House + Limited Acres
E2	Mobile Home + Limited Acres
E3	Other Improvements

F COMMERCIAL/INDUSTRIAL	
F1	Commercial
F2	Industrial
F3	Billboards

G OIL/GAS/MINERAL RESERVES	
G1	Oil/Gas/Mineral Reserves

J UTILITIES	
J1	Water Systems
J2	Gas Companies
J3	Electric Companies
J4	Telephone Companies
J5	Railroads
J6	Pipelines
J7	Cable Companies
J8	Other

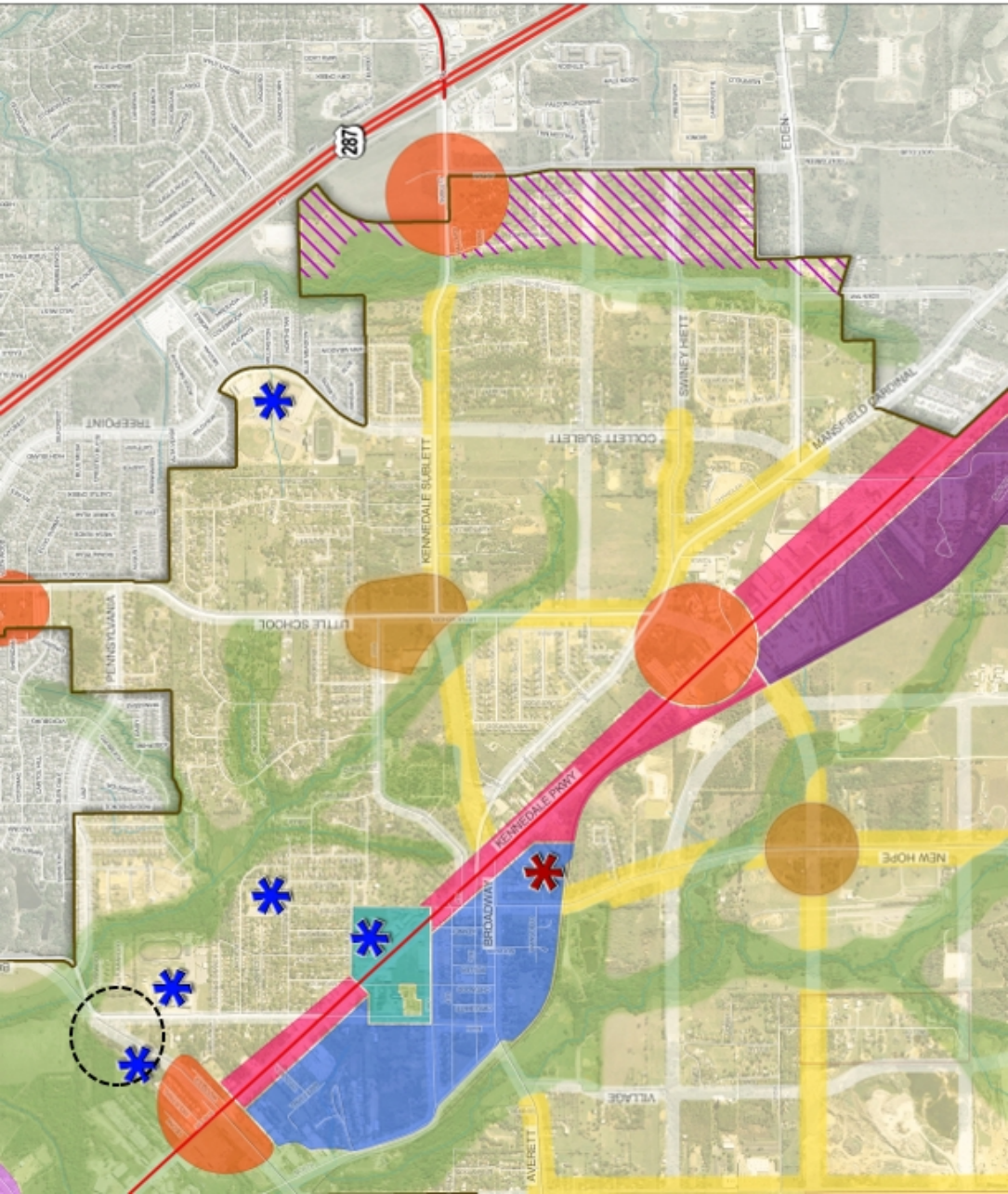
L COMMERCIAL/INDUSTRIAL	
L1	Commercial BPP
L2	Industrial BPP

M MOBILE HOMES	
M2	Private Aircraft
M3	Mobile Home
M4	Other Tangible PP

O RESIDENTIAL INVENTORY	
O1	Vacant
O2	Improved

FUTURE LAND USE PLAN

CATEGORIES



A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries.

ORDINANCE NO . 564

AN ORDINANCE AMENDING ORDINANCE NO. 40, AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF KENNEDALE, TEXAS BY REZONING CERTAIN PROPERTY WITHIN THE CITY LIMITS FROM “AG” AGRICULTURAL DISTRICT TO “PD” 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 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 Future Land Use Plan of the comprehensive land use plan designates character districts, with certain areas designated as Neighborhood or Park & Open Space; and

WHEREAS, certain properties within these character districts located near schools or other commercial or industrial uses are not suitable for residential or park use but are suitable for educational and related uses and well-suited for connecting to an Urban Village character district described in the comprehensive land use plan; and

WHEREAS, the City Council has determined that a planned development zoning district would allow for suitable development of these properties in keeping with the goals and intent of the comprehensive land use plan and would be compatible with existing surrounding residential and educational land uses; and

WHEREAS, a public hearing was duly held by the Planning and Zoning Commission of the City of Kennedale on the 15th day of January 2015 and by the City Council of the City of Kennedale on the 19th day of January 2015 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 19.46 acre tract in the J Prickett Survey, more particularly described as Woodlea Acres Addn Blk 1 Lots 18A, 18B, 19R, 20R1, Tarrant County, Texas ("the Property"), as more particularly described on Exhibit "A" attached hereto and incorporated herein, from "AG" Agricultural District to Bowman Springs Urban Village Planned Development District Phase I ("PD Urban Village 1") for residential and educational-related uses.

SECTION 2.

The use of the Property shall be subject to the restrictions, terms and conditions set forth below. The use of the Property shall further conform to the standards and regulations of the "C-1" General Commercial 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 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 "PD Urban Village 1" shall be:
 - a. *single family detached residential;*
 - b. *guest house*, subject to the requirements under Section 17-421 of the Kennedale City Code and any other applicable regulations;
 - c. *accessory building;*
 - d. *park, playground, or open space, including detention or retention facilities;*
 - e. *kindergarten or pre-kindergarten;*
 - f. *elementary, middle, or high school (public or private);*
 - g. *child day care;*
 - h. *after school care;*
 - i. *tutoring or learning center;*
 - j. *gymnastics facility*, where persons under the age of 18 are the primary users;
 - k. *gymnasium*, where persons under the age of 18 are the primary users;

- l. *dance instruction*, where persons under the age of 18 are the primary users; and
m. *church*.

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

Lot Type	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Lot Area (square feet)
Residential	75	100	8,750
Non-residential	50	100	5,000

3. *Lot coverage*. Lot coverage shall not exceed sixty (60) 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.

4. *Minimum livable area*. The minimum livable area for all primary residential structures is 1,250 square feet.

5. *Setbacks*. The Bowman Springs Urban Village PD 1 herein approved shall require the following minimum setbacks:

Table 4.2. Setbacks		
Primary structures	Minimum setback (in feet)	Maximum setback (in feet)
Front (from Bowman Springs) ¹	20	25
Side (from interior property line) ²	8	--
Side (from street, for corner lots)	15	--
Rear (from rear property line) ²	8	--
Accessory structures	Minimum setback (in feet)	Maximum setback (in feet)
Front (setback from primary structure)	8	--
Side (from side property line)	8	--
Rear (from rear property line)	8	--
1 Front setback for a primary structure is the distance between the front façade of a structure and the street right-of-way. 2 Where a new commercial structure is proposed to be built on a lot adjoining a property with an existing residence as the primary use, the setbacks for non-residential use shall be as follows for the property line adjoining the residential use. For the sides of the property not adjoining an		

existing residential primary use, the setbacks shall be as shown above.

- a) Rear setback: 25 feet
- b) Side setback (interior): 20 feet

6. *Frontage requirement.* At least fifty percent (50%) of the primary façade of a primary structure shall be located within the minimum and maximum front setbacks. Primary structures built on Woodlea Acres Addition Block 1 Lots 18B and 19R are irregularly-shaped parcels and may be permitted to reduce the frontage requirement to thirty percent (30%) with written approval from the zoning administrator, provided documentation is provided that the primary structure as designed and submitted for a building permit cannot meet the 50% requirement.
7. *Building height.* Buildings shall not exceed a height of two and one half (2 ½) stories, at a maximum of forty-five (45) feet in height.
8. *Finish floor height.* Buildings shall have a minimum floor-to-floor height of twelve (12) feet on ground floors and nine (9) feet on upper floors. The ground floor finish level shall be a maximum of twelve (12) inches above the sidewalk.
9. *Building materials.* All primary and secondary structures shall be constructed of a minimum of 80% masonry or masonry veneer. The remaining twenty percent (20%) materials used may be determined by the builder/developer from among the following. Vinyl siding and corrugated metal are prohibited.
 - a. Board and batten;
 - b. Architectural metals;
 - c. EIFS, except that EIFS shall only be permitted on facades ten (10) feet or more above the finished grade of the sidewalk along that façade.
10. *Glazing.* Primary structures shall have a minimum twenty percent (20%) glazing and a maximum of sixty percent (60%) glazing on at least one (1) elevation and a minimum ten percent (10%) glazing (60% maximum) on at least one (1) other elevation.
11. *Parking for residential use.* Parking spaces for at least two (2) motor vehicles shall be provided in an enclosed garage for any single family dwelling constructed within PD Urban Village 1. Front-entry garages are prohibited. J-swing garages that accommodate more than two (2) vehicles are prohibited.
12. *Parking for commercial use.* No off-street parking is permitted between the primary structure and the street (all parking must be behind or to the side of the primary structure).
 - a. *Number of required parking spaces.*

Table 6.3	
Use Type	Minimum Number of Spaces Required
Non-residential	1 per 250 square feet of building area
Residential	2 per unit

- b. *Compact car parking.* Up to fifteen percent (15%) of the required parking may be designed and sized for compact vehicles.
- c. *Handicapped accessible parking.* Number and size of handicapped parking spaces provided shall comply with the Americans with Disabilities Act, the Texas Accessibility Standards, and any other applicable federal, state, or local regulations.
- d. *Screening of off-street parking.* Off-street parking areas must be screened according to the following table.

Table 6.2		
Minimum Height of Screening (in feet) ¹	Maximum Height of Screening (in feet)	Permitted Screening Materials
3	4	A combination of masonry and vegetation (maximum 50% of screening materials may be masonry)
¹ If requirements for maintaining a sight triangle do not permit a minimum of three (3) feet, screening must be the maximum height allowed by the sight triangle. ² For this sub-section, "masonry" is defined per Section 17-405 of the Kennedale City Code. ³ If masonry is used for screening, it must be of the same material as the primary building. ⁴ Vegetated screening must be in compliance with this Ordinance and, where applicable, Section 17-425 and Chapter 17, Article VIII of the Kennedale City Code (where not in conflict with this Ordinance). ⁵ When masonry is used for screening, no section of masonry screening shall exceed twenty (20) feet in length.		

- 13. *Bicycle parking.* Parking for bicycles shall be provided for every non-residential use. Bicycle parking shall be provided at a minimum amount of 5% of the number of spaces

provided for car parking.

- a. *Design of bicycle parking space.* For each required bicycle parking space, a stationary object shall be provided to which a user can secure a bicycle with at least two points of contact with a 6-foot cable and lock. The stationary object shall be either a freestanding bicycle rack or a wall-mounted bracket. Freestanding bicycle racks shall be inverted "U," post and ring, or some other form of bicycle rack providing at least two points of contact. Grid/fence-type racks and wave/ribbon-type bicycle racks are prohibited. Objects for securing bicycles must be dedicated for that purpose and may not be primarily for any other purpose (e.g., signage, traffic safety).
 - b. *Location of bicycle parking.* The bicycle rack shall be located within 60 feet of the main entrance of the building it serves, and may be located between the street curb and the building, subject to the approval of the Building Official. Each bicycle parking area shall be separated from motor vehicle parking and maneuvering areas by a barrier, post, or bollard or by at least five (5) feet of open space.
14. *Blank walls not permitted.* Blank walls longer than sixty (60) feet are prohibited for any wall visible from a public street. For purposes of this ordinance, "blank wall" means any building wall that is a portion of a building wall or façade without a window or door or similar architectural feature and is over four feet in height from ground level and longer than 60 feet, as measured horizontally, without having a window, door, building modulation, or other similar architectural feature meant to lessen the apparent bulk or massing of a structure.
15. *Façade articulation.* For all new structures (for which a building permit application is submitted to the City after the date the Bowman Springs Urban Village code is adopted), primary building façades must be articulated every 40 feet, with a horizontal or vertical articulation of at least 24" (2 feet). New additions to existing buildings shall also be required to have articulation every 40 feet, with a horizontal or vertical articulation of at least 24" (2 feet).

Examples of articulation. Examples of acceptable articulation are as follows.

- a. Construction of building entrances, display windows, storefronts, balconies, columns, and arcades (obstructing of sidewalks or frontage zones is prohibited);
- b. Inclusion of awnings;
- c. Inclusion of a roof element projecting a minimum of five (5) feet from the building;
- d. Additional architectural elements may be used to meet this requirement.
- e. Elements not listed above require written approval from the Zoning Administrator.

16. *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*. Landscaping plants shall be selected from the list of approved plants in Chapter 17, Article VIII, Section 17-605, Table A of the Kennedale City Code, except that the following plants are prohibited:
 - Japanese Honeysuckle / Purple Leaf Honeysuckle (*Lonicera Japonica* / *Lonicera Japonica Halliana*)
 - Vinca / Bigleaf Periwinkle (*Vinca Major*)
 - c. *Other permitted plants*. Notwithstanding the above, a landscaping plant not on the approved list may be used if it is demonstrated to be drought tolerant and is a native Texas plant suitable for growing in this area. A list of native plants suitable for North Central Texas is available online at the Lady Bird Johnson Wildflower Center website (www.wildflower.org) for reference.
 - d. *Street trees*. Street trees shall be selected from the list of approved street trees in Chapter 17, Article VIII, Section 17-605, Table A (b) of the Kennedale City Code, except that Chinese Pistache (*Pistachio Chinensis*) is prohibited.
 - i. *Commercial uses*. Street trees are required along Bowman Springs for all properties developed for commercial use after the date this Ordinance is adopted. One (1) tree is required a minimum of every forty (40) feet and a maximum of fifty (50) feet, center to center, on average, but can vary to accommodate signage, topography, or other site conditions.
 - ii. *Residential uses*. Residential uses shall follow the street tree requirements of the Kennedale city Code.
 - e. *Vehicle protection*. All required landscape areas, planters, walls, and/or fences adjacent to vehicle use areas shall be protected by wheel stops, curbs, or other physical barriers. In no instance shall a parking area be designed so as to permit the encroachment or overhang of a vehicle beyond the required setback line(s) set out above in this sub-section.
 - f. *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.
 - iv. 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.

1. Cisterns may not exceed ten (10) percent coverage in any required yard.
2. 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.
3. A cistern may not be greater than six (6) feet in height.

17. *Lighting.*

- a. All luminaries used primarily for illuminating off-street parking areas, lighted canopies for commercial uses, and similar lighting needs shall have a maximum height of twenty (20) feet.
- b. All luminaires used primarily for walkways, trails, security, decorative effects, lighting equipment or storage areas, fountains, art work, building walls, or similar lighting needs shall have a mounting height no higher than fourteen (14) feet.
- c. Light trespass shall be minimized; light levels at the property line should not exceed 2 footcandles (fc). Footcandle means the unit of measure expressing the quantity of light received on a surface. One footcandle is the illuminance produced by a candle on a surface one foot square from a distance of one foot.
- d. Fixtures for decorative lighting must be selected, located, aimed, and shielded so that direct illumination is focused solely on the building façade, plantings, and other intended site feature, and away from adjoining properties and the public street right-of-way.
- e. All fixtures shall be selected and installed using dark sky best practices.
- f. The operation of searchlights for advertising purposes is prohibited.

18. *Screening for garbage, refuse and trash collection/storage areas.*

- a. Garbage, refuse and trash collection/storage areas shall be screened by a masonry enclosure on three (3) sides. Screening walls shall be a minimum of one (1) foot in height above the materials being stored, and screening walls and fences shall not be greater than eight (8) feet in height. Materials being stored shall not be stored higher than one (1) foot below the screening provided.
- b. The fourth side shall be screened by a gate. The gate shall be made of wrought iron or architectural metal.
- c. The masonry used must be of the same material as the primary building.

19. *Sidewalks and walkways.* Sidewalks are required and shall conform to the Kennedale City Code, the Kennedale Public Works Design Manual, and any other applicable city regulations or requirements, except that sidewalks shall be a minimum of five (5) feet and a maximum of eight (8) feet in width. An illustration of the permitted sidewalk widths is attached as Exhibit "B." Sidewalks are to be installed by the developer or builder. Notwithstanding any written agreement between the City and any other person or entity, in no case is the City obligated to install sidewalks. Where it is not feasible to install sidewalks at the time of development, the developer or builder shall pay a fee in lieu of

installation.

- a. *Permeable materials.* Notwithstanding the requirements of Kennedale City Code and other applicable requirements, 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.
- b. *Connections.* Pedestrian walkways shall be connected across properties to ensure safe, comfortable, and easily-accessible pedestrian connections are present throughout the PD Urban Village 1.

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, Section 1, 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 19TH DAY OF JANUARY 2015.

APPROVED:

Brian Johnson, Mayor

ATTEST:

Leslie Galloway, City Secretary

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

City Attorney

Exhibit A

Legal Description

Tract 1:

Woodlea Acres Addition, Block 1, Lot 20R1, conveyed to Fellowship Academy by Warranty Deed filed on May 26, 2011, instrument number D211124250, by Warranty Deed filed on July 3, 2014, instrument number D214141700.

Tract 2:

Woodlea Acres Addition, Block 1, Lot 19R, conveyed to the Kennedale Economic Development Corporation by Warranty Deed filed on January 11, 2013, instrument number D213009152.

Tracts 3 & 4:

Woodlea Acres Addition, Block 1, Lots 18A & 18B, conveyed to Mychele Tran and Hiep Nguyen by Warranty Deed filed on November 1, 2007, document number D207391013, save and except that portion acquired by the City of Kennedale for right-of-way.

Exhibit B Illustration of sidewalk widths

The following illustrations show permitted sidewalk widths within the Bowman Springs Urban Village. They are intended to be guidelines and do not constitute regulations.

