

**REGULAR MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBERS    JUNE 24, 2014    1:30 P.M.**

**CONSENT AGENDA**

- \*      Approval of minutes – June 17, 2014
  
- \*      Confirmation of committee appointments

Pablo Zuniga would be reappointed to the Convention and Tourism Advisory Board. The current term would expire June 16, 2016. (Mayor Becky Ames)

- A)      Authorize the execution of a License to Encroach Agreement with Martin Alfaro located at Craig Street and Avenue E

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF BEAUMONT:

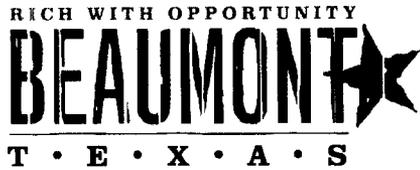
THAT the following reappointment be made:

<u>Reappointment</u>	<u>Commission</u>	<u>Beginning of Term</u>	<u>Expiration of Term</u>
Pablo Zuniga	Convention and Tourism Advisory Board	06/24/14	06/17/16

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 24th day of  
June, 2014.

---

- Mayor Becky Ames -



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Dr. Joseph Majdalani, P.E., City Engineer *JM*

**MEETING DATE:** June 24, 2014

**REQUESTED ACTION:** Council consider a resolution authorizing the execution of a License to Encroach Agreement with Martin Alfaro.

### **BACKGROUND**

There is an existing structure located at 2214 Avenue E encroaching onto City Right-of-Way at Craig Street and Avenue E. The structure encroaches between 1.20' and 1.67'.

The request from Martin Alfaro, the owner of the structure, was submitted to all city departments and utility companies with no objections to the encroachment; no response from Centerpoint Energy. The City Utilities Department approved the license to encroach with the following conditions:

The City has an existing 12" sanitary sewer line within the Craig Street and Avenue E Right-of-Way with a sanitary sewer manhole being at the edge of a sidewalk within approximately four (4) feet of the fence.

The City of Beaumont will not be responsible for any damage to the structures if the sanitary sewer line should ever develop a cavity or due to any repairs to the City main by City crews. The City of Beaumont shall not be responsible for the repair and replacement of any paving or other structures within the Easement property.

The License Agreement protects the City from liability and provides a thirty (30) day cancellation clause.

### **FUNDING SOURCE**

There is a one time non-refundable fee of \$500 from Martin Alfaro for the License to Encroach.

### **RECOMMENDATION**

Approval of resolution.



Application for License to Encroach
City of Beaumont, Texas

1. NAME OF APPLICANT: MARTIN ALFARO
ADDRESS: 2214 AVE E. Beaumont PHONE: 409 434-8957

2. AUTHORITY OF APPLICANT: OWNER

3. NAME OF OWNER: MARTIN ALFARO AND MA AMELIA ALFARO
ADDRESS: 2214 AVE E BEAumont PHONE: 409.434-8957

LEGAL DESCRIPTION OF OWNER'S PROPERTY (Lots, Blocks, Subdivision)

TO BE SERVED BY EASEMENT OR RIGHT-OF-WAY:

LOT 1 BLOCK A OF WILCOX ADDITION

4. DESCRIPTION OF EASEMENT OR RIGHT-OF-WAY INVOLVED: Ave E

5. PRESENT USE OF EASEMENT OR RIGHT-OF-WAY (List Utilities if Present): No utilities

6. USE OF EASEMENT OR RIGHT-OF-WAY DESIRED BY OWNER: NA

7. ATTACH A MAP OR PLAT DELINEATING THE EASEMENT OR PUBLIC RIGHT-OF-WAY (Dimensioned and to Engineering Scale). PLEASE INCLUDE ALL PERTINENT INFORMATION ON THE MAP:

- i. Distances from edge of pavement or back of curb
ii. Street names and nearest cross streets
iii. Side of the street [east, west, north, south]

8. COST TO BE PAID FOR LICENSE TO ENCROACH AT TIME APPLICATION IS SUBMITTED - \$500 SAID COST BEING NON-REFUNDABLE.

TO THE BEST OF MY KNOWLEDGE, THE ABOVE INFORMATION IS TRUE AND CORRECT.

Martin Alfaro
SIGNATURE

RESOLUTION NO.

WHEREAS, Martin Alfaro has requested that the City of Beaumont grant a License to Encroach into one City right-of-way at Craig Street and Avenue E at 2214 Avenue E, which is described as being in Lot 1, Block A, Wilcox Addition, to the City of Beaumont. The encroachment being an existing structure overlapping between 1.20' and 1.67' in the City right-of-way as described in Exhibit "A" and shown in Exhibit "B," attached hereto and made a part hereof for all purposes; and,

WHEREAS, City staff has expended considerable time and effort in investigating the effect of such encroachment upon the City easement and utilities therein; and,

WHEREAS, it appears that it would be equitable to allow such encroachment at this time, subject to the following conditions:

- The City has an existing 12" sanitary sewer line within the Craig Street and Avenue E right-of-way with an sanitary sewer manhole being at the edge of a sidewalk within approximately four (4) feet of the fence.
- The City of Beaumont will not be responsible for any damage to the structures if the sanitary sewer line should ever develop a cavity or due to any repairs to the city main by City crews. The City of Beaumont shall not be responsible for the repair and replacement of any paving or other structures within the easement property;

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute a License to Encroach with Martin Alfara to encroach into one (1) City of Beaumont right-of-way at Craig Street and Avenue E at 2214 Avenue E, which is described as being in Lot 1, Block A,

Wilcox Addition, to the City of Beaumont. The encroachment being one (1) existing structure overlapping between 1.20' and 1.67' into the City of Beaumont right-of-way, as described in Exhibit "A" and shown in Exhibit "B," attached hereto and made a part hereof for all purposes for a one-time fee of Five Hundred Dollars (\$500.00) for the License to Encroach.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 24th day of June, 2014.

---

- Mayor Becky Ames -



Licensee shall at all times indemnify and hold harmless Licensor and any franchised entity of licensor against, and pay in full, for all claims, losses, damages, law suits, attorney's fees, costs, judgments or expenses, that Licensor and any franchised entity of Licensor may sustain, incur, be required to pay or become liable for, resulting in any manner from the construction, maintenance, use, state of repair, or presence of such encroaching structure.

Licensor, and any franchised entity of Licensor, reserves the right to make improvements, perform maintenance and construction to the right-of-way or premises covered by this license where such is deemed necessary for the health, welfare and safety of the community. In doing so, Licensor and any franchised entity of Licensor shall not be liable to Licensee for any damage occasioned thereby and Licensee shall not be entitled to prosecute or maintain a claim against such parties for any such damage sustained by Licensee to said encroaching structure or any abutting or attached structures, improvements or land caused by the removal or alteration of any encroachment. In addition, Licensee shall reimburse Licensor and any franchised entity of Licensor any additional costs resulting from the encroachment.

Licensor will not be responsible for any damages to the structures due to any repairs by Licensor, and any franchised entity of Licensor. The Licensor, and any franchised entity of Licensor shall not be responsible for the repair and replacement of any paving or other structures within the Easement property.

Licensee shall not permit trees, shrubs, plants, or any object to be placed on the subject property in such a manner as to obstruct the view of traffic. In addition, Licensor will not be responsible for any damages to the structure if the sewer main should ever develop a cavity or due to any repairs to the Licensor main by Licensor crews.

As part of the consideration for this agreement, Licensee shall pay to Licensor the sum of Five Hundred Dollars (\$500.00). Said sum being non-refundable.

This license shall be recorded in the Real Property Records in the Office of the County Clerk of Jefferson County, Texas by Licensor.

This agreement is terminable by either party by giving written notice to the other specifying the date of termination. Said notice shall be given not less than thirty (30) days prior to the termination date, therein specified, and shall be recorded in the Real Property Records in the Office of the County Clerk of Jefferson County, Texas by Licensor.

This license is neither assignable nor transferable except in conjunction with, and as part of, Licensee's conveyance of all the abutting property this license serves, through probate or warranty deed or lease. In any such event, Licensor shall be notified of such occurrence by being delivered a copy of the document or documents conveying or leasing the same.

Any notice to Licensor shall be sufficient if it is mailed or hand delivered to the Office of the City Engineer, City of Beaumont, P.O. Box 3827, Beaumont, Texas 77704. Any notice to Licensee or their successors shall be sufficient if mailed or hand delivered to Property Owner at 190 E. Circuit, Beaumont, Texas 77706.

IN WITNESS, WHEREOF, the parties hereto have executed this agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

LICENSOR:  
CITY OF BEAUMONT

LICENSEE:

By: \_\_\_\_\_  
KYLE HAYES  
CITY MANAGER

By: \_\_\_\_\_  
MARTIN ALFARO

ACKNOWLEDGMENTS

STATE OF TEXAS X

COUNTY OF JEFFERSON X

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by Kyle Hayes, City Manager of the City of Beaumont, a municipal corporation, on behalf of said corporation.

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

STATE OF TEXAS X

COUNTY OF JEFFERSON X

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by Martin Alfaro.

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

RETURN TO:  
City of Beaumont  
Antoinette Hardy - Engineering  
P. O. Box 3827  
Beaumont, Texas 77704

**NOTE:**

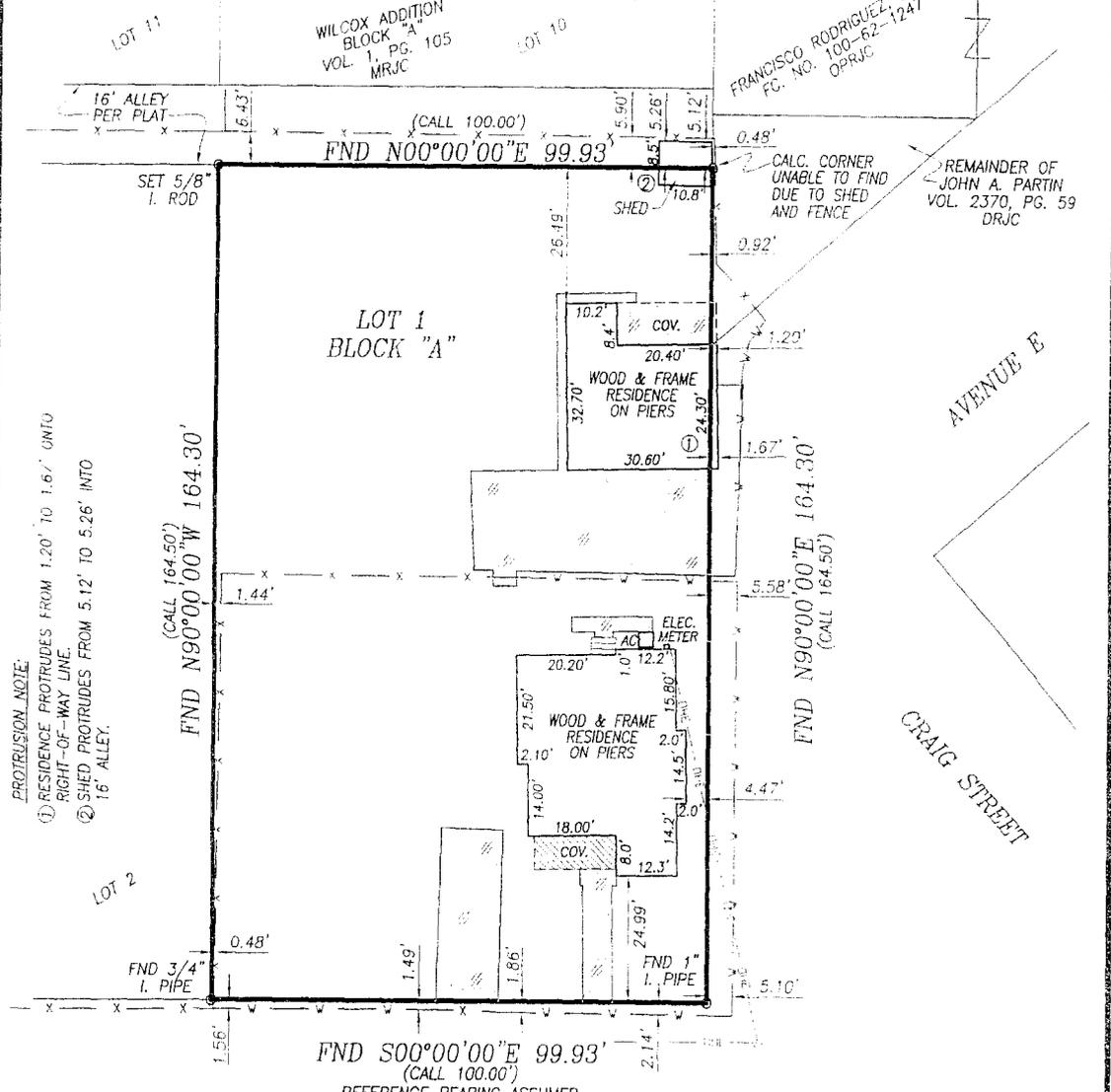
1. NOTHING IN THIS SURVEY IS INTENDED TO EXPRESS AN OPINION REGARDING OWNERSHIP OR TITLE.
2. THE WORD CERTIFY IS UNDERSTOOD TO BE AN EXPRESSION OF PROFESSIONAL JUDGMENT BY THE SURVEYOR, WHICH IS BASED ON HIS BEST KNOWLEDGE, INFORMATION AND BELIEF, FORMED IN THE COURSE OF HIS PERFORMING THE SURVEY IN COMPLIANCE WITH THE STANDARDS OF PRACTICE REQUIRED AND PROMULGATED BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYORS AND THE TEXAS SOCIETY OF PROFESSIONAL SURVEYORS. AS SUCH, IT CONSTITUTES NEITHER A GUARANTEE NOR A WARRANTY, EXPRESSED OR IMPLIED.
3. ALL SET 5/8" IRON RODS SET WITH A CAP STAMPED "M.W. WHITELEY & ASSOCIATES".

SCALE 1"=30'

BLANCHETTE 2ND ADDITION  
VOL. 1, PG. 39  
MRJC

FRANCISCO RODRIGUEZ, et ux.  
PG. NO. 100-62-1247  
OPRJC

WILCOX ADDITION  
BLOCK "A"  
VOL. 1, PG. 105  
MRJC

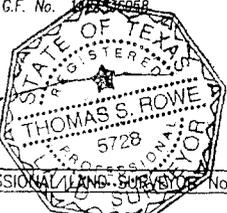


**SURVEYOR'S CERTIFICATION:**

TO THE LEIHHOLDERS AND/OR THE OWNERS OF THE PREMISES SURVEYED AND TO STEWART TITLE GUARANTY COMPANY:  
THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON AND IS CORRECT, AND THAT THERE ARE NO DISCREPANCIES, CONFLICTS, SHORTAGES IN AREA, BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, EASEMENTS OR RIGHT-OF-WAYS, ON THE SURFACE OF THE GROUND EXCEPT AS SHOWN HEREON AND THAT SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY. ALL RECORDED EASEMENTS SHOWN AND NOTED PER STEWART TITLE GUARANTY COMPANY G.F. No. 1925-52589

DATE SURVEYED: MAY 8, 2014

*[Signature]*  
THOMAS S. ROWE - REGISTERED PROFESSIONAL LAND SURVEYOR No. 5728



**MARK W. WHITELEY AND ASSOCIATES INCORPORATED**  
CONSULTING ENGINEERS, SURVEYORS, AND PLANNERS  
T.B.P.L.  
3250 EASTEX PRWY.  
BEAUMONT, TEXAS 77703  
409-892-1346

**EXHIBIT "B"**

2214 AVENUE E  
BEAUMONT, TEXAS 77701

Lot Number One (1), in Block "A", of WILCOX ADDITION, an addition to the City of Beaumont in Jefferson County, Texas, according to the map or plat thereof recorded in/under Volume 1, Page 105 of the Map/Plat Records of Jefferson County, Texas, which is shown as not having been a subdivision and being the same property which was set aside to Phoebe E. Montague in that certain Partition Deed dated April 18, 1919 and recorded in/under Volume 182, Page 56 of Deed Records of Jefferson County, Texas, reference to which is hereby made for all purposes, the property set aside to Phoebe E. Montague in said Partition Deed being the lot designated on the map attached to said deed as Lot Number One (1).

Owner: Martin Alfaro and Ma Amelia Alfaro

Census: 20.00

In accordance with the Flood Hazard Boundary Map, Department of Housing and Urban Development.

Community No.: 485457

Panel No.: 0020 C

Date of FIRM: 8-6-02

This property lies in Zone "X" (white).

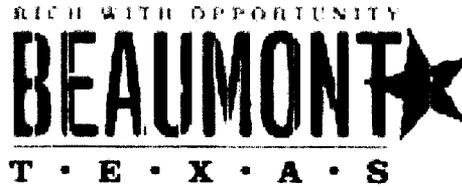
Location on map determined by scale

on map. Actual field elevation not determined. Mark W. Whiteley and Associates does not warrant nor subscribe to the accuracy or scale of said maps.

Zone "X" (white) are areas determined to be outside 500-year flood plain.

© 2013 Mark W. Whiteley & Associates, Inc.  
This document, as an instrument of professional service, is the property of Mark W. Whiteley & Associates, Inc. and is not to be used, reproduced, copied or distributed, in whole or part without the written authorization of Mark W. Whiteley & Associates, Inc.

FILE NO. 14-419



**REGULAR MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBERS     JUNE 24, 2014     1:30 P.M.**

**AGENDA**

**CALL TO ORDER**

- \* Invocation                      Pledge                      Roll Call
- \* Presentations and Recognition
- \* Public Comment: Persons may speak on scheduled agenda items 6 and 7/Consent Agenda
- \* Consent Agenda

**GENERAL BUSINESS**

1. Consider an ordinance approving the rezoning of property from RM-H (Residential Multiple Family Dwelling-Highest Density) District to GC-MD (General Commercial-Multiple Family Dwelling) District at 4755 Eastex Freeway authorizing
2. Consider an ordinance approving a specific use permit to allow an animal shelter and adoption center in a PUD (Planned Unit Development) District on property located on the west side of Major Drive near Perl Road
3. Consider an ordinance approving the rezoning of property from GC-MD-2 (General Commercial-Multiple Family Dwelling-2) to RM-H (Residential Multiple Family Dwelling-High Density) District to allow single family housing located west of 7080 Calder Avenue
4. Consider an ordinance approving a specific use permit to allow a bar in a GC-MD (General Commercial-Multiple Family Dwelling) District at 2345 Calder Avenue
5. Consider an ordinance approving a revised specific use permit to allow a secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District at 3380 Fannin Street
6. Consider approving a resolution authorizing the engagement of Bracewell & Giuliani LLP, as bond counsel relating to the proposed issuance of Waterworks and Sewer System Revenue and Refunding Bonds at a fee of .15% or 15 basis points of the face amount of the Bonds issued

7. Consider approving a resolution authorizing the purchase of a wheeled excavator from Mustang Cat, Inc. of Houston for use by the Streets and Drainage Division

#### **PUBLIC HEARING**

- \* Receive comments related to a contract with the Federal Transit Administration (FTA) to receive Operating Assistance funds for the Beaumont Municipal Transit System for FY 2014; an application for Congestion Mitigation and Air Quality (CMAQ) funding; and to receive additional federal funding through TxDOT
8. Consider approving a resolution authorizing the City Manager to execute a contract with the Federal Transit Administration (FTA) to receive Operating Assistance funds for the Beaumont Municipal Transit System for FY 2014; to apply for and receive Congestion Mitigation and Air Quality (CMAQ) funding; and to receive additional federal funding through TxDOT

#### **COMMENTS**

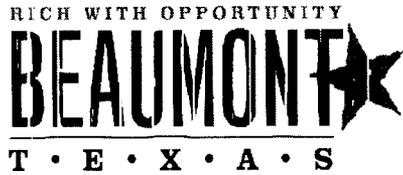
- \* Councilmembers/City Manager comment on various matters
- \* Public Comment (Persons are limited to 3 minutes)

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Mitchell Normand at 880-3777 three days prior to the meeting.

**June 24, 2014**

Consider an ordinance approving the rezoning of property from RM-H (Residential Multiple Family Dwelling-Highest Density) District to GC-MD (General Commercial-Multiple Family Dwelling) District at 4755 Eastex Freeway authorizing

---



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Chris Boone, Director of Planning and Community Development

**MEETING DATE:** June 24, 2014

**REQUESTED ACTION:** Council consider an ordinance approving the rezoning of property from RM-H (Residential Multiple Family Dwelling-Highest Density) District to GC-MD (General Commercial-Multiple Family Dwelling) District at 4755 Eastex Freeway.

### **BACKGROUND**

Bruce W. McVeigh is requesting a zone change.

The purpose of the zone change is to correct the split zoning of the property. Mr. McVeigh is planning to open a Neighbors Emergency Center at this location. The majority of the property is zoned GC-MD. When Mr. McVeigh contacted the city regarding the possibility of demolishing an existing building to accommodate much needed additional parking, he discovered that the portion of the property where the building sits is zoned RM-H. Adjacent property has been previously rezoned to GC-MD leaving an odd shaped piece of the zoning district on the subject property.

At a Joint Public Hearing held June 16, 2014, the Planning Commission recommended 5:0 to approve a rezoning from RM-H (Residential Multiple Family Dwelling-Highest Density) District to GC-MD (General Commercial-Multiple Family Dwelling) District at 4755 Eastex Freeway.

### **FUNDING SOURCE**

Not applicable.

### **RECOMMENDATION**

Approval of ordinance.

APPLICATION FOR AMENDMENT  
OF THE ZONING ORDINANCE  
BEAUMONT, TEXAS  
(Chapter 28, City Codes)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS

APPLICANT'S NAME AND ADDRESS: MR. BRUCE W. McVEIGH

APPLICANT'S PHONE #: (713) 436-5200 FAX #: (713) 436-9669

NAME OF OWNER: DR. SETUL PATEL

ADDRESS OF OWNER: 11130 BROADWAY ST., PEARLAND TX 77584

LOCATION OF PROPERTY: 4755 EASTEX FWY, BEAUMONT TX 77703

LEGAL DESCRIPTION OF PROPERTY:

LOT NO. \_\_\_\_\_ OR TRACT \_\_\_\_\_  
BLOCK NO. \_\_\_\_\_ PLAT SEE EXHIBIT A  
ADDITION \_\_\_\_\_ SURVEY from DEED of TRUST  
(ATTACHED).  
NUMBER OF ACRES 0.1195 ACRES NUMBER OF ACRES 0.1195 ACRES  
~~1.180 ACRES~~ ~~1.180 ACRES~~

For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed to be changed, and a complete legal field note description.

CURRENT ZONING DISTRICT: JEFFERSON County (RESIDENTIAL) R-M-H

ZONING DISTRICT REQUESTED: JEFFERSON County (COMMERCIAL) GC-MD

HAS THE REQUEST BEEN MADE BEFORE? NO IF SO, DATE: \_\_\_\_\_

ACTION: \_\_\_\_\_

SUBMIT A LETTER STATING REASONS FOR REQUEST.

ATTACH THE APPROPRIATE APPLICATION FEE:

LESS THAN 1/2 ACRE.....\$250.00  
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....\$450.00  
5 ACRES OR MORE.....\$650.00

I HEREBY ACKNOWLEDGE THAT THE APPLICATION IS MADE FOR THE REQUESTED DISTRICT OR A MORE RESTRICTIVE DISTRICT.

SIGNATURE OF APPLICANT: Bruce W. McVeigh DATE: \_\_\_\_\_

SIGNATURE OF OWNER: S Patel

PLEASE TYPE OR PRINT AND SUBMIT TO:

PLANNING DIVISION, ROOM 201  
CITY HALL, 801 MAIN STREET  
BEAUMONT, TX 77701  
P.O. BOX 3827 77704  
(409) 880-3764  
FAX (409) 880-3133

FILE NUMBER: 2201-2  
DATE RECEIVED: 5/14/14  
RECEIPT NUMBER: \_\_\_\_\_

**BAYTOWN**

phone 281.699.2000  
fax 281.699.2040  
6061 Garth Road  
Baytown, Texas 77621

**BELLAIRE**

phone 713.689.0900  
fax 713.689.0019  
6000 S Rice Avenue  
Houston, Texas 77031

**KINGWOOD**

phone 281.252.8438  
fax 281.252.8415  
1120 Kingwood Drive  
Kingwood, Texas 77339

**PASADENA**

phone 281.487.0339  
fax 281.487.0118  
7915 Fairmont Pkwy  
Pasadena, TX 77505

**PEARLAND**

phone 713.433.9300  
fax 713.433.9359  
11130 Broadway Street  
Pearland, Texas 77584

**AUSTIN**

COMING SOON

**BEAUMONT**

COMING SOON

**CORPORATE OFFICE**

phone 713.433.9300  
fax 713.433.9359  
11130 Broadway Street  
Pearland, Texas 77584

www.nec24.com

7 May 2014

Memorandum For The Planning Commission and City Council, City Of  
Beaumont, TEXAS 77701

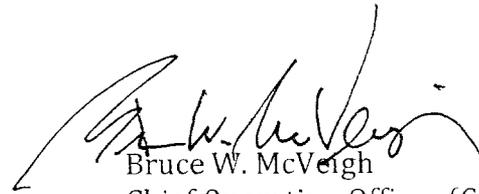
Subject: Request for Rezoning on the Property at 4755 Eastex Freeway,  
Beaumont TX 77703

1. The Neighbors Emergency Center (Beaumont) respectfully requests that the city of Beaumont please accept our proposal to rezone property that we have recently purchased in July 2013 at 4755 Eastex Freeway. What has transpired now that we are submitting plans for permit is new information that we did not previously know that entails two different zones on the property we purchased. One zone is "commercial" for the main part of the property (which used to be an old Ethan -Allen Furniture store). The other zone is on the backside which has a metal storage shed/building on the site, and this area has been deemed "residential" property. All of this information is new to us as the owner.

2. We are respectfully requesting a consideration to rezone the parcel of "residential property" to become commercial property so that we can enable adequate parking for our soon to be opening Emergency Care Center.

3. We have attached pertinent documents along with the application and \$450.00 application fee. Please let us know if anything else is required in order to enhance our request.

4. POC is the undersigned at [bwmcveigh@nec24.com](mailto:bwmcveigh@nec24.com) , or (832)627-8663.



Bruce W. McVeigh  
Chief Operating Officer (COO)  
Neighbors Health System, Inc.

ORDINANCE NO.

ENTITLED AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF BEAUMONT, TEXAS, AND IN PARTICULAR THE BOUNDARIES OF THE ZONING DISTRICTS, AS INDICATED UPON THE ZONING MAP OF BEAUMONT, TEXAS, BY CHANGING THE ZONING OF PROPERTY PRESENTLY ZONED RM-H (RESIDENTIAL MULTIPLE FAMILY DWELLING-HIGHEST DENSITY) DISTRICT TO GC-MD (GENERAL COMMERCIAL-MULTIPLE FAMILY DWELLING) DISTRICT FOR PROPERTY LOCATED AT 4755 EASTEX FREEWAY, BEAUMONT, JEFFERSON COUNTY, TEXAS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL AND PROVIDING A PENALTY.

BE IT ORDAINED BY THE CITY OF BEAUMONT:

Section 1.

That Chapter 28 of the Code of Ordinances of Beaumont, Texas, and in particular the boundaries of the zoning districts, as indicated upon the Zoning Map of the City of Beaumont, referred to in Section 28.01.005(b) thereof, is hereby amended by changing the zoning of property presently zoned RM-H (Residential Multiple Family Dwelling-Highest Density) District to GC-MD (General Commercial-Multiple Family Dwelling) District for property located at 4755 Eastex Freeway, as described in Exhibit "A" and shown on Exhibit "B," attached hereto, and the official zoning map of the City of Beaumont is hereby amended to reflect such changes.

Section 2.

That, in all other respects, the use of the property herein above described shall be subject to all of the applicable regulations of the underlying zoning district as well as those regulations contained in Chapter 28 of the Code of Ordinances of Beaumont, Texas, as amended.

Section 3.

That if any section, subsection, sentence, clause of phrase of this ordinance, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this ordinance, and to such end, the various portions and provisions of this ordinance are declared to be severable.

Section 4.

That all ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict only.

Section 5.

That any person who violates any provision of this ordinance shall, upon conviction, be punished, as provided in Section 1.01.009 of the Code of Ordinances of Beaumont, Texas.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 24th day of June, 2014.

---

- Mayor Becky Ames -

## **LEGAL DESCRIPTION FOR ORDINANCE PURPOSES**

Surveyor's Field Note Description:

**BEING** a 0.1195 acre tract of land out of and a part of that certain Phelan & Phelan called 0.346 acre tract of land, more fully described and recorded in Clerks File No. 2013010297 of the Official Public Records of said Jefferson County. Said 0.1195 acre tract of land being situated in the Frederick Bigner Survey, Abstract No. 1, Jefferson County, Texas and being more particularly described as follows:

**BEGINNING** at a 5/8 inch iron rod found at the Southwest corner of said 0.346 acre tract, same being the Southeast corner of that certain Keith Evans Consulting LLC called 0.653 acre tract of land, more fully described and recorded in Clerks File No. 2004037248 of said Official Public Records and being in the North line of that certain James H. Williams called 0.93 acre tract of land, more fully described and recorded in Film Code No. 105-07-0121 of said Official Public Records;

**THENCE** North 08 deg. 21 min. 49 sec. East along and with the West line of said 0.346 acre tract, same being the East line of said 0.653 acre tract, a distance of 96.33 feet to a point for corner;

**THENCE** South 57 deg. 01 min. 51 sec. East, a distance of 81.17 feet to a point for corner;

**THENCE** South 28 deg. 41 min. 20 sec. West, a distance of 69.46 feet to a point for corner in the South line of said 0.346 acre tract, same being the North line of said 0.93 acre tract

**THENCE** North 78 deg. 37 min. 45 sec. West along and with the South line of said 0.346 acre tract, same being the North line of said 0.93 acre tract, a distance of 49.74 feet to the **PLACE OF BEGINNING**, containing 0.1195 acre of land, more or less.

*(This description is based upon a survey made on the ground under my direct supervision on June 17, 2013. All bearings are based upon the Texas Coordinate System of 1983 (2011), Central Zone '4203' (US Survey Foot). All distances and acreages are surface with a combined adjustment factor of 1.00007 applied.)*

**File 2201-Z:** A request for a rezoning from RM-H (Residential Multiple Family Dwelling – High Density) to GC-MD (General Commercial – Multiple Family Dwelling) District to correct the split zoning of a property.

Location: 4755 Eastex Freeway

Applicant: Bruce W. McVeigh

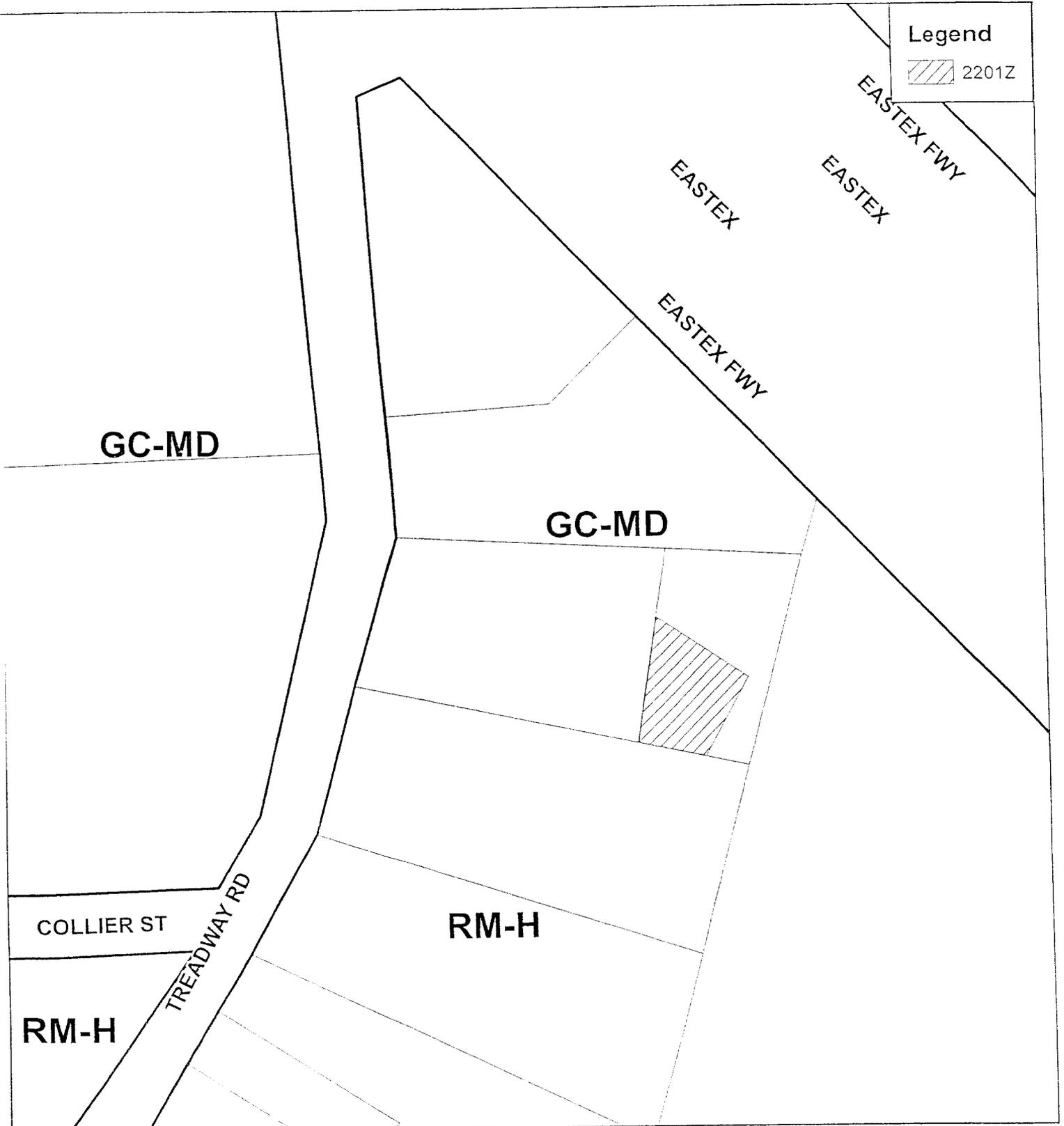
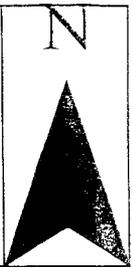
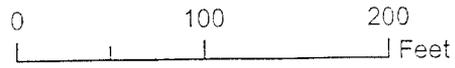
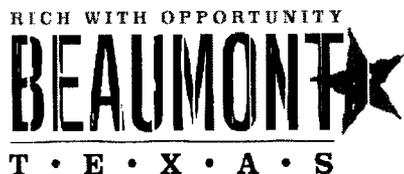


EXHIBIT "B"

**June 24, 2014**

Consider an ordinance approving a specific use permit to allow an animal shelter and adoption center in a PUD (Planned Unit Development) District on property located on the west side of Major Drive near Perl Road

---



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Chris Boone, Director of Planning and Community Development

**MEETING DATE:** June 24, 2014

**REQUESTED ACTION:** Council consider an ordinance approving a specific use permit to allow an animal shelter and adoption center in a PUD (Planned Unit Development) District on property located on the west side of Major Drive near Perl Road.

### **BACKGROUND**

The Humane Society of Southeast Texas has applied for a specific use permit.

The applicant plans to offer a facility that will not only enhance the behavior and physical health of the animals, but become a destination for the community. A park like setting will accommodate walking trails as well as a dog park open to the public.

The hours of operation for the shelter are typically 8 a.m. to 5 p.m. seven days per week with adoption hours starting at 11 a.m. Tuesday through Saturday and 1 p.m. on Sunday. Plans are to maintain 150 ft. of naturally wooded landscaping between the shelter and its neighbors and play yards for dogs would be located a minimum of 400 ft. from adjacent residential neighborhoods.

At a Joint Public Hearing held June 16, 2014, the Planning Commission recommended 5:0 to approve a specific use permit to allow an animal shelter and adoption center in a PUD (Planned Unit Development) District on property located on the west side of Major Drive 1 ½ miles north of Highway 105, subject to the following condition:

1. A natural buffer being 150 ft. wide by 900 ft. in depth along the south property line be delineated on the site plan and remain undisturbed.

### **FUNDING SOURCE**

Not applicable.

## **RECOMMENDATION**

Approval of ordinance with the following condition:

1. A natural buffer being 150 ft. wide by 900 ft. in depth along the south property line be delineated on the site plan and remain undisturbed.

**SPECIFIC USE PERMIT APPLICATION**  
**BEAUMONT, TEXAS**

(Chapter 28, City Codes)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS

APPLICANT'S NAME: Humane Society of Southeast Texas

APPLICANT'S ADDRESS: 2050 Spindletop Rd, Bmt, TX

APPLICANT'S PHONE #: (409) 833-0504 FAX #: (409) 832-7425

NAME OF OWNER: Amy S. Bean B/D President

ADDRESS OF OWNER: 9520 Frederick Rd, Orange 77632

LOCATION OF PROPERTY: Major Drive, 1/2 miles north of 105

**LEGAL DESCRIPTION OF PROPERTY:**

LOT NO. \_\_\_\_\_ TRACT 61-D

BLOCK NO. A PLAT RS-5

ADDITION GREENFIELD SECTION I REPLAT AND SURVEY D. EASLEY

NUMBER OF ACRES \_\_\_\_\_ NUMBER OF ACRES +/- 107.187

**For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed for a specific use permit, and a complete legal field note description.**

PROPOSED USE: Animal shelter + adoption center ZONE: DLD

**ATTACH A LETTER** describing all processes and activities involved with the proposed uses.

**ATTACH A SITE PLAN** drawn to scale with the information listed on the top back side of this sheet.

**ATTACH A REDUCED 8 1/2" X 11" PHOTOCOPY OF THE SITE PLAN.**

**THE EIGHT CONDITIONS** listed on the back side of this sheet must be met before City Council can grant a specific use permit. **PLEASE ADDRESS EACH CONDITION IN DETAIL.**

**ATTACH THE APPROPRIATE APPLICATION FEE:**

LESS THAN 1/2 ACRE.....	\$250.00
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....	\$450.00
5 ACRES OR MORE.....	\$650.00

I, being the undersigned applicant, understand that all of the conditions, dimensions, building sizes, landscaping and parking areas depicted on the site plan shall be adhered to as amended and approved by City Council.

SIGNATURE OF APPLICANT: \_\_\_\_\_ DATE: 5-23-14

SIGNATURE OF OWNER: \_\_\_\_\_ DATE: 5-23-14

PLEASE TYPE OR PRINT AND SUBMIT TO:

CITY OF BEAUMONT  
PLANNING DIVISION  
801 MAIN STREET, ROOM 201  
BEAUMONT, TX 77701

FILE NUMBER: \_\_\_\_\_

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

Phone - (409) 880-3764  
Fax - (409) 880-3133

\*\*\*\*\*

PLEASE MAKE NOTE ON REVERSE SIDE OF CONDITIONS TO BE MET REGARDING THE SITE PLAN AND LETTER OF PROPOSED USES AND ACTIVITIES.

## Processes and Activities of Proposed Humane Society of Southeast Texas New Facility

The Humane Society of SET is a non-profit animal shelter, serving the citizens of the Golden Triangle area, as well as several local city pounds. As a shelter, we accept a limited number of cats and dogs no longer wanted by owners as well as strays found by area citizens. The “activities” of our shelter are mainly the care of the animals at our shelter and the adoption of those animals to the public.

Staff arrives at the shelter at 8:00 and spend the next several hours feeding animals, as well as cleaning cages and kennels. The shelter opens to the public (for adoptions) at 11:00 Tuesday through Saturday, and at 1:00 on Sundays. The Shelter closes at 4:30 and the majority of the staff leaves the premises by 5:00. There is rarely any activity after 5:30.

Other than staff, volunteers, and people interested in adopting, we sometimes give “tours” to small groups of school children, church groups or other clubs who have held a fundraiser for us.

While the main purpose of the new innovative facility is the enhanced behavior and physical health of the animals, we want the facility to be a “destination” where the community is welcome to enjoy a park like setting, dog walking trails and a dog park open to the public. We believe the new shelter will create a sense of pride in our donors and community, inspire a commitment from our volunteers, and enrich the lives of both people and animals through education promoting the benefits of responsible pet ownership. We hope all these factors will contribute to the ultimate objective of increasing pet adoptions.

5. The shelter does not emit any fumes, dusts or vibrations.

There is no detectable offensive odor outside of the buildings and really no offensive odors inside the building once the staff has cleaned the kennels and cages in the mornings. The cleaning process is strictly enforced in order to maintain a healthy shelter environment.

The cats remain inside the facility at all times. The dogs are given time outside either in play yards (which will be located over 400 feet from the adjacent neighborhood) or are walked by volunteers but spend the majority of time inside the shelter. When the dogs are inside the shelter, any noise (from the dogs barking) is contained within the building. (Once the staff has left for the day, there is nothing to excite or distract the dogs, so there is little to no noise after hours.)

6. The directional lighting will be pointed towards the shelter and away from the only adjacent neighborhood. Additionally, there will be 150 feet of naturally landscaped woods between the neighborhood and the shelter buildings which should provide additional screening from any lighting.
7. An eight foot privacy wooden fence will be erected on the property's boundary between the adjacent neighborhood and the shelter property. There will also be 150 feet of natural landscaping between the neighborhood and the shelter building.
8. We believe the proposed use is in accordance with the Comprehensive Plan as it will be an asset to the community, a place the public will enjoy visiting.

## Addressing the Eight Conditions

1. The new shelter will not diminish or impair property values nor be injurious to the use or enjoyment of other property within the immediate vicinity.

The shelter will be a multi-million dollar facility incorporating state of the art shelter design and innovations which will be both attractive and enriching to the community. The facility itself will maintain a park like setting, with much of the property kept in its naturally wooded state.

There will be 150 feet of naturally wooded landscaping between the only adjacent neighborhood and the shelter.

2. The shelter will not impede the normal and orderly development/improvement of the surrounding vacant property.

There is very little adjacent 'vacant' property located near the proposed site of the new shelter. (The LNVA canal serves as the northern boundary to about 1/3 of the property; Major Drive serves as the boundary across the front of the property and a small neighborhood is adjacent to the south side of the property.) The only vacant, adjacent property is located behind the neighborhood, next to a pipeline easement on the proposed site. That area will only be used as part of the nature walking trail.

3. We believe the property has adequate drainage and other necessary supporting facilities.
4. The design, location, and arrangement of all driveways and parking spaces will provide safe and convenient movement of vehicular and pedestrian traffic.

There will be one entrance/exit to the facility which will be located more than 300 feet from the closest driveway (which serves the adjacent neighborhood.)

There will be plenty of parking available on site: we have fewer than 20 employees and typically have fewer than 20 other vehicles on our property at any one time.

ORDINANCE NO.

ENTITLED AN ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW AN ANIMAL SHELTER AND ADOPTION CENTER IN A PUD (PLANNED UNIT DEVELOPMENT) DISTRICT ON PROPERTY LOCATED ON THE WEST SIDE OF MAJOR DRIVE NEAR PERL ROAD IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.

WHEREAS, The Humane Society of Southeast Texas has applied for a specific use permit to allow an animal shelter and adoption center in a PUD (Planned Unit Development) District on property located on the west side of Major Drive near Perl Road, being Tract 61-D, Plat RS-5, D. Easley Survey, Abstract 20, and the Final Replat of Block A, Greenfield Village, Section 1, Beaumont, Jefferson County, Texas, containing 107.187 acres, more or less, as shown on Exhibit "A," attached hereto; and,

WHEREAS, the Planning and Zoning Commission of the City of Beaumont considered the request and is recommending approval of a specific use permit to allow an animal shelter and adoption center in a PUD (Planned Unit Development) District on property located on the west side of Major Drive near Perl Road, subject to the following condition:

- A natural buffer being 150 ft. wide by 900 ft. in depth along the south property line be delineated on the site plan and remain undisturbed.

; and,

WHEREAS, the City Council is of the opinion that the issuance of such specific use permit is in the best interest of the City of Beaumont and its citizens;

NOW, THEREFORE, BE IT ORDAINED

BY THE CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this ordinance are hereby, in

all things, approved and adopted; and,

Section 1.

That a specific use permit to allow an animal shelter and adoption center in a PUD (Planned Unit Development) District on property located on the west side of Major Drive near Perl Road, being Tract 61-D, Plat RS-5, D. Easley Survey, Abstract 20, and the Final Replat of Block A, Greenfield Village, Section 1, Beaumont, Jefferson County, Texas, containing 107.187 acres, more or less, as shown on Exhibit "A," attached hereto, is hereby granted to The Humane Society of Southeast Texas, its legal representatives, successors and assigns, as shown on Exhibit "B," attached hereto and made a part hereof for all purposes, subject to the following condition:

- A natural buffer being 150 ft. wide by 900 ft. in depth along the south property line be delineated on the site plan and remain undisturbed.

Section 2.

That the specific use permit herein granted is expressly issued for and in accordance with each particular and detail of the site plan attached hereto as Exhibit "B" and made a part hereof for all purposes.

Section 3.

Notwithstanding the site plan attached hereto, the use of the property herein above and made a part hereof for all purposes.

Section 3.

Notwithstanding the site plan attached hereto, the use of the property herein above described shall be in all other respects subject to all of the applicable regulations contained in Chapter 28 of the Code of Ordinances of Beaumont, Texas, as amended, as well as

comply with any and all federal, state and local statutes, regulations or ordinances which may apply.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 24th day of June, 2014.

---

- Mayor Becky Ames -

File 2202-P: A request for a specific use permit to allow an animal shelter and adoption center in a PUD (Planned Unit Development) district.

Location: West side of Major Drive 1 1/2 miles north of Highway 105

Applicant: Humane Society of Southeast Texas

N



0 400 800 Feet

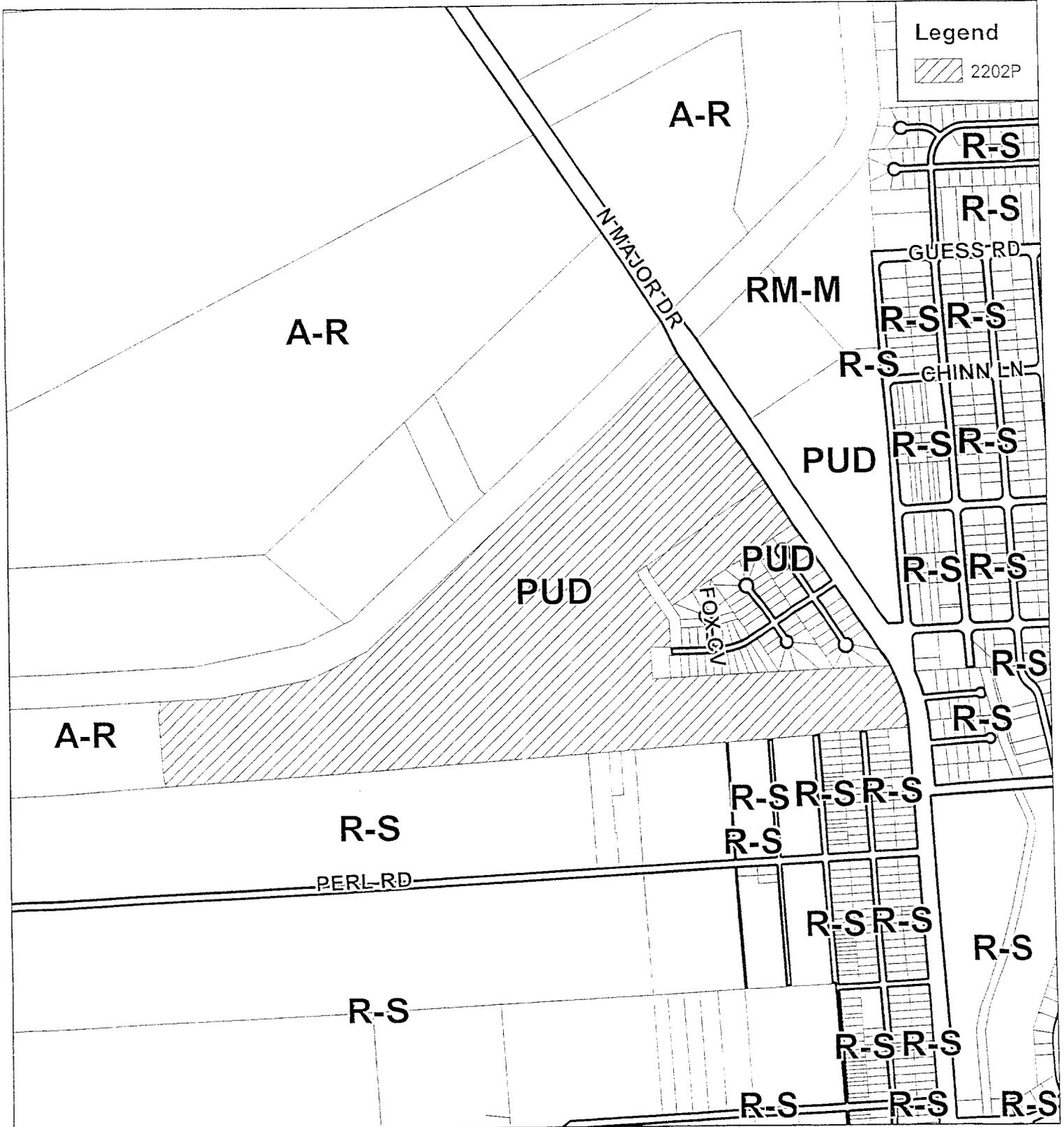


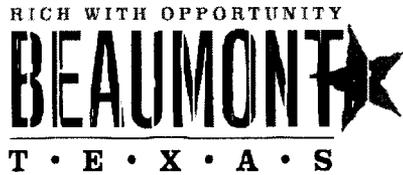
EXHIBIT "A"



June 24, 2014

Consider an ordinance approving the rezoning of property from GC-MD-2 (General Commercial-Multiple Family Dwelling-2) to RM-H (Residential Multiple Family Dwelling-High Density) District to allow single family housing located west of 7080 Calder Avenue

---



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Chris Boone, Director of Planning and Community Development

**MEETING DATE:** June 24, 2014

**REQUESTED ACTION:** Council consider an ordinance approving the rezoning of property from GC-MD-2 (General Commercial-Multiple Family Dwelling-2) to RM-H (Residential Multiple Family Dwelling-High Density) District to allow single family housing located west of 7080 Calder Avenue

### **BACKGROUND**

Buckner Retirement Services, Inc. D/B/A Calder Woods.

Calder Woods requested the rezoning of the ~3.384 acres to expand onto these adjacent tracts in the near future. The current GC-MD-2 (General Commercial-Multiple Family Dwelling-2) zoning does not allow for the construction of single family dwellings.

At a Joint Public Hearing held June 16, 2014, the Planning Commission recommended 5:0 to approve a rezoning from GC-MD (General Commercial-Multiple Family Dwelling-2) District to RM-H (Residential Multiple Family Dwelling-Highest Density) District for the ~3.384 acres located west of 7080 Calder Avenue.

### **FUNDING SOURCE**

Not applicable.

### **RECOMMENDATION**

Approval of ordinance.

**APPLICATION FOR AMENDMENT  
OF THE ZONING ORDINANCE  
BEAUMONT, TEXAS**  
(Chapter 28, City Codes)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS  
 APPLICANT'S NAME AND ADDRESS: Buckner Retirement Services, Inc D/B/A  
Calder Woods 7080 Calder Ave. Beaumont, Tx

APPLICANT'S PHONE #: 214-758-8032 FAX #: 214-758-8153

NAME OF OWNER: Buckner Retirement Services, Inc.

ADDRESS OF OWNER: 700 N. Pearl Street, Suite 1200, Dallas Tx

LOCATION OF PROPERTY: Phelar in Beaumont Tx

**LEGAL DESCRIPTION OF PROPERTY:**

LOT NO. \_\_\_\_\_ OR TRACT 94 + 123<sup>123A</sup> + 123<sup>123B</sup> AB59  
 BLOCK NO. \_\_\_\_\_ PLAT SP. Co  
 ADDITION \_\_\_\_\_ SURVEY C. Williams  
 NUMBER OF ACRES \_\_\_\_\_ NUMBER OF ACRES 3.384

For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed to be changed, and a complete legal field note description.

CURRENT ZONING DISTRICT: GC-MD2

ZONING DISTRICT REQUESTED: Rm-H (Residential Multi Family High Density)

HAS THE REQUEST BEEN MADE BEFORE? NO IF SO, DATE: Not to Our Knowledge

ACTION: \_\_\_\_\_

**SUBMIT A LETTER STATING REASONS FOR REQUEST.**

**ATTACH THE APPROPRIATE APPLICATION FEE:**

LESS THAN 1/2 ACRE.....	\$250.00
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....	\$450.00
5 ACRES OR MORE.....	\$650.00

I HEREBY ACKNOWLEDGE THAT THE APPLICATION IS MADE FOR THE REQUESTED DISTRICT OR A MORE RESTRICTIVE DISTRICT.

SIGNATURE OF APPLICANT: [Signature] DATE: 5-8-14  
 SIGNATURE OF OWNER: [Signature] V. Pres of Board Council

PLEASE TYPE OR PRINT AND SUBMIT TO: PLANNING DIVISION, ROOM 201  
 CITY HALL, 801 MAIN STREET  
 BEAUMONT, TX 77701

FILE NUMBER: 2203-2  
 DATE RECEIVED: 5-14-14  
 RECEIPT NUMBER: \_\_\_\_\_

P.O. BOX 3827 77704  
 (409) 880-3764  
 FAX (409) 880-3133

5/14/14

City of Beaumont  
Planning Commission

To Whom It May Concern:

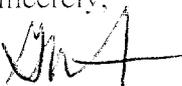
The reason for our rezoning request is to allow the existing retirement community to expand to the west of the existing facility.

This would be done by developing the existing Greenfield parcels zoned as GC-MD 2 to have single family homes, duplexes, or multi-family homes constructed on the property.

This would be part of and maintained by the Calder Woods campus.

We respectfully respect your consideration in assisting our commitment and growth in your community.

Sincerely,



Gerald W. Farha

ORDINANCE NO.

ENTITLED AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF BEAUMONT, TEXAS, AND IN PARTICULAR THE BOUNDARIES OF THE ZONING DISTRICTS, AS INDICATED UPON THE ZONING MAP OF BEAUMONT, TEXAS, BY CHANGING THE ZONING OF PROPERTY PRESENTLY ZONED GC-MD-2 (GENERAL COMMERCIAL-MULTIPLE FAMILY DWELLING-2) DISTRICT TO RM-H (RESIDENTIAL MULTIPLE FAMILY DWELLING-HIGH DENSITY) DISTRICT FOR PROPERTY LOCATED WEST OF 7080 CALDER AVENUE, BEAUMONT, JEFFERSON COUNTY, TEXAS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL AND PROVIDING A PENALTY.

BE IT ORDAINED BY THE CITY OF BEAUMONT:

Section 1.

That Chapter 28 of the Code of Ordinances of Beaumont, Texas, and in particular the boundaries of the zoning districts, as indicated upon the Zoning Map of the City of Beaumont, referred to in Section 28.01.005(b) thereof, is hereby amended by changing the zoning of property presently zoned GC-MD-2 (General Commercial-Multiple Family Dwelling-2) District to RM-H (Residential Multiple Family Dwelling-High Density) District for property located west of 7080 Calder Avenue, being Tracts 94, 123-A, 123-B and the adjacent street right-of-way, Plat SP-6, C. Williams Survey, Beaumont, Jefferson County, Texas, containing 3.384 acres, more or less, as shown on Exhibit "A," attached hereto, and the official zoning map of the City of Beaumont is hereby amended to reflect such changes.

Section 2.

That, in all other respects, the use of the property herein above described shall be subject to all of the applicable regulations of the underlying zoning district as well as those

regulations contained in Chapter 28 of the Code of Ordinances of Beaumont, Texas, as amended.

Section 3.

That if any section, subsection, sentence, clause or phrase of this ordinance, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this ordinance, and to such end, the various portions and provisions of this ordinance are declared to be severable.

Section 4.

That all ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict only.

Section 5.

That any person who violates any provision of this ordinance shall, upon conviction, be punished, as provided in Section 1.01.009 of the Code of Ordinances of Beaumont, Texas.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 24th day of June, 2014.

---

- Mayor Becky Ames -

File 2203-Z: A request to rezone a property from GC-MD-2 (General Commercial – Multiple Family Dwelling - 2) to RM-H (Residential Multiple Family Dwelling – High Density) district to allow single family housing.

Location: West of 7080 Calder Ave.

Applicant: Buckner Retirement Services, Inc. D/B/A Calder Woods

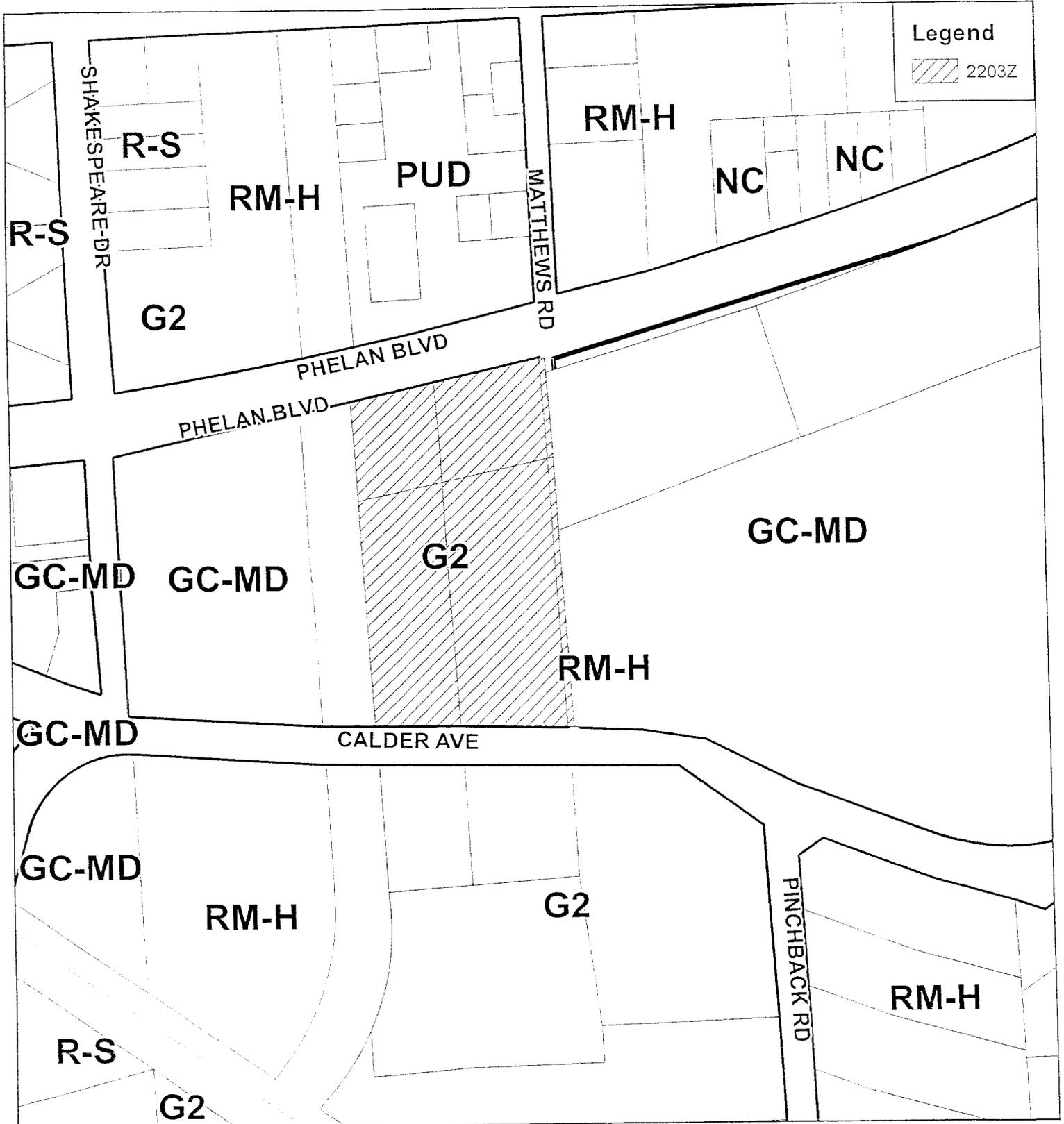
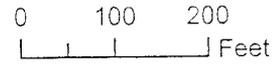


EXHIBIT "A"

**June 24, 2014**

Consider an ordinance approving a specific use permit to allow a bar in a GC-MD (General Commercial-Multiple Family Dwelling) District at 2345 Calder Avenue

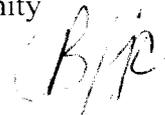
---



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Chris Boone, Director of Planning and Community Development 

**MEETING DATE:** June 24, 2014

**REQUESTED ACTION:** Council consider an ordinance approving a specific use permit to allow a bar in a GC-MD (General Commercial-Multiple Family Dwelling) District at 2345 Calder Avenue.

### BACKGROUND

Luke's Icehouse has applied for a specific use permit.

The specific use permit would allow for the expansion of a bar. Gary Wallace, on behalf of Luke's Icehouse, states that the building at 2345 Calder is in disrepair and currently vacant. Luke's wishes to save this building, repurposing it for the expansion of their growing business. Much needed additional parking will be located on the west side of the building.

At a Joint Public Hearing held June 16, 2014, the Planning Commission recommended 5:0 to approve a specific use permit to allow a bar in a GC-MD (General Commercial-Multiple Family Dwelling) District at 2345 Calder Avenue.

### FUNDING SOURCE

Not applicable.

### RECOMMENDATION

Approval of ordinance.

### LEGAL DESCRIPTION FOR ORDINANCE PURPOSES

Being Lots 5-8 and the east ½ of Lot 9, Block 22, Averill Addition, Beaumont, Jefferson County, Texas, containing 0.86 acres, more or less

SPECIFIC USE PERMIT APPLICATION  
BEAUMONT, TEXAS

(Chapter 21, City Codes)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS

APPLICANT'S NAME: LUKE'S ICEHOUSE - BEAUMONT, LLC.

APPLICANT'S ADDRESS: 2325 CALDER AVE, BEAUMONT TX 77702

APPLICANT'S PHONE #: 409-347-8139 FAX #: \_\_\_\_\_

NAME OF OWNER: ALBANESE COEMIER HOLDINGS, LLC.

ADDRESS OF OWNER: P.O BOX 12410 BEAUMONT TX.

LOCATION OF PROPERTY: 2345 CALDER AVE, BEAUMONT TX 77702

LEGAL DESCRIPTION OF PROPERTY:

LOT NO. 5-8 & THE EAST 1/2 OF LOT 9 OR TRACT \_\_\_\_\_

BLOCK NO. 22 PLAT \_\_\_\_\_

ADDITION AVENUE SURVEY \_\_\_\_\_

NUMBER OF ACRES 0.86 NUMBER OF ACRES \_\_\_\_\_

For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed for a specific use permit, and a complete legal field note description.

PROPOSED USE: RESTAURANT / FOOD SERVICE ESTABLISHMENT ZONE: GC-MD

ATTACH A LETTER describing all processes and activities involved with the proposed uses.

ATTACH A SITE PLAN drawn to scale with the information listed on the top back side of this sheet.

ATTACH A REDUCED 8 1/2" X 11" PHOTOCOPY OF THE SITE PLAN.

THE EIGHT CONDITIONS listed on the back side of this sheet must be met before City Council can grant a specific use permit. PLEASE ADDRESS EACH CONDITION IN DETAIL.

ATTACH THE APPROPRIATE APPLICATION FEE:

LESS THAN 1/2 ACRE.....	\$250.00
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....	\$450.00
5 ACRES OR MORE.....	\$650.00

I, being the undersigned applicant, understand that all of the conditions, dimensions, building sizes, landscaping and parking areas depicted on the site plan shall be adhered to as amended and approved by City Council.

SIGNATURE OF APPLICANT: [Signature] DATE: 5/23/14

SIGNATURE OF OWNER: Mike Alban (IF NOT APPLICANT) DATE: 5/23/14

PLEASE TYPE OR PRINT AND SUBMIT TO: CITY OF BEAUMONT  
PLANNING DIVISION  
801 MAIN STREET, ROOM 201  
BEAUMONT, TX 77701

FILE NUMBER: 2205-P

DATE RECEIVED: 5-27-14

Phone - (409) 880-3764  
Fax - (409) 880-3133

PLEASE MAKE NOTE ON REVERSE SIDE OF CONDITIONS TO BE MET REGARDING THE SITE PLAN AND LETTER OF PROPOSED USES AND ACTIVITIES.



**Chris Boone**

Director, Community Development  
City of Beaumont  
801 Main Street Suite 210  
Beaumont, TX 77701  
409-880-3732

RE: Luke's Expansion - Specific Use Permit

Mr. Boone,

As you may know, Luke's currently has a location at 2325 Calder Avenue. Business has been booming and we have begun work on the property adjacent to our current location for expansion plans, which is owned by AlbaneseCormier Holdings, LLC.

We understand that this property requires a Specific Use Permit with the City. Our intention is to continue the expansion construction while the permit is under review for approval. We also understand that if the permit does not get approved, we will not be able to enjoy the benefits of the expansion project.

We continue to look forward to working with the City to expand Luke's, adding additional employment, and furthering Beaumont's economic growth.

If you have any questions, or if I can provide any assistance don't hesitate to let me know.

Kind regards,

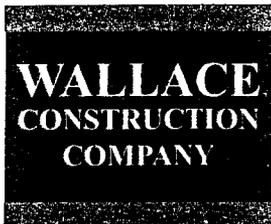
*Silver Gordon* 05/12/2014

**Silver Gordon**

VP of Development - Luke's Beaumont  
Western Entertainment Management, Inc.

**Michael Albanese**

Partner - AlbaneseCormier Holdings, LLC



P. O. Box 5608

• BEAUMONT, TX 77726 •

(409) 284-0300

May 23, 2014

Wallace Construction Company is completing the application process on behalf of Silver Gordon of Luke's Beaumont and Michael Albanese of AlbansesCormier Holdings, LLC.

In response to the City's request for the 8 conditions to be met before a specific use permit can be issued, we address the conditions as follows:

1. Property owner is seeking permission to change use of property from offices to Restaurant / Bar. The tenant next door is expanding his existing business to include the building to the west to which we're referring.
2. The property is not currently being used and is in poor condition. Owner plans to leave structure as is and add parking on west side in vacant rock lot.
3. All utilities, access and drainage are existing to the property.
4. Drives and parking have been designed to maintain adequate traffic flow and have permission from business owner across the street to allow parking for possible overflow traffic.
5. There will be no further or additional odors or nuisances from the property. This business is just expanding square footage.
6. Additional lighting will be minimal outside building.
7. Landscaping will be added or updated per city requirements along Calder and parking areas.
8. Proposed use is not changing scope of Comprehensive Plan.

Please notify us if you have any further questions concerning this application.

Thanks,

A handwritten signature in black ink, appearing to read "Gary Wallace".

Gary Wallace

409.284.0300

From: Silver Gordon  
Luke's Icehouse  
2325 Calder Ave, Beaumont Texas.

To: Tim Baker - American Lift Aids  
2310 Calder Ave, Beaumont Texas.

Tim,

Luke's Icehouse, located at 2325 Calder Ave Beaumont Texas, would like to use the parking located at 2310 Calder Ave, Beaumont Texas, controlled by your company, American Lift Aids. We offer the following conditions:

1. This parking is only available to Luke's Icehouse after 5pm each day. Vehicles left overnight must be removed by 8am at the expense of Luke's Icehouse.
2. Luke's Icehouse will maintain the cleanliness of the additional parking nightly.
3. Luke's will provide you, (Tim Baker) with \$150.00 per month in credit to be used at Luke's Icehouse. This credit is accumulative but cannot be redeemed for cash.

We would like to commit to this agreement on these terms for the rest of 2014, we can readdress our need and the terms of use at the end of the year.

Thanks,

Silver Tree Gordon - Luke's Icehouse

*Silver Gordon* 5/8/2014

Agreed - Tim baker

*Tim Baker*



10/11/2014



ORDINANCE NO.

ENTITLED AN ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW A BAR IN A GC-MD (GENERAL COMMERCIAL-MULTIPLE FAMILY DWELLING ) DISTRICT AT 2345 CALDER AVENUE IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.

WHEREAS, Gary Wallace, on behalf of Luke's Icehouse, has applied for a specific use permit to allow a bar in a GC-MD (General Commercial-Multiple Family Dwelling) District at 2345 Calder Avenue, being Lots 5-8 and the east ½ of Lot 9, Block 22, Averill Addition, Beaumont, Jefferson County, Texas, containing 0.86 acres, more or less, as shown on Exhibit "A," attached hereto; and,

WHEREAS, the Planning and Zoning Commission of the City of Beaumont considered the request and is recommending approval of a specific use permit to allow a bar in a GC-MD (General Commercial-Multiple Family Dwelling) District at 2345 Calder Avenue; and,

WHEREAS, the City Council is of the opinion that the issuance of such specific use permit is in the best interest of the City of Beaumont and its citizens;

NOW, THEREFORE, BE IT ORDAINED

BY THE CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this ordinance are hereby, in all things, approved and adopted; and,

Section 1.

That a specific use permit to allow a bar in a GC-MD (General Commercial-Multiple Family Dwelling) District at 2345 Calder Avenue, being Lots 5-8 and the east ½ of Lot 9, Block 22, Averill Addition, Beaumont, Jefferson County, Texas, containing 0.86 acres,

more or less, as shown on Exhibit "A," attached hereto, is hereby granted to Luke's Icehouse, its legal representatives, successors and assigns, as shown on Exhibit "B," attached hereto and made a part hereof for all purposes.

Section 2.

That the specific use permit herein granted is expressly issued for and in accordance with each particular and detail of the site plan attached hereto as Exhibit "B" and made a part hereof for all purposes.

Section 3.

Notwithstanding the site plan attached hereto, the use of the property herein above and made a part hereof for all purposes.

Section 3.

Notwithstanding the site plan attached hereto, the use of the property herein above described shall be in all other respects subject to all of the applicable regulations contained in Chapter 28 of the Code of Ordinances of Beaumont, Texas, as amended, as well as comply with any and all federal, state and local statutes, regulations or ordinances which may apply.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 24th day of June, 2014.

---

- Mayor Becky Ames -

File 2205-P: A request for a specific use permit to allow a bar in a GC-MD (General Commercial – Multiple Family Dwelling) district.  
Location: 2345 Calder Avenue  
Applicant: Luke's Icehouse – Beaumont, Texas, LLC

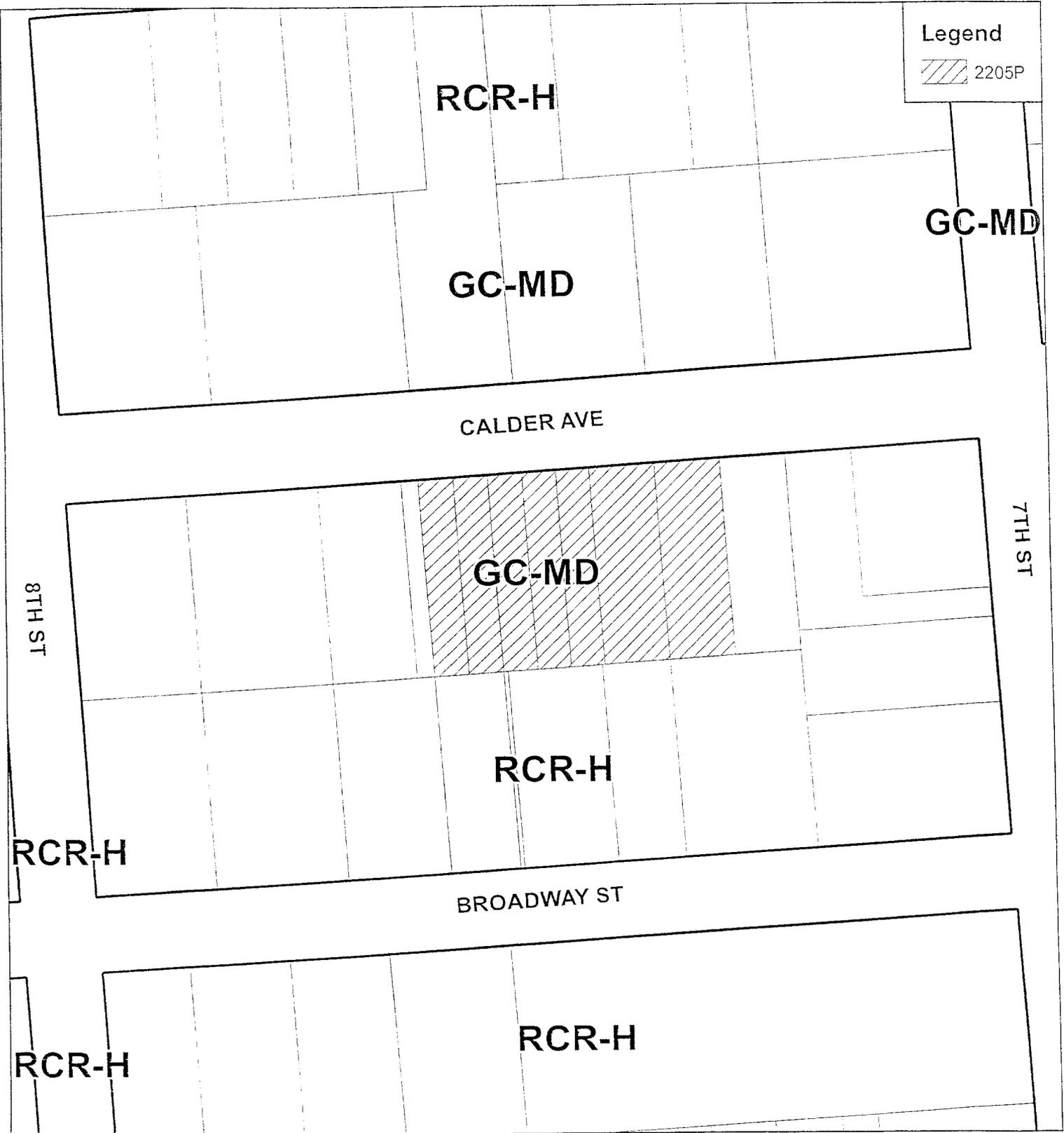
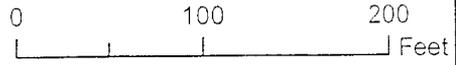


EXHIBIT "A"

Parking Count	
Existing	74
Existing HIC	02
New	07
New HIC	02
<b>Total Parking</b>	<b>85</b>

1 SITE PLAN

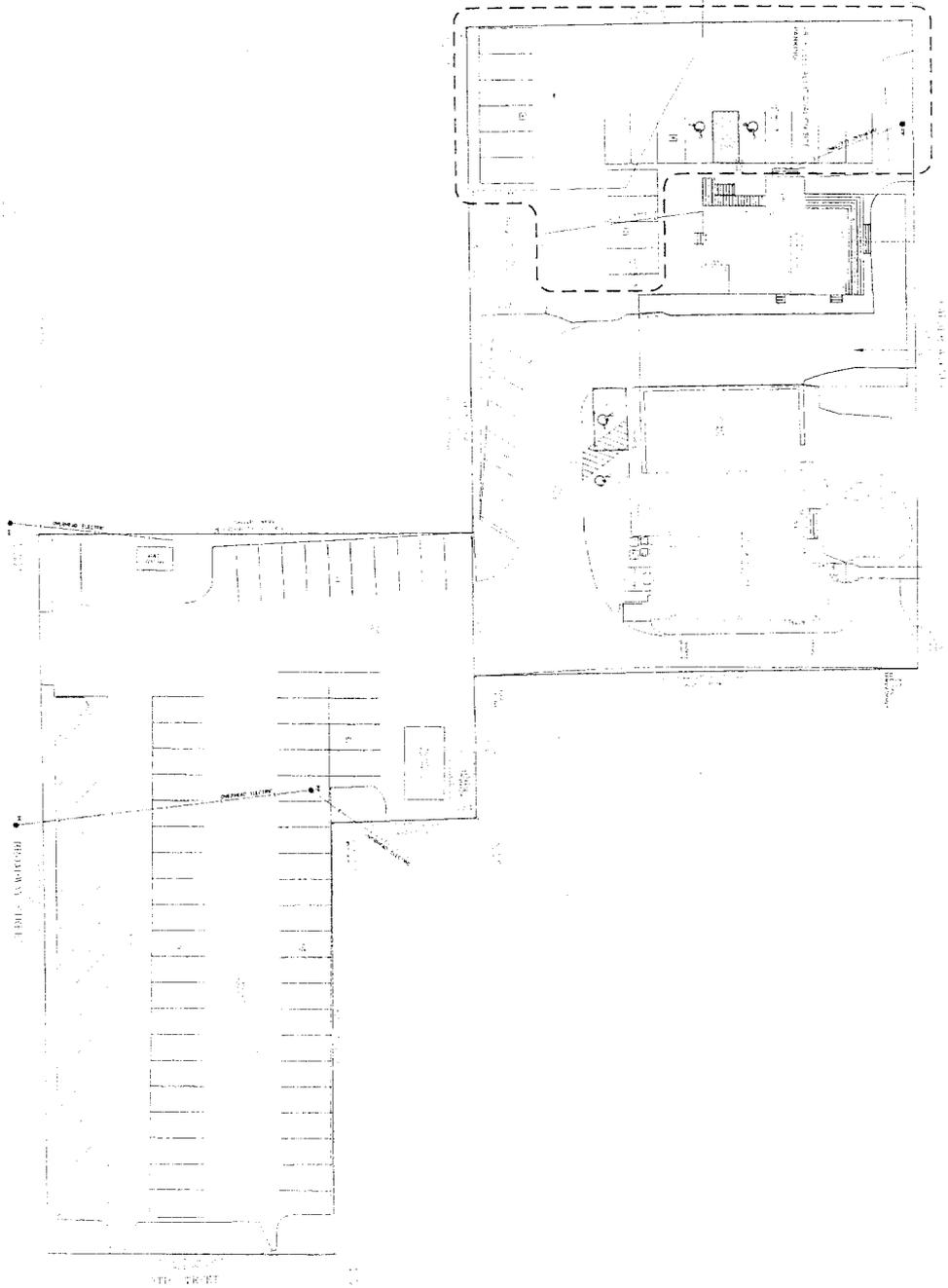


EXHIBIT "B"

LUKE'S ICEHOUSE PATIO EXPANSION

Western Entertainment



301 West Green Street  
 Suite 100  
 Jacksonville, FL 32202  
 (904) 251-1111  
 FAX (904) 251-1112  
 WWW.AAIA.COM

**AAI**  
 Architectural Alliance, Incorporated

DATE: 11/15/07  
 PROJECT: LUKE'S ICEHOUSE PATIO EXPANSION  
 SHEET: C101

SITE PLAN

REVISIONS:  
 NO. DATE DESCRIPTION  
 1 11/15/07 ISSUED FOR PERMIT  
 2 11/15/07 ISSUED FOR PERMIT  
 3 11/15/07 ISSUED FOR PERMIT  
 4 11/15/07 ISSUED FOR PERMIT  
 5 11/15/07 ISSUED FOR PERMIT  
 6 11/15/07 ISSUED FOR PERMIT  
 7 11/15/07 ISSUED FOR PERMIT  
 8 11/15/07 ISSUED FOR PERMIT  
 9 11/15/07 ISSUED FOR PERMIT  
 10 11/15/07 ISSUED FOR PERMIT

2345 Garden Avenue  
 Jacksonville, FL 32202  
 904.251.1111  
 www.aai.com

REVISIONS:  
 NO. DATE DESCRIPTION  
 1 11/15/07 ISSUED FOR PERMIT  
 2 11/15/07 ISSUED FOR PERMIT  
 3 11/15/07 ISSUED FOR PERMIT  
 4 11/15/07 ISSUED FOR PERMIT  
 5 11/15/07 ISSUED FOR PERMIT  
 6 11/15/07 ISSUED FOR PERMIT  
 7 11/15/07 ISSUED FOR PERMIT  
 8 11/15/07 ISSUED FOR PERMIT  
 9 11/15/07 ISSUED FOR PERMIT  
 10 11/15/07 ISSUED FOR PERMIT

**June 24, 2014**

Consider an ordinance approving a revised specific use permit to allow a secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District at 3380 Fannin Street

---



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Chris Boone, Director of Planning and Community Development *CB/p*

**MEETING DATE:** June 24, 2014

**REQUESTED ACTION:** Council consider an ordinance approving a revised specific use permit to allow a secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District at 3380 Fannin Street.

### **BACKGROUND**

Girls' Haven, Inc., on behalf of The Ehrhart School, is requesting a specific use permit.

The applicant wants to remove three existing modular structures and construct a new 365 ft. educational facility. The proposed facility will consist of fourteen classrooms, a multi-media center and gymnasium. The three modular structures to be removed are currently sitting on much needed parking.

At a Joint Public Hearing held June 16, 2014, the Planning Commission recommended 5:0 to approve a revised specific use permit to allow a secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District at 3380 Fannin Street.

### **FUNDING SOURCE**

Not applicable.

### **RECOMMENDATION**

Approval of ordinance.

### **LEGAL DESCRIPTION FOR ORDINANCE PURPOSES**

Being Lots 9-13 and the west 25 ft. of Lot 14, Fannin Street Addition, Beaumont, Jefferson County, Texas, containing 5.75 acres, more or less.

SPECIFIC USE PERMIT APPLICATION  
BEAUMONT, TEXAS  
(City of Beaumont)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS

APPLICANT'S NAME: Girls' Haven Inc

APPLICANT'S ADDRESS: 3380 Fannin Beaumont, Tx 77701

APPLICANT'S PHONE #: (409) 832-6223 FAX #: (409) 813-2766

NAME OF OWNER: Girls' Haven Inc.

ADDRESS OF OWNER: 3380 Fannin Beaumont Tx 77701

LOCATION OF PROPERTY: \_\_\_\_\_

LEGAL DESCRIPTION OF PROPERTY:

LOT NO. 910-13 & W25' L14 OR TRACT \_\_\_\_\_

BLOCK NO. — PLAT \_\_\_\_\_

ADDITION — Fannin Street SURVEY \_\_\_\_\_

NUMBER OF ACRES 5.75 NUMBER OF ACRES \_\_\_\_\_

For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed for a specific use permit, and a complete legal field note description.

PROPOSED USE: School (Secondary) ZONE: GCMD

ATTACH A LETTER describing all processes and activities involved with the proposed uses.

ATTACH A SITE PLAN drawn to scale with the information listed on the top back side of this sheet.

ATTACH A REDUCED 8 1/2" X 11" PHOTOCOPY OF THE SITE PLAN.

THE EIGHT CONDITIONS listed on the back side of this sheet must be met before City Council can grant a specific use permit. PLEASE ADDRESS EACH CONDITION IN DETAIL.

ATTACH THE APPROPRIATE APPLICATION FEE:

LESS THAN 1/2 ACRE.....	\$250.00
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....	\$450.00
5 ACRES OR MORE.....	\$650.00

I, being the undersigned applicant, understand that all of the conditions, dimensions, building sizes, landscaping and parking areas depicted on the site plan shall be adhered to as amended and approved by City Council.

SIGNATURE OF APPLICANT: [Signature] Board President DATE: 04/24/2014

SIGNATURE OF OWNER: \_\_\_\_\_ (IF NOT APPLICANT) DATE: \_\_\_\_\_

PLEASE TYPE OR PRINT AND SUBMIT TO:

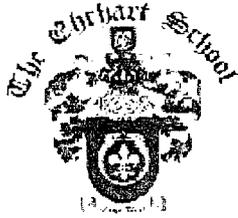
CITY OF BEAUMONT  
PLANNING DIVISION  
801 MAIN STREET, ROOM 201  
BEAUMONT, TX 77701

FILE NUMBER: 2200 P

DATE RECEIVED: 4/25/14

Phone - (409) 880-3764  
Fax - (409) 880-3133

PLEASE MAKE NOTE ON REVERSE SIDE OF CONDITIONS TO BE MET REGARDING THE SITE PLAN AND LETTER OF PROPOSED USES AND ACTIVITIES.



## The Ehrhart School

3380 Fannin

Beaumont, TX 77701

Phone: (409) 839-8200 Fax: (409) 839-8242

04/24/14

Planning Commission and City Council,

As proposed in our initial permit meeting today, Girls' Haven and The Ehrhart School wish to erect a permanent 365ft. educational facility consisting of fourteen classrooms, a multi-media center and gymnasium. The building will also house the needed support areas such as bathrooms, locker rooms, custodial closets, teacher's workroom, etc. Girl's Haven wishes to construct this facility over four existing tennis courts and a grassed area located directly behind Girls' Haven's main building, located at 3380 Fannin Street, in Beaumont.

The proposed new construction would replace three leased modular buildings currently located at the same address stated above. With the modular buildings currently resting on a large pre-existing parking lot, these temporary facilities are used as classrooms to support Ehrhart's Pre-K through 2<sup>nd</sup> grade students. Though there are numerous reasons for erecting the proposed educational facility, reasons such as owning the facility rather than leasing it and the fact that replacing the temporary structures can help create a safer school environment by offering needed parking space are priorities.

In closing, I wish to thank you for considering the Girls' Haven/Ehrhart School project. If I can answer any questions or be of further assistance, please call. I can be reached at 839-8200.

Thanks again,

Lynn Hogg  
Ehrhart School Superintendent



# The Ehrhart School

3380 Fannin

Beaumont, TX 77701

Phone: (409) 839-8200 Fax: (409) 839-8242

Planning Commission and City Council,

Concerning the eight conditions required by the Zoning Ordinance:

1. We believe the purposed new instructional facility will only enhance our current instructional facilities by housing four additional classrooms and providing a needed gymnasium and multi-media center to support student education. Likewise, the project, as shown in attachment, should only enhance property values within the immediate vicinity.
2. It is our opinion, that placement of the new educational structure as shown on site plans submitted, will in no way impede the normal and orderly development and improvement of surrounding vacant property. Please note Ehrhart site plans submitted.
3. All utilities, access roads, drainage and other necessary supporting facilities will be adequate and within city codes.
4. The design of all driveways and parking spaces will provide for the safe and convenient movement of vehicular and pedestrian traffic as shown in the site plans submitted. Also, no adverse affects to the general public or adjacent development are foreseen when considering site plan layout.
5. Considering our current location serves as a residential facility and school campus; preventative measures have been and will be taken to prevent/control offensive odor, fumes, dust, noise and vibration.
6. Consideration will be given when installing directional lighting so not to disturb or adversely affect neighboring properties.
7. Landscaping and screening will be compatible with adjacent property. Please see site plan/attachment.
8. Established in 2001, the Ehrhart School still remains at the same location, 3380 Fannin Street, Beaumont, Texas.

Thanks for your consideration.

Lynn Hogg  
Ehrhart School Superintendent



ORDINANCE NO.

ENTITLED AN ORDINANCE ISSUING AN AMENDED SPECIFIC USE PERMIT TO ALLOW A SECONDARY SCHOOL IN A GC-MD (GENERAL COMMERCIAL-MULTIPLE FAMILY DWELLING) DISTRICT AT 3380 FANNIN STREET IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.

WHEREAS, on August 28, 2001, the City Council of the City of Beaumont, Texas passed Ordinance No. 01-066 issuing a specific use permit to Karen E. Fitzhugh, Executive Director of Girl's Haven, to allow a charter school (K-12) in a GC-MD (General Commercial-Multiple Family Dwelling) District in existing buildings at 3380 Fannin Street (Girl's Haven site), being Lots 9-13 and west 25' of Lot 14, Fannin Street Addition and Tracts 60-A and 60-B, Tax Plat C-6, D. Brown and N. Tevis Surveys, City of Beaumont, Jefferson County, Texas containing 5.75 acres, more or less; and,

WHEREAS, Girl's Haven, Inc., on behalf of The Ehrhart School, wishes to amend the specific use permit to allow a secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District by removing three existing modular structures and constructing a new 365 ft. educational facility at 3380 Fannin Street, being Lots 9-13 and the west 25 ft. of Lot 14, Fannin Street Addition, Beaumont, Jefferson County, Texas, containing 5.75 acres, more or less, as shown on Exhibit "A," attached hereto and made a part hereof for all purposes; and,

WHEREAS, the Planning and Zoning Commission of the City of Beaumont considered the request to amend the specific use permit to allow a secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District by removing three existing modular structures and constructing a new 365 ft. educational facility at 3380 Fannin Street, being Lots 9-13 and the west 25 ft. of Lot 14, Fannin Street Addition, Beaumont,

Jefferson County, Texas, containing 5.75 acres, more or less as reflected in the site plan as shown on Exhibit "B," attached hereto and made a part hereof for all purposes; and,

WHEREAS, the City Council is of the opinion that the amendment of such specific use permit is in the best interest of the City of Beaumont and its citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE

CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

Section 1.

That Ordinance No. 01-066 be amended by amending the specific use permit granted to Girl's Haven, Inc., on behalf of The Ehrhart School, their legal representatives, successors, and assigns for that certain tract shown on Exhibit "A," attached hereto and made a part hereof for all purposes, to allow a secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District by removing three existing modular structures and constructing a new 365 ft. educational facility at 3380 Fannin Street as reflected in the site plan attached hereto as Exhibit "B."

Section 2.

Notwithstanding the site plan attached hereto as Exhibit "B," the use of the property herein above described shall be in all other respects, subject to all of the applicable regulations contained in Ordinance No. 01-066 and the regulations contained in Chapter 28 of the Code of Ordinances of the City of Beaumont, Texas, as amended, as well as comply with any and all federal, state and local statutes, regulations or ordinances which may apply.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 24th day of  
June, 2014.

---

- Mayor Becky Ames -

File 2200-P: Request for an amended specific use permit to allow a secondary school in a GC-MD (General Commercial – Multiple Family Dwelling) district.

Location: 3380 Fannin Street

Applicant: Girls' Haven, Inc.

N

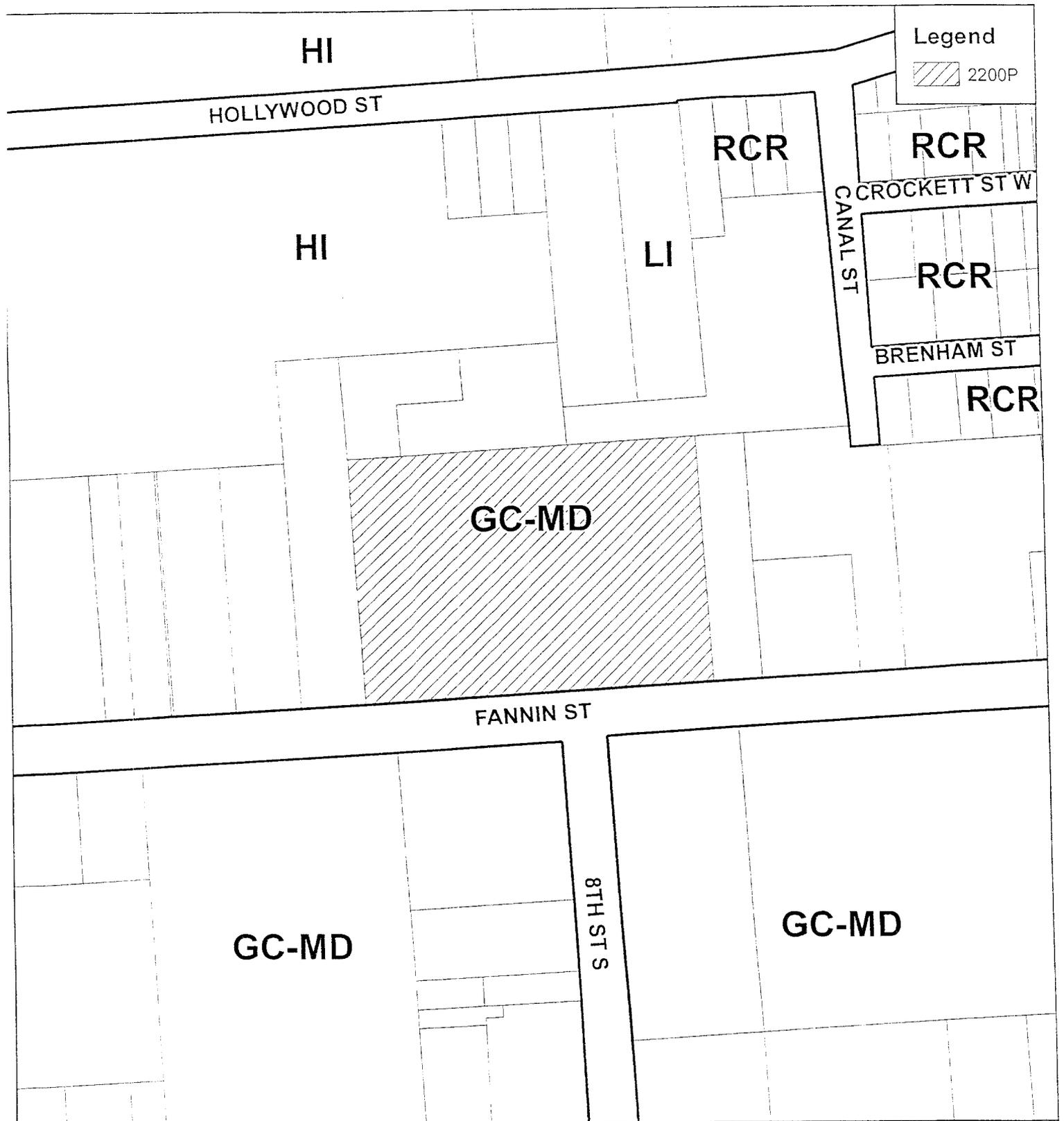
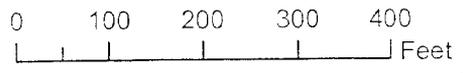
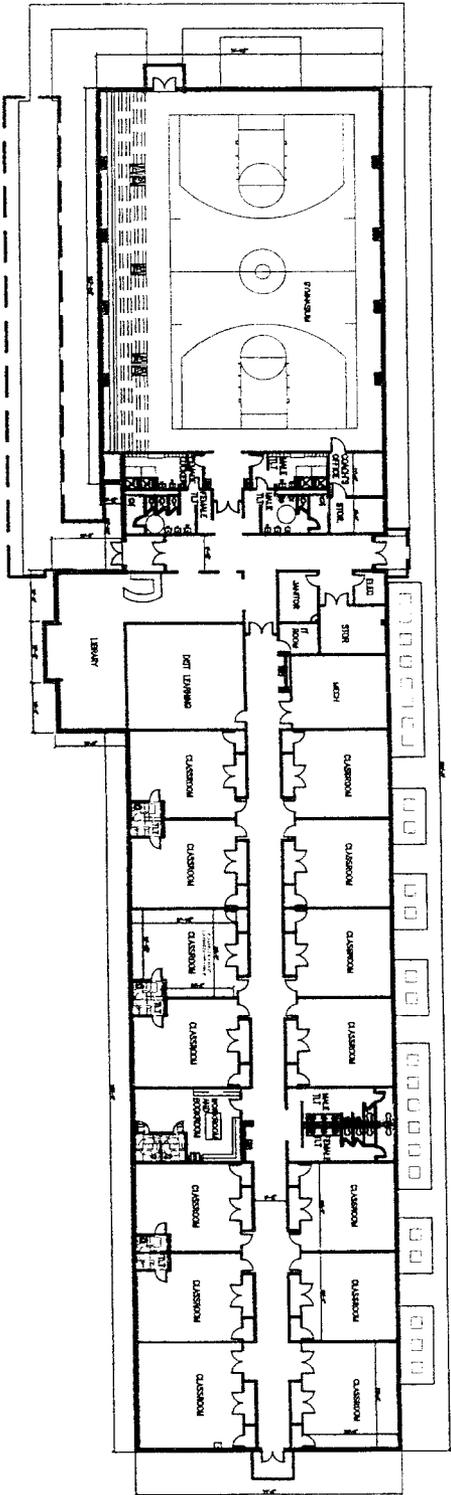


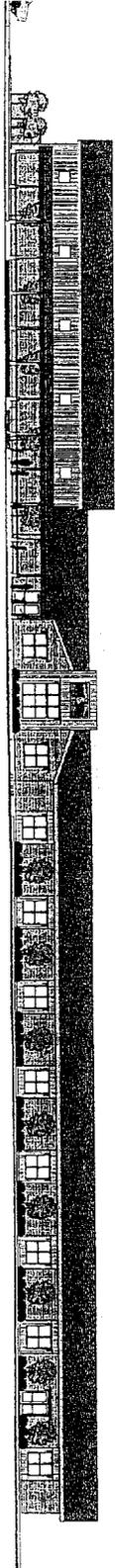
EXHIBIT "A"





27,410 SF

1 FLOOR PLAN  
SCALE: 1/8" = 1'-0"



1 ELEVATION  
SCALE: 1/8" = 1'-0"

THESE PLANS AND SPECIFICATIONS ARE THE PROPERTY OF ARCHITECTURAL ALLIANCE INCORPORATED. ANY REUSE OR REPRODUCTION OF THESE PLANS WITHOUT THE WRITTEN PERMISSION OF ARCHITECTURAL ALLIANCE INCORPORATED IS STRICTLY PROHIBITED. © COPYRIGHT 2011

DATE: \_\_\_\_\_  
DRAWN BY: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_

**NEW PRE-K TO 4TH GRADE ELEMENTARY SCHOOL**

Ehrhart School

3380 Fallow, IA

3/15/11

3/15/11

**AAA**

Architectural Alliance Incorporated

**AAA**

Architectural Alliance Incorporated

**FLOOR PLAN**

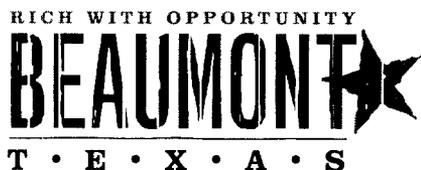
SHEET NUMBER: **A100**

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

**June 24, 2014**

Consider approving a resolution authorizing the engagement of Bracewell & Giuliani LLP, as bond counsel relating to the proposed issuance of Waterworks and Sewer System Revenue and Refunding Bonds at a fee of .15% or 15 basis points of the face amount of the Bonds issued

---



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Laura Clark, Chief Financial Officer

**MEETING DATE:** June 24, 2014

**REQUESTED ACTION:** Council consider a resolution approving the engagement of Bracewell & Giuliani LLP, as bond counsel relating to the proposed issuance of Waterworks and Sewer System Revenue and Refunding Bonds at a fee of .15% or 15 basis points of the face amount of the Bonds issued.

### **BACKGROUND**

As discussed in the presentation to Council on June 17, the City ordinance that is currently in place for revenue bonds requires either a AAA rated surety policy or the establishment of a water reserve bond fund whereby the average annual debt service is set aside in a restricted fund over five years and must remain there until maturity or an advanced refunding. There are no longer AAA surety policies available; therefore, a water reserve bond fund was established for the Series 2010 issue and Series 2012 issue. The projected balance in the reserve fund is \$2.1 million at September 30, 2014. The cash for this fund comes from the revenues of the Water Fund and is a burden to the fund. The solution to this problem is to draft a new ordinance that is in a second lien position to the existing ordinance and does not require a reserve fund.

Bracewell & Giuliani LLP has one of the largest public finance practices in Texas and the nation. The practice has 40 years of experience in all aspects of public and private offerings of debt securities by state and local governments. Staff has worked with Derrick Mitchell, attorney with the firm, to draft the new ordinance. He has also worked with the City's Financial Advisor related to the proposed revenue and refunding bonds.

### **FUNDING SOURCE**

Water Fund - The fee on the proposed revenue and refunding bonds of \$82,890,000 would be \$124,335.

### **RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

WHEREAS, the City of Beaumont, Texas, (the "City") proposes to issue Waterworks and Sewer System Revenue and Refunding Bonds, Series 2014A & Waterworks and Sewer Revenue Refunding Bonds, Taxable Series 2014B in the approximate amount of \$79,650,000 (the "Bonds"); and,

WHEREAS, in order to proceed with the issuance of the Bonds, the City desires to authorize the employment of bond counsel;

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

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

That the City is authorized to and hereby employs Bracewell & Giuliani LLP, of Houston, Texas, as bond counsel for the issuance of the Bonds, pursuant to the terms of the engagement letter dated June 16, 2014, presented by Bracewell & Giuliani LLP, to the City, attached hereto as Exhibit "A;" and,

BE IT FURTHER RESOLVED that the City Attorney be and he is hereby authorized to execute the engagement letter dated June 16, 2014, presented by Bracewell & Giuliani LLP, on behalf of the City of Beaumont for the purposes described herein; and,

BE IT ALSO RESOLVED that the City and its bond counsel are authorized to proceed with taking all action appropriate for the issuance of the Bonds; provided, however, that the Bonds shall be issued only if the final terms and provisions thereof are hereinafter approved by the City Council.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 24th day of  
June, 2014.

---

- Mayor Becky Ames -



Texas  
New York  
Washington, DC  
Connecticut  
Seattle  
Dubai  
London

Bracewell & Giuliani LLP  
711 Louisiana Street  
Suite 2300  
Houston, Texas  
77002-2770

713.223.2300 Office  
713.221.1212 Fax

bgllp.com

June 16, 2014

Mr. Tyrone E. Cooper  
City of Beaumont, Texas  
801 Main Street, Suite 325  
Beaumont, TX 77701

Re: Bond Counsel – Waterworks and Sewer System Revenue and Refunding  
Bonds, Series 2014A & Waterworks and Sewer System Revenue Refunding  
Bonds, Taxable Series 2014B

Dear Mr. Cooper:

Thank you for engaging us to represent City of Beaumont, Texas (the "Client") in connection with the captioned obligations and such other obligations, if any, that the City may elect to issue in conjunction therewith (the "Obligations"). We appreciate the confidence you have shown in Bracewell & Giuliani LLP ("B&G" or "Bond Counsel") and look forward to this opportunity to represent the Client.

It is our practice to confirm the terms and conditions of our engagements, and that is the purpose of this letter and the accompanying Terms of Engagement. If you have any questions about this letter, or Terms of Engagement, or any aspect of the engagement or representation, please contact me as soon as possible.

Scope of Engagement

As Bond Counsel, we will prepare, or assist the appropriate City officials and staff in the preparation of all required legal proceedings and will perform certain other necessary legal work in connection with the City's authorization, issuance, and sale of the Obligations. Our services as Bond Counsel will include the following Basic Services, which we will carry out directly or in concert with City officials and staff, as follows:

- (1) Preparation or assistance in the preparation of the Ordinance authorizing the issuance of the Obligations (the "Ordinance") and all other legal instruments that comprise the transcript of legal proceedings pertaining to the authorization, issuance, and sale of Obligations;

(2) Preparation of one set of initial temporary bonds to be submitted to the Attorney General for approval and to the Comptroller for registration and, if required, preparation of one set of definitive bonds to be held in book-entry only form;

(3) Attendance at meetings called by the appropriate City officials and staff to discuss the sizing, timing, or sale of the Obligations;

(4) Consultation with City officials and staff and the City's financial advisor, together with underwriters, if any, to review information to be included in the offering documents for the Obligations, but only to the extent that such information describes the Obligations, the security therefor, federal income tax status and our opinion;

(5) Preparation and submission of a transcript of legal proceedings pertaining to the issuance of the Obligations to the Attorney General of Texas to obtain an approving opinion;

(6) Supervision of the printing of the Obligations and the delivery thereof to the purchasers thereof, including, if requested by the City, solicitation of bids from bond printers to obtain the lowest responsible printing costs for the City;

(7) At the closing of the Obligations, delivery of an approving opinion, based on facts and law existing as of its date, generally to the effect that the Obligations have been duly issued, executed, and delivered in accordance with the Constitution and laws of the State of Texas, that the Obligations constitute valid and legally binding obligations of the City (subject to bankruptcy, insolvency, reorganization, moratorium, and other similar laws in effect from time to time relating to or affecting the enforcement of rights of creditors of political subdivisions) and that, subject to certain restrictions, interest on the Obligations is excludable from the gross income of the owners thereof for federal income tax purposes; and

(8) Prior to and in connection with the closing of the Obligations, giving advice to the City to enable appropriate officials to comply with the arbitrage requirements of the Internal Revenue Code of 1986 as they affect the Obligations, including yield restrictions and rebate requirements.

#### Anticipated Staffing

Although I will be your primary contact, Todd Greenwalt, Barron Wallace, Amanda Edwards and Katherine Milton will be the other attorneys representing you on this matter.

### Fees

We will provide our services as bond counsel for a fee equal to 15 basis points (ie. 0.15%) of the face amount of the Bonds issued, but subject to a minimum fee of \$17,500 per series. The fee will be payable only at the time of delivery of the Bonds. This fee does not include any fee for co-bond counsel, should the City elect to employ one. Separate and apart from such expenses, Bond Counsel will be reimbursed for any filing fees paid by Bond Counsel to the Attorney General of Texas, which fees may be as much as \$9,500 per series of Obligations.

The Bond Counsel fees for the services provided here are wholly contingent upon the actual sale and delivery of the Obligations.

Nothing herein shall be construed as creating any personal liability on the part of any officer of the Client, and this agreement may be terminated by the Client by giving thirty (30) days' written notice.

### Conflicts

It is B&G's practice to comply with the professional standards and ethics requirements in the jurisdictions in which we perform legal services or manage the account. Based on the information that you have provided, it does not appear that this engagement is materially adverse to any substantially related matter that B&G is handling for other clients of the firm. It is important that you know, however, that B&G may represent other clients within the same industry and may have matters that may be adverse to your interests in unrelated matters.

### Consultation with Independent Counsel

Under the terms of this Engagement Letter and the attached Terms of Engagement, the Client has specific obligations to B&G (for example, the obligation to provide complete and accurate information to the firm). Moreover, there are limits to the rights that the Client might otherwise have (for example, the agreement to resolve any dispute with B&G by arbitration rather than by jury trial). If you wish to obtain independent advice concerning these or any other provisions of this Engagement Letter or Terms of Engagement, we encourage you to contact counsel of your choice.

Please call me if you wish to discuss any aspect of this engagement. If this letter and the Terms of Engagement accurately reflect our agreement, please sign the enclosed copy of this letter and return it to me.

City of Beaumont, Texas  
June 16, 2014  
Page 4

Thank you again for the opportunity to represent the Client in this matter.

Very truly yours,

Bracewell & Giuliani LLP



By: Derrick Mitchell

Attachments  
AGREED AND ACCEPTED:  
CITY OF BEAUMONT, TEXAS

By: \_\_\_\_\_  
Tyrone E. Cooper, City Attorney

**Exhibit A to  
Agreement for Bond Counsel Services**

**BRACEWELL & GIULIANI LLP**

Partners

Todd Greenwalt	\$845
Derrick Mitchell	\$585
Barron Wallace	\$680

Associates

Amanda Edwards	\$450
Katherine Milton	\$400

## BRACEWELL & GIULIANI LLP

### TERMS OF ENGAGEMENT

#### Introduction

These are the Terms of Engagement adopted by Bracewell & Giuliani LLP ("B&G") and referred to in our Engagement Letter as the basis for our representation. Because they are an integral part of our agreement to provide representation, we ask that you review this document carefully and retain it for your files. If you have any questions after reading it, please promptly inform your principal contact at the firm.

#### Client of the Firm

Since B&G has been engaged to represent the client only, the engagement does not include the client's affiliated or related entities, or their respective individual partners or employees.

For example, for corporations and partnerships, unless otherwise specifically stated in the Engagement Letter, our representation does not include any parents, subsidiaries, employees, officers, directors, shareholders, or partners of the corporation or partnership, or commonly owned corporations or partnerships. Similarly, for trade associations, our representation does not include members of the trade association; and for individuals, our representation does not include employers, partners, spouses, siblings, or other family members. In the event we are asked to undertake representation of any other entity in connection with this engagement, we will do so only by agreement defined in the Engagement Letter.

#### The Scope of the Representation

B&G undertakes to provide representation and advice on the matters for which we are engaged, and it is important that we both have a clear understanding of the services that B&G has agreed to provide. In the Engagement Letter, B&G specifies the matter in which we will provide representation and the scope of the services we will provide. If there are any questions about the engagement, including the scope of the representation, and related services being performed, please address those questions promptly with your principal contact at the firm.

As you may be aware, the Treasury Department has issued new Regulations, commonly referred to as Circular 230, that dictate how attorneys must communicate with their clients whenever they render "written advice" on tax issues. The new regulations are very broad and will frequently restrict ordinary communications between attorney and client. We can avoid the costly and time-consuming process of preparing a formal opinion to comply with Circular 230 by including a legend on written advice similar to the following: **"As required by United States Treasury Regulations, you should be aware that this communication is not intended or written by the sender to be used, and it cannot be used, by any recipient for the purpose of avoiding penalties that may be imposed on the recipient under United States federal tax laws."**

Unless we agree in advance to the contrary, written advice that we prepare for you will contain this legend.

### Our Relationship With Others

B&G represents many businesses and individuals. In some instances, the applicable rules of professional responsibility may limit our ability to represent clients with conflicting or potentially conflicting interests. Those rules of professional responsibility often allow us to exercise our independent judgment in determining whether our relationship with one client prevents us from representing another. In other situations, we may be permitted to represent a client only if the other clients consent to that representation.

If a conflicts issue unrelated to the engagement develops between you and another client, we will follow the applicable rules of professional responsibility to determine whether we may represent either you or the other client in the unrelated controversy. In making this determination, we will consider your agreement to the Conflicts of Interest provisions in these Terms of Engagement.

In addition to our representation of other companies and individuals, we also regularly represent lawyers and law firms. As a result, opposing counsel in the matter may be a lawyer or law firm that we may represent now or in the future. Likewise, opposing counsel in the matter may represent our firm now or in the future. Further, we have professional and personal relationships with many other attorneys, often because of our participation in bar associations and other professional organizations. We believe that these relationships with other attorneys do not adversely affect our ability to represent any client. Your acceptance of our Engagement Letter means you consent to any such relationships between our firm and other lawyers or law firms, even counsel representing a party adverse to you in this engagement.

### Conflicts of Interest

Conflict of interest is a concern for lawyers and their clients. We attempt to identify actual and potential conflicts at the outset of any engagement, and may request that you sign a conflict waiver before we accept an engagement. Occasionally, other clients or prospective clients may ask us to seek a conflict waiver from you so that we can accept an engagement on their behalf. Please do not take such a request to indicate that we will represent you less zealously; we make such requests because we take our professional responsibilities to all clients and prospective clients very seriously.

Unfortunately, conflicts sometimes arise or become apparent after work begins on an engagement. When that happens, we will do our best to address and resolve the situation in the manner that best serves the interests of all of our affected clients.

Because B&G is a large firm, we may be asked to represent someone whose interests may be adverse to yours. B&G accepts this engagement on the understanding that our representation of you will not preclude us from accepting another engagement from an existing or a new client, provided (1) that such engagement is not substantially related to the subject matter of services we

provide to you, and (2) that in accepting such other engagement we would not impair the confidentiality of proprietary, sensitive or otherwise confidential information you have provided to us.

Rules concerning conflicts of interest vary with the jurisdiction. In Ordinance to avoid any uncertainty, our policy is that the Texas Disciplinary Rules of Professional Conduct will be applicable to the representation. Unless the Engagement Letter stipulates that some other rules of professional responsibility will govern our attorney-client relationship, your acceptance of our Engagement Letter means you agree with that policy.

### Staffing The Project

In most cases, one attorney will be your primary contact. In Ordinance to provide you with the expertise of our firm, and to provide services on a cost effective basis, that attorney will delegate parts of your work to other lawyers, legal assistants and other professionals.

### Fees, Billing Arrangements and Terms of Payment

B&G issues invoices on a regular basis, normally each month, for fees and other charges. Invoices are due on presentment and are considered past due 30 days after receipt. It is important to review invoices that are presented each month and to bring any concerns regarding the invoice, services or staffing to the attention of your primary contact at the firm within 30 days of receipt of an invoice.

Fees for professional services and reimbursable expenses are not contingent on the outcome of the project.

Clients frequently ask us to estimate the fees and other charges they are likely to incur in connection with a particular matter. Any estimate is based on professional judgment and facts and circumstances that appear at the time. As such, any estimate is subject to the understanding that, unless we agree otherwise in writing, it does not represent a maximum, minimum, or fixed-fee quotation. The ultimate cost frequently is more or less than the amount estimated.

As an adjunct to providing services, we may incur and pay a variety of charges on your behalf or charge for certain ancillary support services. Whenever we incur such charges on your behalf or charge for such ancillary support services, we will bill them to you as part of your monthly invoice. Examples include charges for photocopying, postage, long-distance telephone calls, travel and conference expenses, delivery charges, computerized research, and facsimile and other electronic transmissions. Outside expenses generally will be billed at cost, while some in-house expenses (e.g., copying, telecopying, computer services and in-house research) will include a reasonable allocation of overhead. In appropriate cases, reimbursable expenses will also include overtime charges for dedicated services for secretaries and other staff.

It may be necessary for us to retain third parties, such as consultants, experts and investigators, in Ordinance to represent you adequately. In that event, you will be responsible for the payment of

the invoices of those third parties. Although we may advance third-party disbursements in reasonable amounts, we will ask you to pay larger third-party invoices (usually those over \$500) directly to the third party providing the services. Because we often have ongoing professional relationships with the persons who render such services, we also ask that you pay such bills promptly and send us notice of your payment.

At times, and for a limited time, we may retain copies of documents generated or received by us in the course of your representation. Should you request documents from us at the conclusion of our representation (other than your original documents), to the extent that such documents may be available, you agree to compensate the firm for reproduction charges and professional fees required to retrieve, review and duplicate the files.

Should your account become delinquent and satisfactory payment terms are not arranged, we may take steps, as permitted under the rules regulating our profession, to withdraw from the representation, cease representation or terminate the engagement.

If the representation will require a concentrated period of activity, such as a trial, arbitration, or hearing, we reserve the right to require the payment of all amounts owed and the prepayment of the estimated fees and expenses to be incurred in completing the trial, arbitration, or hearing, as well as arbitration fees likely to be assessed. If you fail to timely pay the estimated fees and expenses, we will have the right to cease performing further work and the right to withdraw from the representation, subject to any applicable rules of court or other applicable tribunal.

Although an insurer's payment of defense costs may be applied to billings of the firm, the payment obligation remains with you. Failure of any insurer to pay all or part of the billings for this Project does not relieve you from the obligation to pay billings in full and in a timely manner.

From time to time, we assist clients in pursuing third parties for recovery of attorneys' fees and other charges resulting from our services. These situations include payments under contracts, statutes or insurance policies. However, it remains your obligation to pay all amounts due to us within 30 days of the date of our statement.

### Taxes

B&G anticipates that it will perform all, or substantially all, of its professional services for this engagement in the United States. B&G will bill the client from, and B&G will receive all payments in, the United States. Accordingly, neither B&G nor the client anticipates the assessment of taxes outside the United States on the payments to B&G required under the Engagement Letter.

The client, however, agrees that all payments under the Engagement Letter shall be payable to B&G in U.S. Dollars, free and clear of any and all present and future taxes, levies, imposts, duties, deductions, withholdings, fees, liabilities and similar charges (the "Taxes"). If any Taxes are required to be withheld or deducted from any amount payable under the Engagement Letter,

then the amount payable under the Engagement Letter shall be increased to the amount which, after deduction from such increased amount of all Taxes required to be withheld or deducted therefrom, will yield to B&G the amounts stated to be payable to B&G under the Engagement Letter. In the event that the client is required to withhold or deduct Taxes from any payment under the Engagement Letter, the client shall promptly pay such Taxes and shall furnish B&G with appropriate tax receipts issued by tax authorities showing payment of such Taxes by the client.

### Your Cooperation

To enable us to provide effective representation, you agree to: (1) disclose to us, fully and accurately and on a timely basis, all facts and documents that are or might be material or that we may request; (2) keep us apprised on a timely basis of all developments relating to the representation that are or might be material; (3) attend meetings, conferences, and other proceedings when it is reasonable to do so; and, (4) cooperate fully with us in all matters relating to the engagement.

### Insurance Coverage

We will only represent you, and not your insurer, in this matter.

Unless we specifically agree to do so, we will not evaluate any aspect of insurance coverage, advise you with respect to such coverage, or become involved in any policy or coverage dispute. From time to time, we represent insurance companies, and our ability to assist you with such insurance issues may be limited by our need to comply with the rules governing conflicts of interest. However, if your matter involves coverage questions, we ask that you let us know in advance so that we do not inadvertently transmit information to your insurer that might somehow affect coverage.

### Termination

Because B&G has been engaged to provide services in connection with the representation specifically defined in our Engagement Letter, the attorney-client relationship terminates upon our completion of our services related to the representation. After completion of the representation, however, changes may occur in the applicable laws or regulations that could affect your future rights and liabilities in regard to the matter. B&G has no continuing obligation to give advice with respect to any future legal developments that may relate to the project.

You may terminate the engagement at any time, with or without cause, by notifying us in writing. The firm also can terminate the engagement before the completion of its representation of you in the specified matter if (a) the continued representation would result in a violation of the applicable rules of professional conduct; (b) the termination can be accomplished without material adverse effect on your interests; (c) the firm has a fundamental disagreement with the objective in this engagement; (d) you substantially fail to discharge an obligation regarding this engagement, including the payment of fees and expenses and the duty of cooperation as provided

in the Terms of Engagement; or (e) other good cause for termination exist. In the event that the firm intends to terminate the engagement, the firm will give reasonable notice and allow you access to your files relating to this engagement.

The termination of our services will not affect your responsibility for payment of legal services rendered and other charges incurred before termination and in connection with an Ordinancely transition of the project.

#### Confidentiality and Document Retention

At the close of any matter, we may return relevant documents to Client, send remaining pertinent parts of our files to a private storage facility for a limited time or destroy certain documents. The attorney closing the file will determine, at his or her discretion, which portion should be returned to Client, which portion should be sent to private storage (and for how long) and which portions are to be destroyed.

You agree that we will own and retain our own files pertaining to the engagement and that you will not have the right or ability to require us to deliver such files (or copies thereof) to you, including, for example, firm administrative records, time and expense reports, personnel and staffing materials, credit and accounting records, electronic mail correspondence (other than such correspondence which was sent to you by a member of our firm) and internal lawyer's work product, such as drafts, Bonds, internal memoranda and legal and factual research, including investigative reports prepared by or for the internal use of lawyers. Further, at the discretion of the responsible partner for the project in question, we may destroy any such documentation which is the property of the firm or any documentation which such partner determines to be duplicative or unnecessary, and in all cases without having to obtain your consent.

Under provisions of the Internal Revenue Code and Treasury Regulations, a law firm is subject to disclosure and list maintenance requirements if the firm receives a certain minimum fee for providing legal services and with respect to specific types of transactions. Pursuant to those requirements, the firm must file a disclosure form with the IRS and maintain a file with respect to any such transaction that identifies, among other items, the name and taxpayer identification number of each participant in the transaction, a summary of the transaction, a description of the tax aspects of the transaction and a copy of any tax opinion rendered with respect to the transaction. The firm must provide the file to the IRS within 20 days of its request.

In the event that our work for you is subject to the list maintenance requirements, we would be required to make the disclosures in a form filed with the IRS and to maintain a file as described above and provide the file to the IRS upon its request. **Accordingly, you hereby consent to our making such disclosures, maintaining such file, providing it to the IRS, and in all other ways complying with the disclosure and list maintenance requirements without obtaining further permission from you. You further agree that you hereby waive any attorney-client or other privilege or right to confidentiality of information with respect to the information that we determine in our sole discretion must be provided to the IRS pursuant to these requirements. This waiver will be effective at the time the above information is provided to**

**the IRS.** Time devoted to complying with the list maintenance requirements will be billed in accordance with our customary rates.

#### Disclaimer

We cannot guarantee the outcome of any matter. Any expression of our professional judgment regarding your matter or the potential outcome is, of course, limited by our knowledge of the facts and based on the law at the time of expression. It is also subject to any unknown or uncertain factors or conditions beyond our control.

Either at the commencement or during the course of the representation, we may express opinions or beliefs about the matter or various courses of action and the results that might be anticipated. Any expressions on our part concerning the outcome of the representation, or any other legal matters, are based on our professional judgment and are not guarantees.

By signing the Engagement Letter or otherwise indicating your acceptance of the Engagement Letter, you acknowledge that B&G has made no promises or guarantees to you about the outcome of the representation, and nothing in these Terms of Engagement shall be construed as such a promise or guarantee.

#### Our Professional Responsibility

The code of professional responsibility lists several types of conduct or circumstances that require or allow us to withdraw from representing a client. These include, for example, misrepresentation or failure to disclose material facts, action contrary to our advice, conflict of interest with another client and nonpayment of fees or charges. B&G tries to identify in advance and discuss with our clients any situation that may lead to our withdrawal. If withdrawal ever becomes necessary, B&G gives our client written notice as soon as practicable.

The State Bar of Texas investigates and prosecutes complaints of professional misconduct against attorneys licensed in Texas. A brochure entitled Attorney Complaint Information is available at all of our offices and is likewise available upon request. A client that has any questions about the State Bar's disciplinary process should call the Office of the General Counsel of the State Bar of Texas at 1-800-932-1900 (toll free).

#### Modification of Our Agreement

The Terms of Engagement reflect our agreement on the terms of all engagements, and are not subject to any oral agreements, modifications, or understandings. Any change in these Terms of Engagement must be made in writing signed by both B&G and Client.

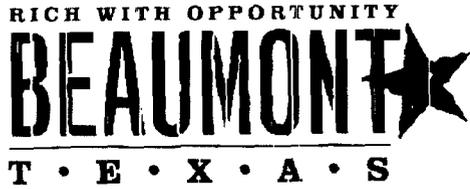
#### In Conclusion

We look forward to a long and mutually satisfying relationship with you. Again, if at any time you have a question or concern, please feel free to bring it to the attention of your principal contact at our firm.

**June 24, 2014**

Consider approving a resolution authorizing the purchase of a wheeled excavator from Mustang Cat, Inc. of Houston for use by the Streets and Drainage Division

---



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Laura Clark, Chief Financial Officer 

**MEETING DATE:** June 24, 2014

**REQUESTED ACTION:** Council consider a resolution approving the purchase of a wheeled excavator from Mustang Cat, Inc., of Houston, in the amount of \$178,235.

### **BACKGROUND**

The wheeled excavator is a multi-task machine that will be used by the Streets and Drainage water cut crews. It is used to remove existing concrete and asphalt, cut, grade and install necessary base material when repairing water and sewer lines under streets and sidewalks. The machine is self-propelled and will not require being hauled to the job site. The machine can also be used to assist with emergency debris removal. It is a new addition to the City's fleet of heavy equipment.

Pricing was obtained through the Buyboard Cooperative Purchasing Program. Buyboard provides cities and political subdivisions with the means to purchase specialized equipment at volume pricing. Buyboard complies with State of Texas procurement statutes. The contract price of \$178,235 includes the \$400 Buyboard fee which is paid to the vendor.

Warranty and service are provided by Mustang Cat, Inc., of Beaumont, for 3 years or 5,000 hours.

### **FUNDING SOURCE**

Capital Reserve Fund.

### **RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Council hereby approves the purchase of a wheeled excavator for use by the Streets and Drainage Division from Mustang Cat, Inc., of Houston, Texas, in the amount of \$178,235 through the BuyBoard Cooperative Purchasing Program.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 24th day of June, 2014.

---

- Mayor Becky Ames -

# **PUBLIC HEARING**

- \* Receive comments related to a contract with the Federal Transit Administration (FTA) to receive Operating Assistance funds for the Beaumont Municipal Transit System for FY 2014; an application for Congestion Mitigation and Air Quality (CMAQ) funding; and to receive additional federal funding through TxDOT

**June 24, 2014**

Consider approving a resolution authorizing the City Manager to execute a contract with the Federal Transit Administration (FTA) to receive Operating Assistance funds for the Beaumont Municipal Transit System for FY 2014; to apply for and receive Congestion Mitigation and Air Quality (CMAQ) funding; and to receive additional federal funding through TxDOT

---



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Chris Boone, Director of Planning and Community Development

**MEETING DATE:** June 24, 2014

**REQUESTED ACTION:** Council consider a resolution authorizing the City Manager to execute a contract with the Federal Transit Administration (FTA) to receive Operating Assistance funds for the Beaumont Municipal Transit System for FY 2014; to apply for and receive Congestion Mitigation and Air Quality (CMAQ) funding; and to receive additional federal funding through TxDOT. Council is also requested to conduct a public hearing to receive comments on these items.

### BACKGROUND

Beaumont Municipal Transit has prepared a grant application for FY 2014 FTA funds. The grant will help fund the labor, fringe benefits, parts and supplies, purchased services, utilities, insurance, licenses, and all other miscellaneous expenses needed for the operation and maintenance of the Beaumont Municipal Transit (BMT) System in FY 2014, the period from October 1, 2013 through September 30, 2014.

Beaumont Municipal Transit is also applying for Congestion Mitigation and Air Quality (CMAQ) funding which would provide for the purchase of three (3) new CNG powered transit buses. Rather than the normal local match requirement of 20% by the City of Beaumont, the 20% local match would be provided by TXDOT through environmental credits. There will be no cost to the City for the purchase of these vehicles.

TxDOT is applying for FTA funds in the amount of \$473,397. This amount will cover the purchase of four (4) replacement vehicles and renovations to the Transit facility (see attached). TXDOT will again provide the local 20% match through environmental credits and there will be no cost to the City for these expenditures.

**FUNDING SOURCE**

The operating assistance grant will pay up to 50% of the net operating deficit.

Source	Amount
FTA Grant	\$2,015,602
City Share	\$2,009,746
State	\$374,262
Farebox Revenue	\$520,000
Total:	\$4,920,210

The CMAQ grant will pay 100% of three new buses.

Source	Amount
FTA Grant	\$1,500,000
City Share	-0-
State	Environmental Credits
Total:	\$1,500,000

The TxDOT capital assistance grant will pay 100% of the new vehicles and facility renovations.

Source	Amount
FTA Grant	\$473,397
City Share	-0-
State	Environmental Credits
Total:	\$473,397

**RECOMMENDATION**

Approval of resolution

## PUBLIC NOTICE

The City of Beaumont/Beaumont Municipal Transit (BMT) is considering applying for two grants from the Federal Transit Administration (FTA) for FY 2014 and is receiving additional federal money through a TXDOT grant. A description of the proposed Program of Projects for the three grants is outlined below.

The first grant will be for operating assistance (5307 funding) for the Beaumont Municipal Transit System for up to one-half of the net operating deficit for FY 2014, the period between October 1, 2013 through September 30, 2014. Operating assistance will cover all expenses related to the operation and maintenance of the transit system to include labor, fringe benefits, fuel, tires, bus parts, lubricants, other materials and supplies, insurance, utilities, purchased services, taxes and licenses, and any other miscellaneous expenses. An estimated breakdown of the operating assistance project follows:

<u>Line Item</u>	<u>Federal</u>	<u>State</u>	<u>Local</u>	<u>Fares</u>	<u>Total</u>
Operating Assistance	\$2,015,602 *	\$374,262	\$2,009,746	\$520,000	\$4,920,210

\*Actual allocation for FY 2014 is \$2,025,226 and \$9,624 has been subtracted from that amount in order to reimburse FTA for old transit vehicles that were sold by the City of Beaumont.

The second grant is for capital assistance with Congestion Mitigation and Air Quality (CMAQ) funding in the purchase of three (3) new CNG powered transit buses in the amount of \$1,500,000 in federal funding. Normally there would be a local match requirement of 20% by the City of Beaumont. However, for this grant, the 20% local match will be provided by TXDOT by using environmental credits. These credits are on paper and there is no cash involved. Thus there will be no cost to the City for the purchase of these vehicles. A breakdown of this capital project is as follows:

<u>Line Item</u>	<u>Federal</u>	<u>State</u>	<u>Local</u>	<u>Total</u>
Purchase	\$1,500,000	Enviro.	-0-	\$1,500,000

3 Buses Credits

The third grant was applied for by TXDOT through the FTA (5307 funding). The City is scheduled to receive \$473,397 in 5307 capital assistance funding. TXDOT will again provide the local 20% match through environmental credits and there will be no cost to the City for this project. A Program of Projects with associated estimated costs are outlined below:

<u>Line Item</u>	<u>Federal</u>	<u>State</u>	<u>Local</u>	<u>Total</u>
Purchase 2 Replacement Sedans	\$50,000	Enviro. Credits	-0-	\$50,000
Purchase 2 CNG Paratransit Vans	\$280,000	Enviro. Credits	-0-	\$280,000
Purchase 2 GPS Systems for Trial on Revenue Vehicles	\$5,000	Enviro. Credits	-0-	\$5,000
Facility Renovation to Include Curb/Sidewalk Repair and Adding Fencing/Slab	\$138,397	Enviro. Credits	-0-	\$138,397

A Public Hearing on the above proposed three grants will be held by the City of Beaumont on Tuesday, June 17, 2014, at 1:30 pm in City Council Chambers, Beaumont City Hall, 801 Main Street, Beaumont, Texas, 77704.

The Public Hearing will offer an opportunity for interested persons, agencies, and private transportation providers to comment on the proposal. The hearing will also afford the opportunity for interested persons to be heard on the social, economic, and environmental aspects of the proposal.

Prior to the hearing, additional information may be requested and/or written comments may be submitted to:

William J. Munson  
General Manager  
Beaumont Municipal Transit

550 Milam Street  
Beaumont, Texas 77701  
(409)835-7895

In addition, the proposed grant application data may be viewed prior to the Public Hearing by the public at the Beaumont Municipal Transit Office at 550 Milam Street, Beaumont, Texas, 77701, during normal business hours of 8:00 am until 4:30 pm on weekdays.

The above proposed Program of Projects for the three grants will become final unless amended by the City Council. The final approved grant application data for all three grants will be available for public review at the Beaumont Municipal Transit Office at 550 Milam Street, Beaumont, Texas, 77701, or a copy can be requested by calling (409)835-7895.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to submit two (2) grant applications and execute two (2) contracts with the Federal Transit Administration (FTA) to receive an Operating Assistance Grant in the amount of \$2,015,602 and a Capital Assistance Grant in the amount of \$1,500,000 for the Beaumont Municipal Transit System; and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to receive Federal Transit Administration (FTA) funds from Texas Department of Transportation (TxDOT) as a Capital Assistance Grant in the amount of \$473,397 for the Beaumont Municipal Transit System.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 24th day of June, 2014.

---

- Mayor Becky Ames -