

Addison 50!

50 YEARS OF FUN!

Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000
FAX (972) 450-7043

AGENDA

REGULAR MEETING OF THE CITY COUNCIL

JANUARY 13, 2004

7:30 P.M.

COUNCIL CHAMBERS

5300 BELT LINE ROAD

REGULAR SESSION

Item #R1 – Consideration of Old Business

Item #R2 – Consent Agenda

CONSENT AGENDA

#2a – Approval of the Minutes for the December 9, 2003 Council Meeting.

#2b – Consideration of approval of construction and authorization of final payment in the amount of \$93,644.76 to Big Sky Construction for the Addison Arts District Pavilion building project.

#2c – Consideration of approval of construction and authorization of final payment in the amount of \$27,462.25 to Rebcon, Inc. for the Richard Byrd Drive pavement reconstruction project.

Item #R3 – **PUBLIC HEARING** and consideration of an Ordinance approving a preliminary plat for Block A, Lots 1 and 2; Block B, Lots 1-5; Block C, Lot 1; Block D, Lots 1-5 and Block E, Lots 1 and 2, located on 9.016 acres bounded by Morris Avenue on the south, Quorum Drive on the west, a proposed street on the north, and Spectrum Drive on the east, ParkView at Addison Circle, on application from CityHomes, represented by Mr. Robert Jabavi of Brockett/Davis/Drake.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on December 11, 2003, voted to recommend approval of the preliminary plat for ParkView at Addison Circle Addition, subject to the following conditions:

1. Each 20 ft. Firelane, Utility & Access Easement should be changed to a “20 ft Firelane, Utility, Drainage & Access Easement” on the Preliminary Plat.
2. Preliminary development drainage and water/sewer plans must be converted into final civil design plans and specifications for construction. These plans must also be accompanied by comprehensive grading and paving plans.
3. Plat should reference Addison Circle in lieu of Addison Place.
4. Design of all facilities adjacent to Spectrum Drive should compliment and be coordinated with proposed street improvements.

Voting Aye: Bernstein, Braun, Doepfner, Herrick, Jandura

Voting Nay: None

Absent: Benjet

Administrative Recommendation:

Administration recommends approval.

Item #R4 – **PUBLIC HEARING** and consideration of an Ordinance approving an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 4801 Belt Line Road, Pei Wei Asian Diner, on application from Albert-Addison LLC, represented by Mr. Bob Borson of Birnbaum Magadini Architects.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on December 11, 2003, voted to recommend approval of the amendment to an existing Special Use Permit request for a restaurant, and an amendment to an existing Special Use Permit for the sale of alcohol for on-premises consumption, on application from Albert-Addison L.L.C., subject to the following conditions:

1. The applicant shall submit a revised landscaping plan for approval by the Parks Director prior to the issuance of a building permit.
2. The screening fence on the north side of the building shall be made of solid metal or stucco panels. The Building Official shall have final approval over the appearance of the fence.
3. The restaurant shall not use the term “bar”, “tavern”, or any equivalent terms or graphic depictions that relate to alcoholic beverages, in exterior signs.
4. If the electrical demand for the building increases over what is currently provided, the electrical service will have to be placed underground.

Voting Aye: Bernstein, Braun, Doepfner, Herrick, Jandura

Voting Nay: None

Absent: Benjet

Administrative Recommendation:

Administration recommends approval.

Item #R5 – Consideration of approval of a final plat for one lot of .906 acres, located at the northeast corner of Addison Road and Belt Line Road, on application from Albert-Addison L.L.C., represented by Mark Albert.

Attachments:

1. Memorandum from Ron Whitehead, City Manager
2. Docket Map
3. Staff Report
4. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on December 11, 2003, voted to recommend approval of the request for final plat approval on application from Albert-Addison L.L.C., subject to the following conditions:

1. Civil design plans and specifications must be approved by the Town for all proposed paving, drainage, grading, water, and sewer improvements on-site and off-site.
2. All landscaping, irrigation, driveway, and sidewalk improvements must be designed and constructed in accordance with proposed parkway improvements on Addison Road.

Voting Aye: Bernstein, Braun, Doepfner, Herrick, Jandura

Voting Nay: None

Absent: Benjet

Administrative Recommendation:

Administration recommends approval.

Item #R6 – **PUBLIC HEARING** and consideration of an Ordinance approving a change of zoning from “LR” (Local Retail) to “PD” (Planned Development), in order to change parking requirements, located on 7.3760 acres at 5000 Belt Line Road, Addison Walk, on application from Direct Development, represented by Mr. Mark Henderson.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on December 11, 2003, voted to recommend approval of the change from a "LR" (Local Retail) zoning district to "PD" (Planning Development) zoning district in order to allow for a mixed-use parking ratio, with the ratios to be:

Office	1 space per 300 square feet
Retail/Service	1 space per 200 square feet
Restaurant	1 space per 180 square feet

And subject to the following condition:

1. That the staff review elevation drawings for the proposed 36-foot height for the building at the east end of the site, prior to the case going to the Council. (Drawings have been submitted and are attached to plans.)

Voting Aye: Bernstein, Braun, Doepfner, Herrick, Jandura

Voting Nay: None

Absent: Benjet

Administrative Recommendation:

Administration recommends approval.

Item #R7 – Consideration of an Ordinance approving a sign package for the Addison Walk Shopping Center that includes three exceptions: (1) an exception to Section 62-162, (Premise Signs) and Section 62-163 (Area) for signs attached to the building; (2) an exception to Section 62-185, (Specifications) and Section 62-285 (Luminescent Gaseous Tubing) for two pole signs on the perimeter of the property; and (3) an exception to Section 62-285 (Luminescent Gaseous Tubing) for a monument sign at the Belt Line Road entrance, located at 5000 Belt Line Road, on application from Direct Development, represented by Mr. Mark Henderson.

Attachments:

1. Staff Reports 1, 2 and 3
2. Memorandums from Lynn Chandler
3. Application
4. Plans

Administrative Recommendation:

Administration recommends approval as follows:

1. Approval of blade signs as requested by the applicant.
Approval of 3' letters for all type "A" tenants, and approval of 2' letters for all Type "B" tenants.
2. Approval of the design for the pole signs as proposed by the applicant, but not approval of the exposed luminescent gaseous tubing.
3. Denial of the request for exposed luminescent gaseous tubing on a monument sign. The size, design and materials proposed by the applicant meet the requirements for a monument sign.

Item #R8 – **PUBLIC HEARING** and consideration of an Ordinance approving a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 5000 Belt Line Road, Suite 775, on application from Nothing But Noodles, represented by Mr. Avi VanGruber.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on December 11, 2003, voted to recommend approval of the request for a Special Use Permit request for a restaurant, and a Special Use Permit for the sale of alcohol for on-premises consumption, on application from Nothing But Noodles, subject to the following conditions:

1. The floor plan and elevations shall be revised to add a second exit out of the dining area.
2. The new landscaping for the site shall be installed and the irrigation system for the site inspected prior to the issuance of a Certificate of Occupancy for this restaurant.
3. The applicant shall not use any terms, including the term "bar", "tavern", or graphic depictions that denote alcoholic beverages in exterior signs.

Voting Aye: Bernstein, Braun, Doepfner, Herrick, Jandura
Voting Nay: None
Absent: Benjet

Administrative Recommendation:

Administration recommends approval.

Item #R9 – **PUBLIC HEARING** and consideration of an Ordinance approving a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 3725 Belt Line Road (formerly CC's Coffee), on application from Dunn Brothers Coffee, represented by Mr. Alan R. Geddie.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on December 11, 2003, voted to recommend approval of the request for a Special Use Permit for the sale of alcohol for on-premises consumption, on application from Dunn Bros. Coffee, subject to the following conditions:

1. The applicant must meet all requirements of the Food Service Code.
2. The applicant shall not use the term "bar", "tavern" or any other terms or graphic depictions that relate to alcoholic beverages in any exterior signs.

Voting Aye: Bernstein, Braun, Doepfner, Herrick, Jandura
Voting Nay: None
Absent: Benjet

Administrative Recommendation:

Administration recommends approval.

Item #R10 – Consideration of an Ordinance approving a meritorious exception to Chapter 62, Signs, Section 62-163, Area, for Mama Fu’s Noodle House, located at 3711 Belt Line Road, on application from Reynolds Sign.

Attachments:

1. Staff Report
2. Memorandum from Lynn Chandler
3. Application
4. Plans

Administrative Recommendation:

Administration recommends approval.

Item #R11 – Consideration of an Ordinance amending the Town of Addison Code of Ordinances, Chapter 18, Buildings and Building Regulations, Article X, Fences, Section 18-621, Setback Requirements, to exempt municipally owned property from the setback requirement for fences.

Attachments:

1. Council Agenda Item Overview
2. Ordinance

Administrative Recommendation:

Administration recommends approval.

Item #R12 – Consideration of a Resolution authorizing the City Manager to enter into an amendment to an advertising agreement with Krause Advertising to provide marketing consultation, creative ad production services, administrative and account oversight for the Town marketing and special events initiatives.

Attachments:

1. Council Agenda Item Overview
2. Amendment to Advertising Agreement
3. Exhibit
4. Advertising Agreement

Administrative Recommendation:

Administration recommends approval.

Item #R13 – Consideration of a Resolution regarding certain matters pertaining to a Ground Lease at Addison Airport between the Town, as Landlord, and Raymond F. Sawtelle, Jr. and Sheila L. Sawtelle, as Tenant, (d/b/a Monarch Air Addison) as follows: (i) approval of First Amendment to Ground Lease (regarding the mortgaging of the leasehold estate of Tenant), and (ii) consent to an estoppel letter to Legacy Bank with regard to a loan to Trey Aviation, a Texas Limited Liability Company, a wholly owned subsidiary of Tenant.

Attachments:

1. Council Agenda Item Overview
2. Memorandum from Lisa Pyles (with Exhibits)

Administrative Recommendation:

Administration recommends approval.

Item #R14 – Consideration of an Ordinance amending the Town of Addison Code of Ordinances, Chapter 2, Administration, Article III, Officers and Employers, Division 1, Section 2-74, Entertainment Expenses.

Attachments:

1. Council Agenda Item Overview
2. Ordinance

Administrative Recommendation:

Administration recommends approval.

Item #R15 – Consideration of a Resolution authorizing the staff and Council dinner expenses associated with the Texas Municipal League (TML) conference.

Attachments:

1. Council Agenda Item Overview
2. Resolution

Administrative Recommendation:

Administration recommends approval.

Adjourn Meeting

Posted 5:00 p.m.
January 8, 2004
Carmen Moran
City Secretary

**THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS
WITH DISABILITIES. PLEASE CALL (972) 450-2819 AT LEAST
48 HOURS IN ADVANCE IF YOU NEED ASSISTANCE.**

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

December 9, 2003
7:30 p.m. - Council Chambers
5300 Belt Line Road

Present: Mayor Wheeler, Councilmembers Chow, Hirsch, Mallory, Niemann, Silver,
Turner
Absent: None

Item #R1 – Consideration of Old Business

The following employees were introduced to the Council: Arturo Liberato (Conference and Theatre Centre), Jeremy Hotchkiss (Police), Melvin Sims (Conference and Theatre Centre) and Danny Saenz (Fire).

Item #R2 – Consent Agenda

Item #2a – Approval of the Minutes for the November 25, 2003 Council Meeting.

Councilmember Silver moved to duly approve the Minutes of the November 25, 2003 Council Meeting as written. Councilmember Niemann seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R3 – **PUBLIC HEARING** and consideration of an Ordinance approving a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 4939 Belt Line Road, on application from Potbelly Sandwich Works, represented by Ms. Kitty Carlson.

Mayor Wheeler opened the meeting as a public hearing. Kirk Williams (5400 Renaissance Tower) spoke in opposition of this item, and Daryl Snadon of Beltway Development spoke in favor of this item. There were no further questions or comments. Mayor Wheeler closed the public hearing.

Councilmember Chow moved to duly pass Ordinance No. 003-042 approving a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 4939 Belt Line Road, on application from Potbelly Sandwich Works, subject to the following conditions:

1. All dead and missing landscaping on the site shall be replaced according to the plan approved for the Container Store. A freeze and rain sensor shall be added to the irrigation controller, if it has not already been installed. The

Parks Department will do a final lanscape and irrigation inspection before the Certificate of Occupancy is released.

2. The term “bar”, “tavern”, or any equivalent terms, or graphic depictions associated with alcoholic beverages shall not be used in exterior signs.

Councilmember Mallory seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R4 – Consideration of an Ordinance approving a meritorious exception to Chapter 62, Signs, Section 62-246, Temporary Banner Signs; Section 62-1, Definitions, for Pizza Hut, located at 14841 Dallas Parkway, on application from Dave Fleming.

Councilmember Mallory moved to deny a meritorious exception to Chapter 62, Signs, Section 62-246, Temporary Banner Signs; Section 62-1, Definitions, for Pizza Hut, located at 14841 Dallas Parkway. Councilmember Turner seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Turner
Voting Nay: Silver
Absent: None

Item #R5 – Consideration of a Resolution approving a Change Order in an amount not to exceed \$193,550.00 to a previously approved contract with Abstract Construction Company for changes to Addison Circle Park.

Councilmember Chow moved to duly pass Resolution No. R03-124 approving a Change Order in an amount not to exceed \$193,550.00 to a previously approved contract with Abstract Construction Company for changes to Addison Circle Park. Councilmember Mallory seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R6 – Consideration of a Resolution authorizing the City Manager to enter into a contract with Sprint Spectrum L.P., for installation of a WLAN Equipment, including WiFi services, at the Conference Centre, subject to final review and approval of the City Attorney’s office.

Councilmember Niemann moved to duly pass Resolution No. R03-125 authorizing the City Manager to enter into a contract with Sprint Spectrum L.P., for installation of a WLAN Equipment, including WiFi services, at the Conference Centre, subject to final review and approval of the City Attorney’s office. Councilmember Turner seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R7 – Consideration of a Resolution authorizing the City Manager to enter into a contract in an amount not to exceed \$36,000.00 with AriaMedia, Inc. for professional services.

Councilmember Chow moved to duly pass Resolution No. R03-126 authorizing the City Manager to enter into a contract in an amount not to exceed \$36,000.00 with AriaMedia, Inc. for professional services. Councilmember Mallory seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R8 – Consideration of a Resolution awarding a bid in the amount of \$44,945.00 and authorizing the City Manager to enter into a contract with Johnson Industries for the purchase and installation of two (2) vehicle/equipment lifts for fleet services.

Councilmember Turner moved to duly pass Resolution No. R03-127 awarding a bid in the amount of \$44,945.00 and authorizing the City Manager to enter into a contract with Johnson Industries for the purchase and installation of two (2) vehicle/equipment lifts for fleet services. Councilmember Mallory seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R9 – Consideration of a Resolution authorizing the City Manager to enter into an agreement in an amount not to exceed \$59,000.00 with RTKL for professional planning services to develop a strategic approach for the re-invigoration of Belt Line Road.

Councilmember Mallory moved to duly pass Resolution No. R03-128 authorizing the City Manager to enter into an agreement in an amount not to exceed \$59,000.00 with RTKL for professional planning services to develop a strategic approach for the re-invigoration of Belt Line Road. Councilmember Turner seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R10 – Consideration of a Resolution authorizing the City Manager to enter into a contract for services for \$230,000.00 plus up to \$150,000.00 matching funds with WaterTower Theatre for the fiscal year 2003-2004 subject to final review and approval of the City Attorney's office.

Councilmember Turner moved to duly pass Resolution No. R03-129 authorizing the City Manager to enter into a contract for services for \$230,000.00 plus up to \$150,000.00 matching funds with WaterTower Theatre for the fiscal year 2003-2004 subject to final review and approval of the City Attorney's office. Councilmember Silver seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner

Voting Nay: None

Absent: None

Item #R11 – Consideration of a Resolution authorizing the City Manager to enter into an “Agreement for the Use of the Addison Theatre Center” between the Town and the WaterTower Theatre from October 1, 2003 through September 30, 2004, subject to final review and approval of the City Attorney's office.

Councilmember Mallory moved to duly pass Resolution No. R03-130 authorizing the City Manager to enter into an “Agreement for the Use of the Addison Theatre Center” between the Town and the WaterTower Theatre from October 1, 2003 through September 30, 2004, subject to final review and approval of the City Attorney's office. Councilmember Niemann seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner

Voting Nay: None

Absent: None

Item #R12 – Consideration of a Resolution authorizing the City Manager to enter into a professional services agreement in an amount not to exceed \$31,000.00 with PBS&J to perform a Vulnerability Assessment of the Town's water system and to provide assessment of the Town's Emergency Response Plan.

Councilmember Silver moved to duly pass Resolution No. R03-131 authorizing the City Manager to enter into a professional services agreement in an amount not to exceed \$31,000.00 with PBS&J to perform a Vulnerability Assessment of the Town's water system and to provide assessment of the Town's Emergency Response Plan, subject to the City Attorney's approval. Councilmember Turner seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner

Voting Nay: None

Absent: None

Item #R13 – Consideration of a Resolution authorizing the City Manager to enter into a contract in the amount of \$2,536,979.50 with Site Concrete Inc for the construction of the Spectrum Drive North/South Extension Project.

Councilmember Mallory moved to duly pass Resolution No. R03-132 authorizing the City Manager to enter into a contract in the amount of \$2,536,979.50 with Site Concrete Inc for the construction of the Spectrum Drive North/South Extension Project. Councilmember Chow seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R14 – Consideration of a Resolution authorizing the City Manager to enter into a Supplemental Agreement in the amount of \$87,291.00 with HNTB for landscape architecture design and surveying services relating to the Arapaho Phase III multi-use trail pocket parks.

Councilmember Mallory moved to duly pass Resolution No. R03-133 authorizing the City Manager to enter into a Supplemental Agreement in the amount of \$87,291.00 with HNTB for landscape architecture design and surveying services relating to the Arapaho Phase III multi-use trail pocket parks. Councilmember Chow seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R15 – Presentation of the Finance Department Quarterly Report for the Quarter and Year ending September 30, 2003.

No action taken.

Item #R16 – Consideration of an Ordinance providing for the holding of a public hearing on a zoning matter by the City Council jointly with a public hearing required to be held by the Town Planning and Zoning Commission on December 11, 2003.

Councilmember Mallory moved to duly pass Ordinance No. 003-043 to hold a public hearing on a zoning matter by the City Council jointly with a public hearing required to be held by the Town Planning and Zoning Commission on December 11, 2003. Councilmember Chow seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

EXECUTIVE SESSION. At 11:00 p.m. Mayor Wheeler announced that the Council would go into Executive Session to discuss the following items:

Item #ES1 - Closed (executive) session of the City Council, pursuant to Section 551.071 of the Texas Government Code to consult with its attorney to seek advice regarding certain pending litigation, to wit: Transcontinental Realty Investors, Inc. et al, v. The Town of Addison, Texas, et al., Civil Action No. 3:03-CV-2132L, US District Court, Northern District of Texas, Dallas Division.

Item #ES2 - Closed (executive) session of the City Council, pursuant to Section 551.071 of the Texas Government Code to consult with its attorney to seek advice

regarding certain pending litigation, to wit: La Taste Enterprises, *E. Allan Stockton and Mary Lois Buce* vs. The Town of Addison, Texas, et al., Cause No. DV98-02259-F, 116th District Court, Dallas County, Texas.

The Council came out of **Executive Session** at 11:31 p.m.

There being no further business before the Council, the meeting was adjourned.

Mayor

Attest:

City Secretary

Council Agenda Item: #2b**SUMMARY:**

Staff is requesting the Council approve a final payment in the amount of \$93,644.76 to Big Sky Construction the Addison Arts District Pavilion project.

FINANCIAL IMPACT:

Budgeted Amount: \$1,000,000.00
Cost: \$893,836.00

BACKGROUND:

Construction began on the Pavilion in March of 2003. The project was substantially complete in September of 2003, with all punch list items being completed by December 2003.

In accordance with Section 2252.032 of the Government Code, the contractor has requested that interest be paid on the retainage. The amount of interest was calculated by the Purchasing Department as \$873.56. The final payment amount of \$93,644.76 reflects the original final payment amount of \$92,771.20 + \$873.56 in accrued interest.

RECOMMENDATION:

Staff recommends the Council approve a final payment in the amount of \$93,644.76 to Bid Sky Construction for the construction of the Addison Arts District Pavilion.

JAMES E. DUFFY

December 17, 2003

Ms. Carmen Moran
Director of Development Services/
City Secretary
Town of Addison
P.O. Box 9010
Addison, TX 75001-9010

Re: Arts District Pavilion Building
Final Payment

Dear Carmen:

Here is the final request for payment from Big Sky Construction in the amount of \$92,771.20 for the Addison Arts District Pavilion Building project. The request has been reviewed and certified by the project architect, Cunningham Architects, as payable. My review concurs and we recommend it forward to the City Council for approval.

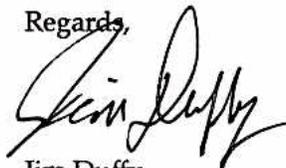
Also attached is the Consent of Surety to Final Payment from the contractor's surety company. We have received all the closeout documents and the punch list work is complete on the building.

As you may recall, the contractor requested that pursuant to the provisions of Section 2252.032 of the Government Code, wherein if retainage is more than 5%, the owner is required to deposit the retainage in a interest bearing account, and the contractor is paid retainage and interest at the end of the project. We decided to hold a full 10% retainage on this project and the Finance Department was notified of the contractor's request.

Because this final request includes release of the retainage the Town owes an additional amount equal to interest on the retainage amounts held throughout the project. Bryan Langley indicated he would be able to calculate the amount of interest owed at the completion of the project. That amount needs to be calculated and added to the application for payment amount as the total final payment.

Please let me know if you need any additional information.

Regards,



Jim Duffy

APPLICATION AND CERTIFICATION FOR PAYMENT

TO OWNER Town of Addison
 5300 Belt Line Road
 Addison, Texas 75001

PROJECT: Arts & Events District Pavilion
 4970 Addison Circle Drive
 Addison, Texas

APPLICATION NO Nine - 9

Distribution to:

- OWNER
- ARCHITECT
- CONTRACTOR
-
-

PERIOD TO: 24-Nov-03

FROM CONTRACTOR:
Big Sky Construction Co., Inc.
 2611 N. Beltline Rd., Suite #105
 Sunnyvale, TX 75182

VIA ARCHITECT: Cunningham Architects
 918 Dragon Street
 Dallas, Texas 75207

PROJECT NOS: 03 - 07

CONTRACT DATE: MARCH 4, 2003

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

1. ORIGINAL CONTRACT SUM \$ 847,900.00
2. Net change by Change Orders \$ 45,936.00
3. CONTRACT SUM TO DATE (Line 1 ± 2) \$ 893,836.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \$ 893,836.00
5. RETAINAGE:
 - a. 0% % of Completed Work \$ 0.00
(Column D + E on G703)
 - b. % of Stored Material \$
(Column F on G703)
 - Total Retainage (Lines 5a + 5b or Total in Column I of G703) \$ 0.00
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total) \$ 893,836.00
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) \$ (801,064.80)
8. CURRENT PAYMENT DUE \$ 92,771.20
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) \$ 0.00

CONTRACTOR: Big Sky Construction Co., Inc.

By:  Date: November 24, 2003

State of: Texas **County of:** Dallas
 Subscribed and sworn to before me this 24th day of November 2003
Notary Public: Harold Dee Casler
 My Commission expires: 27-Jan-07

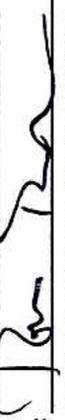

ARCHITECT'S CERTIFICATION FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ 92,771.20

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT: CUNNINGHAM ARCHITECTS

By:  Date: 12/15/03

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner CO #1 Thru #5	\$42,172.00	
Total approved this Month CO #6	\$3,764.00	
TOTALS	\$45,936.00	\$0.00
NET CHANGES by Change Order	\$45,936.00	

CONTINUATION SHEET

AIA DOCUMENT G703

PAGE 2 OF 6 PAGES

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing

Contractor's signed certification is attached.

In tabulations below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO: **Nine - 9**

APPLICATION DATE: **24-Nov-03**

PERIOD TO: **24-Nov-03**

ADDISON ARTS & EVENTS DISTRICT PAVILION:

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		E THIS PERIOD	F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)	H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE RATE) 10.0%
			FROM PREVIOUS APPLICATION (D + E)						
	GENERAL REQUIREMENTS								
1	Bonds & Insurance	28,560.00	28,560.00	0.00	0.00	0.00	28,560.00	0.00	0.00
2	Mobilization	5,250.00	5,250.00	0.00	0.00	0.00	5,250.00	0.00	0.00
3	Supervision	29,390.00	29,390.00	0.00	0.00	0.00	29,390.00	0.00	0.00
4	Misc. General Conditions	31,965.00	31,965.00	0.00	0.00	0.00	31,965.00	0.00	0.00
	SITE WORK								
5	Excavation	8,370.00	8,370.00	0.00	0.00	0.00	8,370.00	0.00	0.00
	CONCRETE								
6	Drilled Piers	21,760.00	21,760.00	0.00	0.00	0.00	21,760.00	0.00	0.00
7	Grade Beams	20,480.00	20,480.00	0.00	0.00	0.00	20,480.00	0.00	0.00
8	Pad Fill	8,550.00	8,550.00	0.00	0.00	0.00	8,550.00	0.00	0.00
9	Plinths	7,040.00	7,040.00	0.00	0.00	0.00	7,040.00	0.00	0.00
10	Floor Slab	14,720.00	14,720.00	0.00	0.00	0.00	14,720.00	0.00	0.00
	MASONRY								
11	Masonry Materials	80,100.00	80,100.00	0.00	0.00	0.00	80,100.00	0.00	0.00
12	Masonry Labor	12,650.00	12,650.00	0.00	0.00	0.00	12,650.00	0.00	0.00
13	Masonry Reinforcement	3,370.00	3,370.00	0.00	0.00	0.00	3,370.00	0.00	0.00
	METALS								
14	Structural Steel Materials	124,470.00	124,470.00	0.00	0.00	0.00	124,470.00	0.00	0.00
15	Steel Erection	28,751.00	28,751.00	0.00	0.00	0.00	28,751.00	0.00	0.00
16	Stainless Steel Work	6,180.00	6,180.00	0.00	0.00	0.00	6,180.00	0.00	0.00
	WOODS								
17	Rough Carpentry Materials	1,010.00	1,010.00	0.00	0.00	0.00	1,010.00	0.00	0.00
18	Rough Carpentry Labor	1,550.00	1,550.00	0.00	0.00	0.00	1,550.00	0.00	0.00
19	Timber Deck Materials	38,050.00	38,050.00	0.00	0.00	0.00	38,050.00	0.00	0.00
20	Timber Deck Labor	15,680.00	15,680.00	0.00	0.00	0.00	15,680.00	0.00	0.00
	MOISTURE PROTECTION								
21	Joint Sealers	740.00	740.00	0.00	0.00	0.00	740.00	0.00	0.00
22	Water Repellents	2,230.00	2,230.00	0.00	0.00	0.00	2,230.00	0.00	0.00
23	Roofing	48,800.00	48,800.00	0.00	0.00	0.00	48,800.00	0.00	0.00
	TOTAL PAGE 2	539,666.00	539,666.00	0.00	0.00	0.00	539,666.00	0.00	0.00

CONTINUATION SHEET

AIA DOCUMENT G703

PAGE 3 OF 6 PAGES

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing

APPLICATION NO: **Nine - 9**

Contractor's signed certification is attached.

APPLICATION DATE: **24-Nov-03**

In tabulations below, amounts are stated to the nearest dollar.

PERIOD TO: **24-Nov-03**

Use Column I on Contracts where variable retainage for line items may apply.

ADDISON ARTS & EVENTS DISTRICT PAVILION:

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		E THIS PERIOD	F MATERIALS PRESENTLY STORED (NOT IN D O R E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)	H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D + E)	% (G + C)					
	DOORS & WINDOWS								
24	Hollow Metal Work	2,480.00	2,480.00	0.00	0.00	0.00	2,480.00	0.00	0.00
25	Door Hardware Materials	3,340.00	3,340.00	0.00	0.00	0.00	3,340.00	0.00	0.00
26	Door Hardware Labor	920.00	920.00	0.00	0.00	0.00	920.00	0.00	0.00
27	Aluminum Storefront	83,270.00	83,270.00	0.00	0.00	0.00	83,270.00	0.00	0.00
	FINISHES								
28	Drywall	2,550.00	2,550.00	0.00	0.00	0.00	2,550.00	0.00	0.00
29	Acoustical Ceilings	640.00	640.00	0.00	0.00	0.00	640.00	0.00	0.00
30	Painting	8,810.00	8,810.00	0.00	0.00	0.00	8,810.00	0.00	0.00
31	Ceramic Tile	12,330.00	12,330.00	0.00	0.00	0.00	12,330.00	0.00	0.00
32	Concrete Floor Sealer	310.00	310.00	0.00	0.00	0.00	310.00	0.00	0.00
	SPECIALTIES								
33	Signage	1,930.00	1,930.00	0.00	0.00	0.00	1,930.00	0.00	0.00
34	Louvers	1,870.00	1,870.00	0.00	0.00	0.00	1,870.00	0.00	0.00
35	Toilet Compartments	13,180.00	13,180.00	0.00	0.00	0.00	13,180.00	0.00	0.00
36	Toilet Accessories	7,990.00	7,990.00	0.00	0.00	0.00	7,990.00	0.00	0.00
37	Fire Extinguishers	135.00	135.00	0.00	0.00	0.00	135.00	0.00	0.00
38	FRP Panels	1,190.00	1,190.00	0.00	0.00	0.00	1,190.00	0.00	0.00
	EQUIPMENT								
39	Food Service Equipment	26,610.00	26,610.00	0.00	0.00	0.00	26,610.00	0.00	0.00
	PLUMBING								
40	Rough - In	26,360.00	26,360.00	0.00	0.00	0.00	26,360.00	0.00	0.00
41	Top Out	19,770.00	19,770.00	0.00	0.00	0.00	19,770.00	0.00	0.00
42	Trims & Fixtures	19,770.00	19,770.00	0.00	0.00	0.00	19,770.00	0.00	0.00
	FIRE PROTECTION								
43	Fire Sprinkler System	8,750.00	8,750.00	0.00	0.00	0.00	8,750.00	0.00	0.00
	TOTAL PAGE 3	242,205.00	242,205.00	0.00	0.00	0.00	242,205.00	0.00	0.00

CONTINUATION SHEET

AIA DOCUMENT G703

PAGE 4 OF 6 PAGES

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing

APPLICATION NO: **Nine - 9**

Contractor's signed certification is attached.

APPLICATION DATE: **24-Nov-03**

In tabulations below, amounts are stated to the nearest dollar.

PERIOD TO: **24-Nov-03**

Use Column I on Contracts where variable retainage for line items may apply.

ADDISON ARTS & EVENTS DISTRICT PAVILION:

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		E THIS PERIOD	F MATERIALS PRESENTLY STORED (NOT IN D O R E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)	H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D + E)						
	MECHANICAL								
44	Equipment	9,695.00	9,695.00	0.00	0.00	0.00	9,695.00	0.00	0.00
45	Ductwork	2,745.00	2,745.00	0.00	0.00	0.00	2,745.00	0.00	0.00
46	Grilles & Registers	2,420.00	2,420.00	0.00	0.00	0.00	2,420.00	0.00	0.00
47	Start Up	1,040.00	1,040.00	0.00	0.00	0.00	1,040.00	0.00	0.00
	ELECTRICAL								
48	Gear & Power	11,750.00	11,750.00	0.00	0.00	0.00	11,750.00	0.00	0.00
49	Fixtures & Lighting	29,155.00	29,155.00	0.00	0.00	0.00	29,155.00	0.00	0.00
50	Service & Special Systems	3,511.00	3,511.00	0.00	0.00	0.00	3,511.00	0.00	0.00
51	General Conditions & HVAC	5,713.00	5,713.00	0.00	0.00	0.00	5,713.00	0.00	0.00
	CHANGE ORDERS								
	Change Order #1								
52	RFC #1A: 400 Amp Breaker	4,551.00	4,551.00	0.00	0.00	0.00	4,551.00	0.00	0.00
53	RFC #5A: 480 Volt Service	11,024.00	11,024.00	0.00	0.00	0.00	11,024.00	0.00	0.00
	Change Order #2								
54	RFC #2: Fire Sprinkler Modifications	3,405.00	3,405.00	0.00	0.00	0.00	3,405.00	0.00	0.00
55	RFC #7A-Rev.: Roofing & Skylight	13,601.00	13,601.00	0.00	0.00	0.00	13,601.00	0.00	0.00
56	RFC #10: Stainless Steel Access Panel	138.00	138.00	0.00	0.00	0.00	138.00	0.00	0.00
57	RFC #11: Sliding Door Revisions	400.00	400.00	0.00	0.00	0.00	400.00	0.00	0.00
58	RFC #12: Trench Drain To Storm Drain	1,280.00	1,280.00	0.00	0.00	0.00	1,280.00	0.00	0.00
59	RFC #13: Flush Valve Alternate	-822.00	-822.00	0.00	0.00	0.00	-822.00	0.00	0.00
	Change Order #3								
60	RFC #14: Stainless Access Panels	276.00	276.00	0.00	0.00	0.00	276.00	0.00	0.00
61	RFC #15: Fire Sprinkler Piping Change	780.00	780.00	0.00	0.00	0.00	780.00	0.00	0.00
62	RFC #16: Furr Down Revisions	2,045.00	2,045.00	0.00	0.00	0.00	2,045.00	0.00	0.00
	Change Order #4								
63	RFC #19, 20, 21, 22 & 23	4,314.00	4,314.00	0.00	0.00	0.00	4,314.00	0.00	0.00
CO #5:	CCD #1 & RFC #28B	1,180.00	1,180.00	0.00	0.00	0.00	1,180.00	0.00	0.00
64	CO #6: RFC #32, 33 & 35	3,764.00	0.00	3,764.00	0.00	0.00	3,764.00	0.00	0.00
	TOTAL PAGE 4	111,965.00	108,201.00	3,764.00	0.00	0.00	111,965.00	0.00	0.00
	GRAND TOTALS	893,836.00	890,072.00	3,764.00	0.00	0.00	893,836.00	0.00	0.00

**CONSENT OF
SURETY COMPANY
TO FINAL PAYMENT**

OWNER
ARCHITECT
CONTRACTOR
SURETY
OTHER

AIA DOCUMENT G707

PROJECT:
(name, address) **Arts & Events District Pavillion**

TO (Owner)

[**Town of Addison**
5350 Belt Line Rd.

Addison, TX, 75240

] **ARCHITECT'S PROJECT NO:**
CONTRACT FOR: Arts & Events District
Pavillion

BOND NO: TXIFSU0341748

] **CONTRACT DATE: 03/04/2003**

CONTRACTOR: [**Big Sky Construction Co., Inc.**

In accordance with the provision of the Contract between the Owner and the Contractor as indicated above, the
(here insert name and address of Surety Company)

International Fidelity Insurance Company
8144 Walnut Hill Ln., Ste. 693, Dallas, TX, 75231

, SURETY COMPANY,

on bond of (here insert name and address of Contractor)

Big Sky Construction Co., Inc.
2611 N. Beltline Rd., Sunnyvale, TX, 75182

, CONTRACTOR,

hereby approves of the final payment to the Contractors, and agrees that final payment to the Contractor shall not relieve the Surety
Company of any of its obligations to (here insert name and address of Owner)

Town of Addison
5350 Belt Line Rd., Addison, TX, 75240

, OWNER,

as set forth in the said Surety Company's bond.

IN WITNESS WHEREOF,
the surety company has hereunto set its hand this **11th** day of **December, 2003**

Attest:
(Seal)



International Fidelity Insurance Company

Surety Company



Signature of Authorized Representative

Michael B. Hill, Attorney-In-Fact

Title

NOTE: This form is to be used as a companion document to AIA DOCUMENT G706, CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS,
Current Edition

POWER OF ATTORNEY INTERNATIONAL FIDELITY INSURANCE COMPANY

HOME OFFICE: ONE NEWARK CENTER, 20TH FLOOR
NEWARK, NEW JERSEY 07102-5207

FOR BID BOND/RIDER/CONSENTS/AFFIDAVITS

KNOW ALL MEN BY THESE PRESENTS: That INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation organized and existing laws of the State of New Jersey, and having its principal office in the City of Newark, New Jersey, does hereby constitute and appoint

CINDY FOWLER, DEBBIE SMITH, MICHAEL B. HILL, WILLIAM D. BALDWIN, SUZANNE C. BALDWIN

Richardson, TX.

its true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the Department of Transportation, State of Florida, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said INTERNATIONAL FIDELITY INSURANCE COMPANY, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal office.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of Article 3-Section 3, of the By-Laws adopted by the Board of Directors of INTERNATIONAL FIDELITY INSURANCE COMPANY at a meeting called and held on the 7th day of February, 1974.

The President or any Vice President, Executive Vice President, Secretary or Assistant Secretary, shall have power and authority

- (1) To appoint Attorneys-in-fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and,
- (2) To remove, at any time, any such attorney-in-fact and revoke the authority given.

Further, this Power of Attorney is signed and sealed by facsimile pursuant to resolution of the Board of Directors of said Company adopted at a meeting duly called and held on the 29th day of April, 1982 of which the following is a true excerpt:

Now therefore the signatures of such officers and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.



IN TESTIMONY WHEREOF, INTERNATIONAL FIDELITY INSURANCE COMPANY has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 31st day of August, A.D. 1998.

STATE OF NEW JERSEY
County of Essex

INTERNATIONAL FIDELITY INSURANCE COMPANY

[Handwritten Signature]
Secretary

On this 31st day of August 1998, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of the INTERNATIONAL FIDELITY INSURANCE COMPANY; that the seal affixed to said instrument is the Corporate Seal of said Company; that the said Corporate Seal and his signature were duly affixed by order of the Board of Directors of said Company.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

[Handwritten Signature]

A NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Nov. 21, 2005

CERTIFICATION

I, the undersigned officer of INTERNATIONAL FIDELITY INSURANCE COMPANY do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the By-Laws of said Company as set forth in said Power of Attorney, with the ORIGINALS ON IN THE HOME OFFICE OF SAID COMPANY, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect

IN TESTIMONY WHEREOF, I have hereunto set my hand this 11th day of December, 2003

[Handwritten Signature]
Assistant Secretary

Council Agenda Item: #2c

SUMMARY:

This item is for final payment and acceptance of improvements performed by Rebcon, Inc. for the Richard Byrd Drive Pavement Reconstruction Project.

FINANCIAL IMPACT:

Budgeted Amount: \$400,750

Construction Cost: \$229,622.47

Funding Source: 2004 Addison Airport Operating Budget

BACKGROUND:

Washington-Staubach determined that the pavement on Richard Byrd Drive was severely deteriorated and in need of immediate reconstruction. There were several large failures in the pavement that were being temporarily covered by metal plates for access and safety. The firm of HNTB Corporation prepared engineering plans and specifications for construction of these improvements. The project was programmed by the Addison Airport and will be funded from the operating fund account. A contract was awarded to Rebcon, Inc. for construction of this project. The original contract price for these improvements was \$222,740.50. The final construction cost of this project is \$224,622.47, which represents a \$1,881.97 increase from the original contract amount. The final construction cost was the result of unscheduled increases in certain quantities, including additional 3” Cement Treated Base material, in the amount of \$1,688.00, and other miscellaneous quantity increases. In addition, this project included an incentive/disincentive provision; whereby, the contractor would be awarded \$250.00 per day for early completion of the project, to a maximum award of \$5,000.00. The Town acknowledged the successful completion of the construction improvements twenty (20) calendar days prior to the established sixty (60) day period set forth in the contract. Consequently, the total value of this project is increased by \$5,000.00 (20 days x \$250.00/day) to \$229,622.47, which reflects the addition of the incentive payment to the final construction cost.

The contractor has submitted his Affidavit of Bills Paid, Consent of Surety Company to Final Payment, and One-Year Maintenance Bond.

RECOMMENDATION:

Staff recommends that Council authorize final payment of \$27,462.25 to Rebcon, Inc., and accept construction of the Richard Byrd Drive Pavement Reconstruction Project.

Contractor:
Rebcon, Inc.
1868 W. Northwest Hwy.
Dallas, TX 75220

Pay Estimate No.: 3 & Final
Project Name: Richard Byrd Drive Pavement Reconstruction
Addison Airport - Addison, Texas
Estimate Period: 12-20-03 to 1-1-04

RI Job # 0316

ITEM	DESCRIPTION	CONTRACT QUANTITY	UNIT MEAS	PREV QTY	QTY THIS ESTIMATE	QTY TO DATE	UNIT PRICE	PAY THIS ESTIMATE	WORK COMP TO DATE
101	Mobilization	1	LS	1	0	1	\$11,000.00	\$0.00	\$11,000.00
102	Maintenance of Traffic	1	LS	1	0	1	\$29,000.00	\$0.00	\$29,000.00
103	Uncl. Pvmt. Excavation	2820	CY	2820	0	2820	\$8.00	\$0.00	\$22,560.00
104	8" Lime Stab. Subgrade	7240	SY	7451	0	7451	\$2.20	\$0.00	\$16,392.20
105	Hydrated Lime	180	TON	180.2	0	180.2	\$87.00	\$0.00	\$15,677.40
106	3" Cement Treated Base	7240	SY	7451	0	7451	\$8.00	\$0.00	\$59,608.00
107	3" Bituminous Pvmt.	1225	TON	1223.91	0	1223.91	\$52.00	\$0.00	\$63,643.32
108	Tack Coat (0.15 Gal/SY)	1100	GAL	1117.7	0	1117.7	\$1.50	\$0.00	\$1,676.55
109	6" Sol Yel Taxiway Stripe	1075	LF	1108	0	1108	\$2.50	\$0.00	\$2,770.00
110	6" Double Sol Yel Stripe	65	LF	65	0	65	\$3.00	\$0.00	\$195.00
111	Silt Fence	1120	LF	1050	0	1050	\$2.00	\$0.00	\$2,100.00
112	SW3P - Inlet Protection	1	EA	0	0	0	\$200.00	\$0.00	\$0.00
				0	0	0	\$0.00	\$0.00	\$0.00
	Bonus	20	DAY	0	20	20	\$250.00	\$5,000.00	\$5,000.00

Work Completed to Date:	\$229,622.47
Less 0% Retainage:	0.00
	<u>\$229,622.47</u>
Less Previous Payments:	\$0.00
Less Previous Billings:	<u>\$202,160.22</u>
Total Due This Estimate:	\$27,462.25

Approved: _____

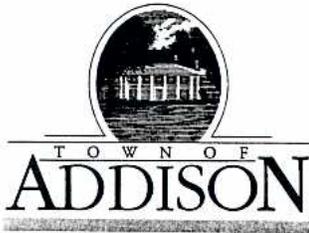
Date: _____

David Wilde, Town of Addison

Approved: _____

Date: _____

Steve Chutchian, Town of Addison



#R3-2

Addison 50!

50 YEARS OF FUN!

Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000
FAX (972) 450-7043

December 5, 2003

STAFF REPORT

RE: Preliminary Plat/Park View at Addison Circle

LOCATION: 9.016 acres bounded by Morris Avenue on the south, Quorum Drive on the west, a proposed street on the north and Spectrum Drive on the east,

REQUEST: Preliminary plat approval

APPLICANT: CityHomes, represented by Mr. Robert Jabavi of Brockette/Davis/Drake

DISCUSSION:

Background. The P&Z and Council have been working with this site since October of this year. This is the preliminary plat for the CityHomes development, which will be called ParkView at Addison Circle. The plans indicate Park View at Addison Place, but we have contacted CityHomes about changing the name to Addison Circle, and it has agreed. The preliminary plat follows the same site plan as was approved through the preliminary development plan and the final development plan.

Proposed Plat. The Public Works department has reviewed the proposed preliminary plat, and the following items have been noted:

Each 20 ft. Firelane, Utility & Access Easement should be changed to a "20 ft. Firelane, Utility, Drainage & Access Easement" on the Preliminary Plat.

Preliminary development drainage and water/sewer plans must be converted into final civil design plans and specifications for construction. These plans must also be accompanied by comprehensive grading and paving plans.

Plat should reference Addison Circle in lieu of Addison Place.

Design of all facilities adjacent to Spectrum Drive should complement and be coordinated with proposed street improvements.

RECOMMENDATION:

Staff recommends approval subject to the conditions listed above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. Moran". The signature is stylized with a large, looped initial "C" and the name "MORAN" written in a similar style.

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on December 11, 2003, voted to recommend approval of the preliminary plat for ParkView at Addison Circle Addition, subject to the following conditions:

Each 20 ft. Firelane, Utility & Access Easement should be changed to a "20 ft. Firelane, Utility, Drainage & Access Easement" on the Preliminary Plat.

Preliminary development drainage and water/sewer plans must be converted into final civil design plans and specifications for construction. These plans must also be accompanied by comprehensive grading and paving plans.

Plat should reference Addison Circle in lieu of Addison Place.

Design of all facilities adjacent to Spectrum Drive should complement and be coordinated with proposed street improvements.

Voting Aye: Bernstein, Braun, Doepfner, Herrick, Jandura,
Voting Nay: None
Absent: Benjet

Carmen Moran

From: Steve Chutchian
Sent: Thursday, December 04, 2003 3:37 PM
To: Carmen Moran
Subject: RE: Review Comments for December 11th. P & J Meeting

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

From: Steve Chutchian
Sent: Thursday, December 04, 2003 9:40 AM
To: Carmen Moran
Subject: Review Comments for December 11th. P & J Meeting

The following items were reviewed and comments are submitted as follows:

Case 1437-Z/CityHomes

Each 20 ft. Firelane, Utility & Access Easement should be changed to a "20 ft. Firelane, Utility, Drainage & Access Easement" on the Preliminary Plat.

Preliminary development drainage and water/sewer plans must be converted into final civil design plans and specifications for construction. These plans must also be accompanied by comprehensive grading and paving plans.

Plat should reference Addison Circle in lieu of Addison Place.

Design of all facilities adjacent to Spectrum Drive should complement and be coordinated with proposed street improvements.

Case 1443-SUP/Pei Wei Asian Diner/Final Plat/Pei Wei Addition

Final plat must include right-of-way dedication of 12 ft. adjacent to the east line of Addison Road, in accordance with scheduled street widening improvements.

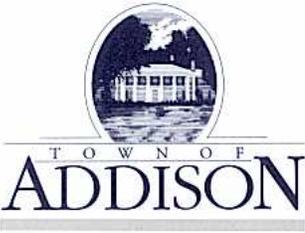
Civil design plans and specification must be approved by the Town for all proposed paving, drainage, grading, water, and sewer improvements on-site and off-site.

All landscaping, irrigation, driveway, and sidewalk improvements must be designed and constructed in accordance with proposed parkway improvements on Addison Road.

Should you have any questions, please let me know.

Steve Chutchian, P.E.
Assistant City Engineer

**ITEM #R3-3
NOT AVAILABLE
ELECTRONICALLY**



50 YEARS OF FUN!

Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000

December 5, 2003

FAX (972) 450-7043

STAFF REPORT

RE: Case 1443-SUP/Pei Wei Asian Diner

LOCATION: 4801 Belt Line Road (Solly's Barbecue)

REQUEST: Approval of an amendment to an existing Special Use Permit for a restaurant, and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only

APPLICANT: Albert-Addison L.P., represented by Mr. Bob Borson of Bernbaum Magadini Architects

DISCUSSION:

Background. This request is for a remodel and re-tenanting of the Solly's Barbecue Restaurant on the northeast corner of Addison Road and Belt Line Road. Solly's was one of the first restaurants in Addison and was approved through Ordinance 295 approved on November 23, 1976. Solly's expects to close at the end of this year, and the owners are planning to remodel the restaurant and lease it to Pei Wei Asian Diner.

Proposed Plan. The site contains .906 acres and is zoned Local Retail. It is developed with two buildings: Thomas Reprographics and Solly's. Thomas Reprographics is a retail store and must provide parking at a ratio of 1/200. Solly's was built when the parking ratio for restaurants was 1/100; therefore, it is legal non-conforming or "grandfathered" with regard to its parking ratio. As long as the building is not made any larger, it can be remodeled and still keep the 1/100 parking ratio. The owner is planning to take off some of the appendages that have been added to the building over time, and it will actually be smaller than it is now. The kitchen will be remodeled and all equipment will be brought up to the standards of the current Food Service Ordinance.

The plans for the restaurant show a 3,525 square foot restaurant with no outside patio. Pei Wei offers an Asian-food menu, and there are several existing locations in the metroplex. Customers order at a counter and take a number. Non-alcoholic beverages

are self-service and the food is delivered to the table. Although Pei Wei will sell beer and wine, there is not a separate bar space. Pei Wei also offers a take-out business, and the entrance for the take-out counter will be on the west side of the building.

Facades. The applicant is planning to refinish the existing stucco on the building and repaint it. Stucco will also be added to the back of the building, which is currently painted brick. Some of the storage sheds that have been added to the east side of the building will be removed, and the site will be cleaned up. The front façade will feature a wooden lattice screening structure that will extend 10 feet out in front of the building. The Local Retail regulations require that all buildings in the Local Retail district be at least 80% of all exterior walls shall be brick or stone veneer. However, that requirement can be waived through a Special Use Permit.

Parking. As noted earlier, the restaurant is "grandfathered" at a ratio of 1/100. Under that ratio, the building requires 36 spaces and the entire site requires 50 spaces. It provides 70 spaces, which is 20 over the required amount. At the 1/70 parking ratio, Pei Wei would require 50 spaces and the entire site would require 64, so it would still have enough parking even if it were required to be parked at the current ratio.

Landscaping. The Parks Department has reviewed the plans. As Slade notes, the site is also grandfathered as to the percentage of the site required for landscaping. However, the applicant should provide the number of trees required under the current ordinance. The plans should show 18 trees, but only show 9. Slade also notes (under Item #3) that there is 12-foot right-of-way requirement along Addison Road (see staff report on Final Plat for Albert-Addison Addition). The staff has a plan for the widening of Addison Road that includes a streetscape plan for each side of the street. If the 12 feet is dedicated, the parking along Addison Road would be eliminated, and the new greenway should be planted in accordance with the new streetscape plans for Addison Road, which basically show Red Oak trees planted 30 feet on center and a sidewalk.

Mechanical Equipment. The applicant shows a utility screen fence along the north side of the building to screen mechanical equipment. The plans do not indicate whether the fence is wood or metal. The staff has not had good experience with wooden screening fences, and recommends the fence be made of solid metal or stucco panels.

Signage. The applicant did not show any signs on the building. He should be aware that all signs must be permitted through the Addison Sign Ordinance. However, the Town has a policy against using the term "bar", "tavern", or any equivalent terms or graphic depictions that relate to alcoholic beverages, in exterior signs.

Overhead Electrical Service. The building is currently served with an overhead electrical line. All new electrical utility lines and services must be constructed

underground. This existing overhead service is "grandfathered" unless the Pei Wei requires more electricity than Solly's and causes the size of the transformers on the pole to increase or the number of (or size of) the overhead conductors from the pole to the building increases.

RECOMMENDATION:

Staff recommends approval of this request subject to the following conditions:

-the site should provide the number of trees against the street frontage required by the current landscaping ordinance. In addition, the Addison Road frontage (after right-of-way dedication) should be landscaped in accordance with the streetscape plans for Addison Road. The final landscape and irrigation plans shall meet the requirements of the Landscape Regulations, Section 4. – Landscape and Irrigation Plan Submission.

-the screening fence on the north side of the building shall be made of made of solid metal or stucco panels. The Building Official shall have final approval over the appearance of the fence.

-the restaurant shall not use the term "bar", "tavern", or any equivalent terms or graphic depictions that relate to alcoholic beverages, in exterior signs.

-if the electrical demand for the building increases over what is currently provided, the electrical service will have to be placed underground.

Respectfully submitted,

A handwritten signature in black ink that reads "C Moran". The signature is stylized with a large, looped "C" and a more fluid "Moran".

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on December 11, 2003, voted to recommend approval of the amendment to an existing Special Use Permit request for a restaurant, and an amendment to an existing SUP for the sale of alcohol for on-premises consumption, on application from Albert-Addison L.L.C. subject to the following conditions:

- the applicant shall submit a revised landscaping plan for approval by the Parks Director prior to the issuance of a building permit.
- the screening fence on the north side of the building shall be made of made of solid metal or stucco panels. The Building Official shall have final approval over the appearance of the fence.
- the restaurant shall not use the term "bar", "tavern", or any equivalent terms or graphic depictions that relate to alcoholic beverages, in exterior signs.
- if the electrical demand for the building increases over what is currently provided, the electrical service will have to be placed underground.

Voting Aye: Bernstein, Braun, Doepfner, Herrick, Jandura

Voting Nay: None

Absent: Benjet

Memorandum

DATE: December 4, 2003
TO: Carmen Moran, Director of Development
FROM: Slade Strickland, Director of Parks & Recreation
SUBJECT: **Case 1443-SUP/Pei Wei Asian Diner**

1. The plan does not show 20 percent landscaping as required by the landscape regulations; however, the property is pre-existing to the regulations and there are too many site constraints for the plan to meet this requirement. All available green space areas will need to be landscaped with the tree/plant quantities specified in the landscape regulations.
2. The street frontage tree requirement along Belt line Road and Addison Road is one tree for every 20' of street frontage, which would equate to 18 required trees. Only nine trees are shown on the plan.
3. If the 12' right-of-way requirement is approved along Addison Road, the landscape plan will need to reflect the revised landscape buffer width. Regardless of this 12' right-of-way requirement, the landscape plan along Addison Road will need to match the proposed streetscape plan for the future Addison Road widening project.
4. The final landscape and irrigation plans will need to be in accordance with the Landscape Regulations - Section 4. – Landscape and Irrigation Plan Submission.

To: Carmen Moran, Director Development Services

From: Lynn Chandler, Building Official

Date: December 2, 2003

Subject: Case 1443-SUP.Pei Wei Asian Diner.

Appendix B, Section XVI, G.2. of the Code of Ordinances of the Town of Addison requires all new electrical utility lines and services to be constructed underground. They may maintain the existing overhead service but they may not increase the number or size of the transformers on the pole or increase the number of or size of the overhead conductors from the pole to the building. Changes such as these would require the new service to be underground with pad mount type transformers or receive a variance from the Town Council. They may also reconfigure the conductors on the building.

Carmen Moran

From: Steve Chutchian
Sent: Thursday, December 04, 2003 3:37 PM
To: Carmen Moran
Subject: RE: Review Comments for December 11th. P & J Meeting

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

From: Steve Chutchian
Sent: Thursday, December 04, 2003 9:40 AM
To: Carmen Moran
Subject: Review Comments for December 11th. P & J Meeting

The following items were reviewed and comments are submitted as follows:

Case 1437-Z/CityHomes

Each 20 ft. Firelane, Utility & Access Easement should be changed to a "20 ft. Firelane, Utility, Drainage & Access Easement" on the Preliminary Plat.

Preliminary development drainage and water/sewer plans must be converted into final civil design plans and specifications for construction. These plans must also be accompanied by comprehensive grading and paving plans.

Plat should reference Addison Circle in lieu of Addison Place.

Design of all facilities adjacent to Spectrum Drive should complement and be coordinated with proposed street improvements.

Case 1443-SUP/Pei Wei Asian Diner/Final Plat/Pei Wei Addition

Final plat must include right-of-way dedication of 12 ft. adjacent to the east line of Addison Road, in accordance with scheduled street widening improvements.

Civil design plans and specification must be approved by the Town for all proposed paving, drainage, grading, water, and sewer improvements on-site and off-site.

All landscaping, irrigation, driveway, and sidewalk improvements must be designed and constructed in accordance with proposed parkway improvements on Addison Road.

Should you have any questions, please let me know.

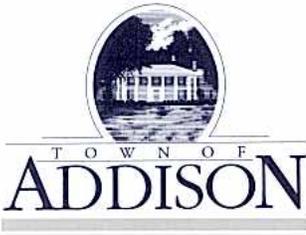
Steve Chutchian, P.E.
Assistant City Engineer

**ITEM #R4-3
NOT AVAILABLE
ELECTRONICALLY**

**ITEM #R4-3
NOT AVAILABLE
ELECTRONICALLY**



50 YEARS OF FUN!



Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000

FAX (972) 450-7043

The Honorable Mayor and City Council,

There have been some questions about how we approached the Addison Road widening project and I wanted to assure the Council that we have been very equitable with each of the property owners along this route. When the Addison Road project was first considered, staff proposed a six lane divided roadway. You can imagine that our preference would have been to have a six lane divided roadway, but past Councils and staff realized that to build the roadway as proposed would have an undesirable effect on the parking and landscaping of the existing businesses along Addison Road.

Therefore we adopted an approach that would develop a five-lane street eliminating the need to wipe out people's existing landscaping and parking. This is the approach that we have applied to each property on Addison Road. This is also the reason that we did not require some type of de-acceleration lane off of Belt Line on the Albert tract or a de-acceleration lane southbound from the Texas de Brazil site. Another reason that we have not pursued the de-acceleration lane on the Belt Line side is cost. There is a huge electrical vault and Dallas Water utility valve/meter vault on that corner that would have to be relocated at an estimated cost of \$350,000-\$500,000 to the Town and then we would have to find a place to relocate it.

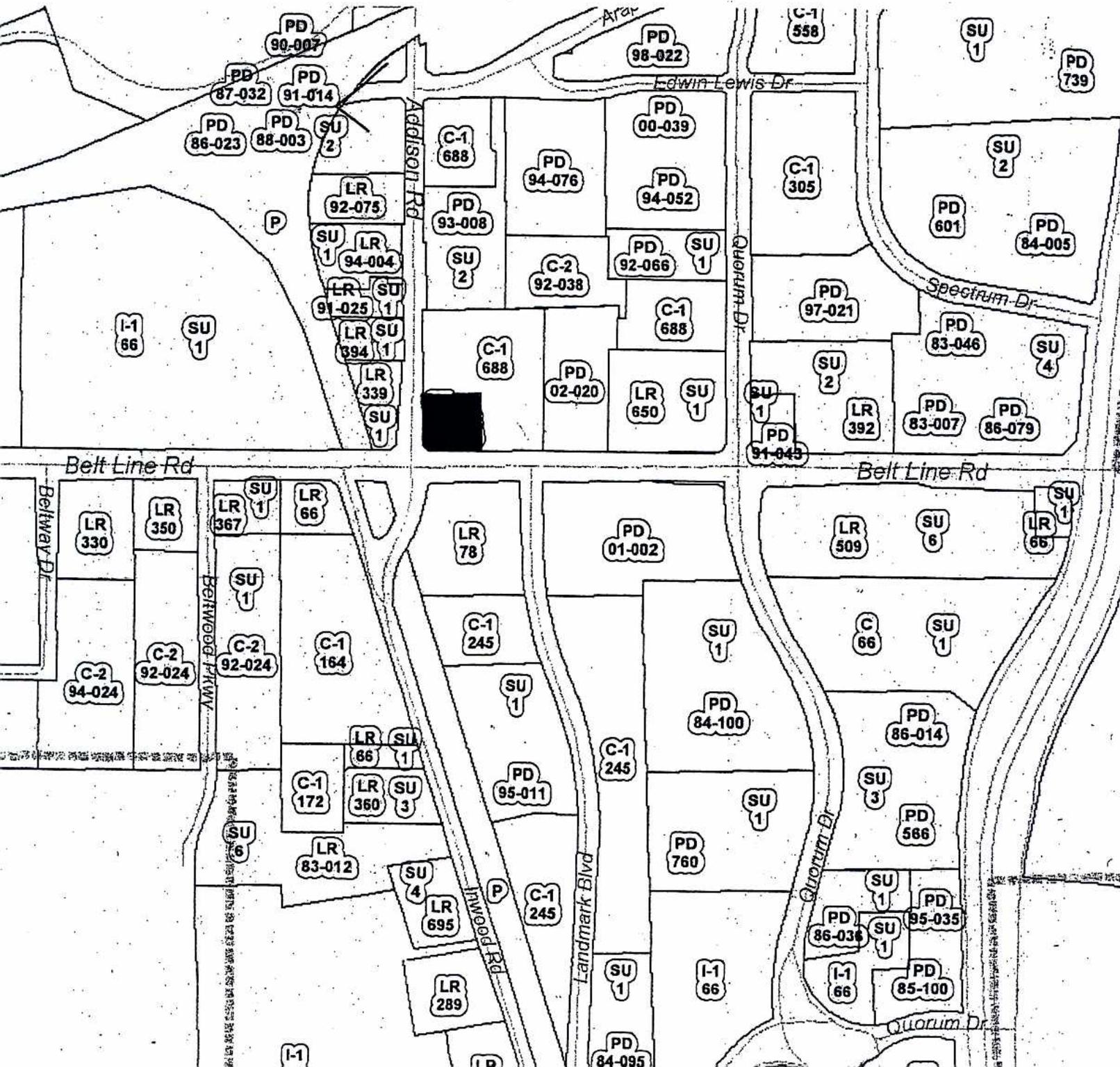
While the occupant is changing on the Albert tract, the use and the footprint of the building do not reflect any material change. If you have any questions, please call.

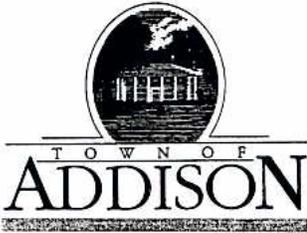
A handwritten signature in black ink, appearing to be "Ron Whitehead".

Ron Whitehead
City Manager

FINAL PLAT/Albert-Addison Addition

FINAL PLAT/Albert-Addison Addition. Requesting approval of a final plat for one lot on .906 acres, located at the northeast corner of Addison Road and Belt Line Road, on application from Albert-Addison LLC, represented by Mr. Mark Albert.





Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000
FAX (972) 450-7043

#R5-3

Addison 50!

50 YEARS OF FUN!

December 5, 2003

STAFF REPORT

RE: FINAL PLAT/Albert-Addison Addition

LOCATION: One lot of .906 acres located at the northeast corner of Addison Road and Belt Line Road

REQUEST: Final plat approval

APPLICANT: Albert-Addison L.P., represented by Mr. Mark Albert

DISCUSSION:

Background. This site contains two buildings: the Solly's Barbecue building and the Thomas Reprographics building. The site was developed in 1976, and the city has no record of it having ever been platted. At this time, the applicant is seeking a building permit to remodel the Solly's Barbecue building, and the site must be platted before a building permit can be issued.

Proposed Plat. The Public Works department has reviewed the proposed final plat, and the following items have been noted:

Final plat must include right-of-way dedication of 12 ft. adjacent to the east line of Addison Road, in accordance with scheduled street widening improvements.

Civil design plans and specification must be approved by the Town for all proposed paving, drainage, grading, water, and sewer improvements on-site and off-site.

All landscaping, irrigation, driveway, and sidewalk improvements must be designed and constructed in accordance with proposed parkway improvements on Addison Road.

RECOMMENDATION:

Staff recommends approval subject to the conditions listed above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C Moran'. The signature is stylized with a large, looped 'C' and a more fluid 'Moran'.

Carmen Moran
Director of Development Services

COMMISSION FINDINGS

The Addison Planning and Zoning Commission, meeting in regular session on December 11, 2003, voted to recommend approval of the request for final plat approval on application from Albert –Addison L.L.C. subject to the following conditions:

Civil design plans and specification must be approved by the Town for all proposed paving, drainage, grading, water, and sewer improvements on-site and off-site.

All landscaping, irrigation, driveway, and sidewalk improvements must be designed and constructed in accordance with proposed parkway improvements on Addison Road.

Voting Aye: Bernstein, Braun, Doepfner, Herrick, Jandura,

Voting Nay: None

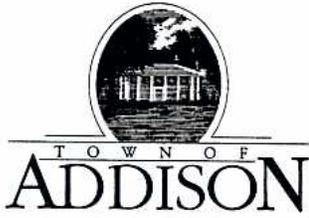
Absent: Benjet

Carmen Moran

From: Steve Chutchian
Sent: Thursday, December 11, 2003 1:11 PM
To: Carmen Moran
Subject: Case 1443-SUP/Pei Wei Asian Diner/Final Plat/Pei Wei Addition

Regarding the above mentioned case, the requirement for dedication of 12 ft. of right-of-way adjacent to the east line of Addison Road, may be eliminated. Staff has worked with the Engineer and determined that the proposed widening of Addison Road may be accomplished without this dedication.

Steve Chutchian, P.E.
Assistant City Engineer



Addison 50!

50 YEARS OF FUN!

Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000

FAX (972) 450-7043

December 4, 2003

STAFF REPORT

RE: Case 1444-Z/Addison Walk

LOCATION: One lot of 7.3760 acres on the south side of Belt Line Road at 5000 Belt Line

REQUEST: Approval of a change of zoning from "LR" (Local Retail) to "PD" (Planned Development) so as to provide for a mixed-use parking ratio and an height for buildings

APPLICANT: Direct Development, represented by Mr. Mark Henderson

DISCUSSION:

Background. This center was built as the Plaza at the Quorum Shopping Center by the Trammell Crow Company in the early 1980s. Trammell Crow had operated the center until recently, when it was sold to Direct Development. The center has two tenants: Memphis and Kobe Steaks that have been tenants since it was built in the '80s. For many years the center had a health club tenant (Presidents', then Bally's) in the large space on the west end of the center, and that tenant caused there to be a constant parking problem for the other tenants on that end. Bally's recently closed the health club, and the applicant would like to redevelop that large space. In addition, the applicant wants to update the image of the center and change the facades. The center has always been well maintained, but the plain and very dark brick storefronts do not offer the architectural interest and excitement a center needs to hold its own in today's more competitive retail market.

The plans show the entire shopping center, which extends from Quorum Drive on the west to the Dallas Tollway on the east. However, the small building on the east end of the site, which contains the Addison Foot Center and Cajun Turkey, was recently platted into a separate lot. That building, and the parking around it, is not part of this request.

The center was built in a Local Retail zoning district and contains 82,975 total square feet. At this time, the applicant would like to re-develop the tenant mix of the shopping center to bring in two more restaurant tenants and convert the furniture space on the east end into an office supply store. However the parking count, under the current ratios, does not allow for any changes in uses. The applicant feels that there is available parking capacity in the center because the retailers and restaurants have different demand times on the parking spaces. Kobe Steaks and Memphis use the parking at night, when the retailers are not open. The staff has noticed that since the health club closed, there does seem to be excess parking capacity in the center during the day, and the parking at night has always been adequate. However, the staff would not be in support of changing the ratio to allow the center to completely fill up with restaurants.

The applicant also would like to change the furniture tenant on the east end of the site (Baker's Thomasville) from a furniture tenant to a retail tenant. The furniture tenant has a parking ratio of 1/1000.m. The applicant would like to replace the furniture tenant with an office supply store, which even though it has a significant amount of furniture, is parked at a 1/200 ratio. In order to increase the visibility for that tenant from the Tollway and give the center more architectural interest, the applicant would like to increase the height on the east end of the building to 36 feet. The drawings submitted do not show the height increase because the architect is still studying it. However, the applicant will present revised elevations at the meeting, which indicate 36-foot heights for some portions of the center. There is not a problem with the FAA or the airport in taking the buildings to 36 feet, and staff feels that the increased height for some portions might help give the center more architectural interest.

Proposed Plan. In order to redevelop the center, the applicant is proposing to reduce the total square footage of buildings, increase the number of parking spaces, and change the front facades of the buildings. The building on the east end (formerly Bally's Health Club) will be cut off on the front to make the building smaller and allow additional parking spaces to be added in front of it. The building will be divided into two lease spaces. The applicant will take the 6,241 square-foot space to a retail use, but would like to add a restaurant in the 6,403 square foot, corner space.

The entire center will get a face-lift and be "re-imaged." The center's name will change from "Plaza at the Quorum" to "Addison Walk." The applicant is proposing to bring a false front, or "arbor" out from the front of the existing lease spaces. The false front will allow for a vine-covered walkway in front of the spaces and will increase the ability to have patios in front of some of the restaurant spaces. The applicant is proposing to lighten up the color of the center by making the columns on the arbors out of stone and planting wisteria vines at the base of the columns. The four columns on either side of the Addison Walk sign will be textured concrete, and those will feature a light on each side to provide highlighting to the middle portion of the center.

The breezeway that leads to the parking behind the building will be accented by the Addison Walk sign element. The applicant hopes that accenting the breezeway will make it more obvious to customers that there is parking behind the building. The existing façade of the building will also have colored canvas panels added at the roofline to provide shade and color. The sides and back of the building will not be changed. They will remain 100% brick. The staff is very impressed with the commitment the applicant is making to change the look of the center and believes it will be attractive. The applicant should note that the signs shown on the elevations cannot be approved through this process. All signs are regulated under the Addison sign ordinance and must be approved by the Building Inspection Department. The applicant has indicated he intends to take a comprehensive sign package forward to the Council for a meritorious exception, and the Council may hear that request on the same date as it hears this zoning request.

Landscaping. The Parks Department has reviewed the landscape plans submitted by the applicant. While the staff is not usually happy to see trees removed, the staff believes taking out the large Bradford Pear trees at the street frontage will have a positive impact on the center and the appearance of Belt Line Road. The Pears were very popular in the '80s because they were cheap and grew fast. However, they are very densely branched and limit visibility into the center. They also are attractive to the throngs of migratory birds that fly over this area. The staff has reviewed the plan and finds that it complies with the landscape regulations. Slade Strickland also notes that it should significantly improve the appearance of this section of Belt Line. He does note that freeze and rain sensors need to be installed on the existing irrigation controllers and a final irrigation inspection will need to be completed before a Certificate of Occupancy is issued for any new spaces in the center.

Parking. As noted above, the applicant would like to be able to add two new small restaurant spaces and convert the existing furniture store to a standard retail store. Staff has looked at the parking in the center and the hours it is utilized. In order to allow the applicant to accomplish the goals of this redevelopment, the staff recommends the following parking ratios:

Office	1/300
Retail/Service	1/200
Restaurant	1/180

There is not currently any office space in the center, but in the event an office tenant wants to come into the center, it would be parked at the standard ratio. The 1/200 ratio for retail is the same ratio that is currently used. Staff feels that the 1/200 ratio should be kept. However, staff supports a change in the restaurant-parking ratio to one space per 180 square feet.

If a 1/180 ratio is used for restaurant uses, the applicant can add 9,606 square feet of restaurant space and 3,790 square feet of patio space. This new ratio would accommodate the 3,203 "Nothing But Noodles" restaurant that has already applied for a Special Use Permit (1445-SUP) and one other restaurant space, the 6,403 square foot space on the west end of the building. Under the 1/180 ratio the center would have 21 spaces above the requirement, which would allow up to 3,790 square feet of patio space to be added in the center. Part of the attractiveness of the new arbor design is that it will provide for shaded patio space in front of the restaurants, and the staff would like to see the restaurants in the center be able to take advantage of the new space.

Also, under the 1/180 ratio, the applicant will have enough spaces to convert the furniture store on the east end to an office supply store, or other standard retailer such as a bookstore. Staff recommends varying only the restaurant ratio. The staff used the same logic when the parking ratio was changed at the Plaza at the Quorum II in 2000. It is easier to keep up with only one different ratio, particularly when restaurants are already evaluated on a case-by-case basis through the SUP process.

RECOMMENDATION:

Staff agrees with the applicant that this center has excess parking capacity and feels it could be developed with additional restaurants and a non-furniture tenant. Staff recommends approval of the change of zoning from a "LR" (Local Retail) district to a "PD" (Planned Development) district in order to allow for the following parking ratios:

Office	1/300
Retail/Service	1/200
Restaurant	1/180

Staff also recommends approval of the new facades for the north side (front) of the building. Staff is agreeable to allowing some buildings on the site to increase height to 36 feet, but cannot make a recommendation on that aspect of the plan until it is presented at the P&Z hearing.

Respectfully submitted,



Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on December 11, 2003, recommended approval of the change from a "LR" (Local Retail) zoning district to "PD" (Planned Development) zoning district in order to allow for a mixed-use parking ratio, with the ratios to be:

Office	1space per 300 square feet
Retail/Service	1 space per 200 square feet
Restaurant	1 space per 180 square feet,

and subject to the following condition:

-that the staff shall review elevation drawings for the proposed 36-foot height for the building at the east end of the site, prior to the case going to the Council.

Voting Aye:	Bernstein, Braun, Doepfner, Herrick, Jandura,
Voting Nay:	None
Absent:	Benjet

Memorandum

DATE: December 4, 2003
TO: Carmen Moran, Director of Development Services
FROM: Slade Strickland, Director of Parks & Recreation
SUBJECT: **Case 1444/Addison Walk by Direct Development**

1. The landscaping upgrades proposed for this site comply with the landscape regulations, and should significantly improve the appearance of this section of Belt Line Road.
2. Freeze and rain sensors need to be installed on the existing irrigation controller(s), and a final irrigation inspection will need to be completed as a condition of issuing a Certificate of Occupancy.

**ITEM #R6-3
NOT AVAILABLE
ELECTRONICALLY**

Ordinance Requirement

Sec. 62 -162 Premises signs.
(d) All signs and their messages shall be mounted parallel to the building surface to which the are attached. No sign or message shall project more than 18 inches from the surface to which they are attached. Signs shall not be mounted on roofs and shall not project above the roof line.

Sec. 62-163. Area.

Total effective area of attached signs shall not exceed the following schedules:

- (1) On an attached sign located at a height of up to 36 ft, the effective area is limited to 1 sq ft of sign area for each linear foot of building frontage not to exceed 100 sq ft
- (2) An attached sign located at or exceeding a height of 36 ft shall be permitted an increase in maximum effective area. Such increases shall not exceed 4 sq ft in effective area for each additional 1 ft of height above 36 ft measured from the base of the sign to the building grade.
- (3) Attached signs may be located on each facade; however, the sum of the effective area of all attached signs shall not exceed twice the allowable effective area as specified in subsections (1) and (2) of this section.
- (4) Building with 4 or more stories in height may have not more than 2 attached signs per facade provided that:
 - a. Each sign is designated for a separate tenant.
 - b. One sign must be located on or near the uppermost story of the building while the 2nd sign is to be located on the 1st or ground level floor.
 - c. Signs may be no closer than 30 ft apart.
 - d. The combined effective sq footage of both signs may not exceed twice the allowed effective sq footage as specified in subsections (1) and (2) of this section.
- (5) Maximum letter/logo height of attached signs shall not exceed twice the allowable effective area as specified in subsections (1) and (2) of this section. Maximum letter/logo height of attached signs shall be determined by the following schedule:

Sign Height (feet)	Maximum Letter/Logo Height (inches)
0 - 36	16
37 - 48	36
49 - 100	48
101 - 150	60
151 and up	7

- a. Letter heights in excess of 72 inches must be approved by the city council.
- b. Not more than 50% of the letters in each individual sign height category may be 25% taller than the specified maximum letter/logo height.

(6) Copy on awnings is allowed in accordance with the above regulations for area and letter height. For back-lit awnings, the area of the sign shall be based on the area of the awning that is back-lit or illuminated.

Request

The applicant is requesting:

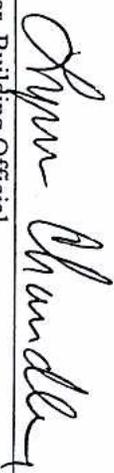
- (1) Blade signs perpendicular to the building and project out more than 18" from the face of the building.
- (2) Attached signs with letter heights of 3'6", 3' and 2'.

Variance

The ordinance requires attached signs to be mounted parallel to, and project no more than 18" from the building surface and allows 1 Sq. Ft. of signage for each Ft. of building length up to 100 Sq. Ft. and a maximum letter height of 20" for 50% of the letters with the remaining letters to be 16" or less in height.

Ordinance Requirement Sec. 62-185. Specifications.	Request	Variance
<p>Both single-tenant and multi-tenant pole signs shall be allowed and shall be governed by the design standards and regulations as set forth in this section.</p> <p>(1) Single-tenant pole signs must be exactly 36 square feet in effective area and must be exactly 20 feet in height measured from ground elevation to the top of the sign.</p> <p>(2) Multi-tenant pole signs must be exactly 72 square feet in effective area and must be exactly 20 feet in height measured from ground elevation to the top of the signs. No single-tenant shall occupy more than 36 square feet of sign area on a multi-tenant sign.</p> <p>(3) Design standards shall be as follows:</p> <p>a. <i>Sign supports</i>: 8" X 8" structural steel tubing. Structural steel tubing shall be installed in accordance with Figure 62-185A for single-tenant signs and 62-185B for multi-tenant signs.</p> <p>b. <i>Sign cabinet</i>: Paint grip sheet metal on angle iron frame with angle retaining rim to secure sign face.</p> <p>1. Single-tenant sign cabinet dimensions: 6'10" wide x 5'10" high X 12" deep.</p> <p>2. Multi-tenant sign cabinet dimensions: 6'10" wide X 11'6" high X 12" deep.</p> <p>c. <i>Sign face</i>: plastic sheet</p> <p>d. <i>Sign finish</i>: Degrease, prime, and finish coat all exposed metal surfaces as required.</p> <p>e. <i>Sign support and cabinet color</i>: Pantone 404(c). Painted surfaces are to match special color; color swatch will be provided by the town. Color number Pantone #404(c).</p> <p>f. <i>Internal illumination</i>: Internal illumination provided by fluorescent lamps spaced no further than 12 inches on center.</p> <p>g. <i>Overall sign height</i>: All signs are to be 20 feet in height.</p> <p>Sec. 62-285 Luminescent gaseous tubing.</p> <p>The use of exposed tubes which contain luminescent inert gases, including, but not limited to, neon, argon and krypton, and which are visible from the exterior of structures, is specifically prohibited except as an attached sign which shall conform to this chapter.</p>	<p>The applicant is requesting:</p> <p>Two multi tenant pole signs that are 72 Sq. Ft. in area but do not meet the design criteria of the ordinance and have exposed neon.</p>	<p>The ordinance requires a multi-tenant pole sign to have an exact sign face area of 72 square feet, sign supports of 8" X 8" structural steel tubing and a height of 20'.</p> <p>The ordinance does not allow exposed neon on detached signs.</p>

STAFF RECOMMENDATION: Staff recommends approval of the design as submitted but recommends denial of the exposed neon.

STAFF: 
Lynn Chandler, Building Official

MERITORIOUS EXCEPTION TO THE ADDISON SIGN ORDINANCE
 STAFF REPORT
 ME 2004-02

Date: January 6, 2004
 Location of Request: 5000 Belt Line Rd

Business: Addison Walk

<u>Ordinance Requirement</u>	<u>Request</u>	<u>Variance</u>
<p>Sec. 62-285 Luminescent gaseous tubing.</p> <p>The use of exposed tubes which contain luminescent inert gases, including, but not limited to, neon, argon, and krypton, and which are visible from the exterior of structures, is specifically prohibited except as an attached sign which shall conform to this chapter.</p> <p>Sec. 62-186. Monument signs,</p> <p>Monument signs must be built on a monument base as opposed to a pole base with no separation between the base of the sign and the natural grade. A monument sign contains only the name, logo, address and product or service of the establishment. No advertising or promotional information is permitted thereon. Such sign may be single or double-faced. Such signs with the base shall not exceed six (6) feet in overall height above the natural or average grade and the actual sign face shall not exceed forty-eight (48) square feet in area per side. Plastic faces may be used on monument signs provided only letters, numbers or logo elements emit light. The monument sign shall be located on site and a minimum of twenty (20) feet from the back of the curb.</p>	<p>The applicant is requesting a monument sign with exposed neon.</p>	<p>The ordinance prohibits exposed neon on detached signs.</p>

STAFF RECOMMENDATION: Staff recommends denial.

To: Carmen Moran, Director Development Services

From: Lynn Chandler, Building Official

Date: January 6, 2004

Subject: Exceptions to the Sign Ordinance for Attached Signs

The following list consists of several exceptions to the sign ordinance that are similar to the request from Addison Walk:

1. Addison Town Center Shopping Center located in the 3700 to 3800 block of Belt Line Road was granted an exception for letter heights up to 6' and more than one side per façade. October 1994
2. Village on the Parkway located at 5100 Belt line Road was granted an exception for letter Heights up to 30", more than one sign per façade and blade signs. June 1996
3. Addison Circle was granted an exception for more than two signs on a building four or More stories in height, signs above the roof and blade signs. March 1997
4. Centennial Liquor Store located at 15055 Inwood Road was granted an exception to place more than one sign on the east façade. March 1999
5. Hallmark located at 14312 Marsh Lane was granted an exception for letter heights of 36" and 26" due to the thin stroke of the letters and being located 250' from Marsh Lane. June 2000
6. Abbotsford Court located at 14775 Midway Road was granted an exception for letter heights of 29" and 24 " due to the thin stroke of the letters and being located 300' from Midway road. June 2001
7. Dunhill Property Management was granted an exception to place four murals, 81 Sq. Ft. each, on the south façade and five murals, 75 Sq. Ft. each, on the west façade of Suite 840 at 5100 Belt Line Road. These murals were considered signage but were approved because they were not deemed to be a blight or offensive. October 2001
8. Gilbert's Delicatessen Restaurant located at 4930 Belt Line Road Suite 100 was granted an exception for letter heights of 24", 22" and 20" due to a set back of 278' from Belt Line Road. March 2001

9. Hilton Garden Inn located at 4090 Belt Line Road was granted an exception for letter heights of 22" due to a set back of 355' from Belt Line Road. June 2002.
10. Isotag located at 4355 Excel Parkway Suite 100 was granted an exception for an attached sign with a logo height of 31.5 " and letter heights of 25" due to to a setback of 120' from Excel Parkway. July 2002.
11. BJ's Restaurant located at 4901 Belt Line Road was granted an exception for attached signs with letter heights of 39", 28", and murals with figures 8' and 9' in height. The signs were 110', 163', 135' and 143' respectively from Belt Line Road. December 2002.
12. Chip's Old Fashioned Hamburgers located at 4950 Belt line Suite 190 was granted an exception for an attached sign with letter heights of 30" due to a set back of 250' from Belt Line Road. April 2003.
13. Sigel's Liquor located at 15003 Inwood Road was granted an exception for an attached sign with letter heights of 24" due to a setback of 93' to 100' from Inwood Road. June 2003.
14. Two Rows Restaurant located at 17225 Dallas Pkwy was granted an exception for attached signage with letter heights of 30" due to setbacks of 110' from Dallas Pkwy and 147' from Addison Rd. July and September 2003.
15. Vartec Telcom/ Excel located at 16675 Addison Rd. and 4550 Excel Pkwy was granted an exception for attached signs with logo heights of 48" at 16775 Addison Rd. due to setbacks of 160' Excel Pkwy and 145' from Addison Rd. and logo heights of 36" at 4550 Excel Pkwy due to a setbacks of 95' and 105' from Excel Pkwy.
16. Pot Belly Sandwich Works located at 4945 Belt Line Rd was granted an exception for attached signs with letters 30" in height due to a setback of 95' from Belt line Rd. They were not, however, allowed any area increases. Nov 2004.

To: Carmen Moran, Director of Development Services

From:  Lynn Chandler, Building Official

Date: January 6, 2004

Subject: Meritorious Exceptions to the Sign Ordinance

The following exceptions have been granted for detached signs:

1. 14951 Dallas Parkway

Carter Crowley Properties (Comp USA)
Meritorious Exception Ord. 093-030, May 11, 1993
Flag and Pole: Pole Height 120', Flag Area 760 sq. ft.

Comp USA was also granted an exception for a corporate flag 96 sq. ft. in area.
February 2003.

2. 16771 Dallas Parkway

Bent Tree National Bank
Meritorious Exception Ord. 094-070, October 25, 1994
Pole Sign: Height: 25', Area: 71 sq. ft.

3. 16251 Dallas Parkway

Mary Kay
Meritorious Exception Ord. 095-022, may 9, 1995
Monument Sign: Height 9', Area 54 sq. ft.

4. 14655 Dallas Parkway

Bay Street (Lawry's)
Meritorious Exception Ord. 092-065, October 27, 1992
Pole Sign: Height 30', Area 72 sq. ft.

5. 5100 Belt Line Road

Village on the Parkway
Meritorious Exception Ord. 096-022, June 11, 1996
3 Towers: Height 44', Area 77 sq. ft.
And
2 signs from previous meritorious exception allowed to remain.
Ord. 094-047, July 21, 1994
Pole Sign: Height 29'6", Area 156 sq. ft.

6. Addison Town Center Shopping Center located in the 3700 to 3800 block of Belt Line Road was granted an exception for four pole signs that did not meet the design criteria or maximum area of the ordinance. November 2002

Addison!

BUILDING INSPECTION DEPARTMENT 16801 Westgrove Dr Addison Texas 75001 972/450-2881 fax: 972/450-2837

Application for Meritorious Exception to the Town of Addison Sign Ordinance

Application Date: 1-05-04 Filing Fee: \$200.00

Applicant: Direct Development

Address: 8150 N. Central Suite#: 1515

Dallas Tx 75206 Phone#: 214-891-3226
City State Zip

Fax#: 214-891-3223

Status of Applicant: Owner Tenant Agent

Location where exception is requested:
Addison Walk Retail - SWC Beltline e Tollway

Reasons for Meritorious Exception:

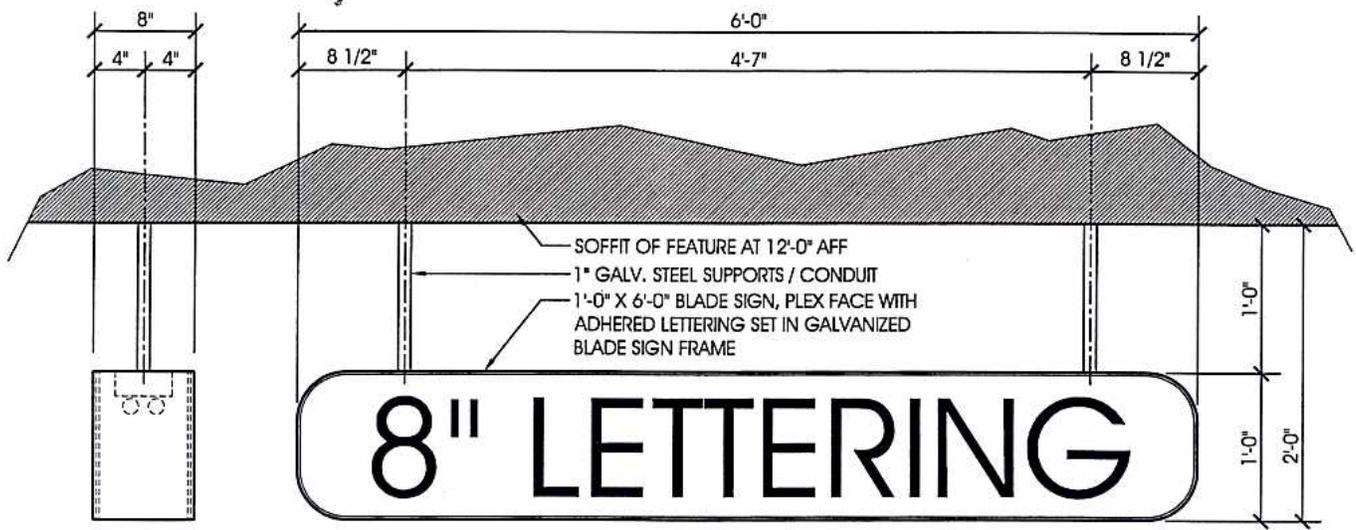
- new monument sign replacing existing - exposed neon for greater visibility and architectural continuity
- pole signs - modified design and exposed neon for greater visibility and architectural continuity
- blade signs (one per tenant) - pedestrian visibility of tenants along new walk
- office supply tenant (3'-6" sign height) & four large tenants & center I.D. sign (3'-0" ht.) - allow greater visibility & flexibility; allow more options on the proportions of signage on bldg. facades.

YOU MUST SUBMIT THE FOLLOWING:

12 COPIES OF THE PROPOSED SIGN SHOWING:

1. Lot Lines
2. Names of Adjacent Streets
3. Location of Existing Buildings
4. Existing Signs
5. Proposed Signs
6. Sketch of Sign with Scale and Dimensions Indicated (8.5 x 11 PLEASE)

Date Fees Paid 1-6-04 Check # 1134 Receipt # 16451



VIEWED FROM SIDE

VIEWED FROM FRONT

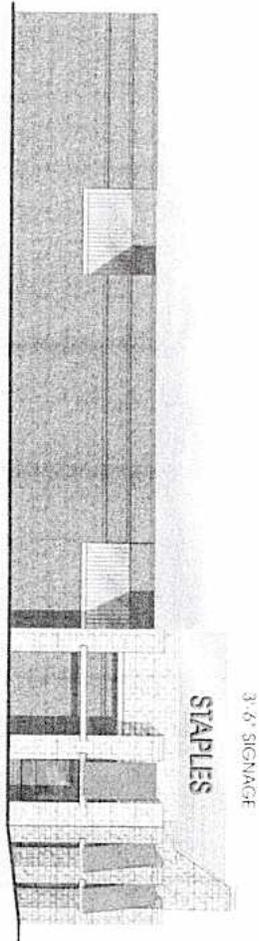
ENVIROPLAN
Architects / Planners Dallas, Inc.

Blade Signs
Proposed design

PROJECT #
0345

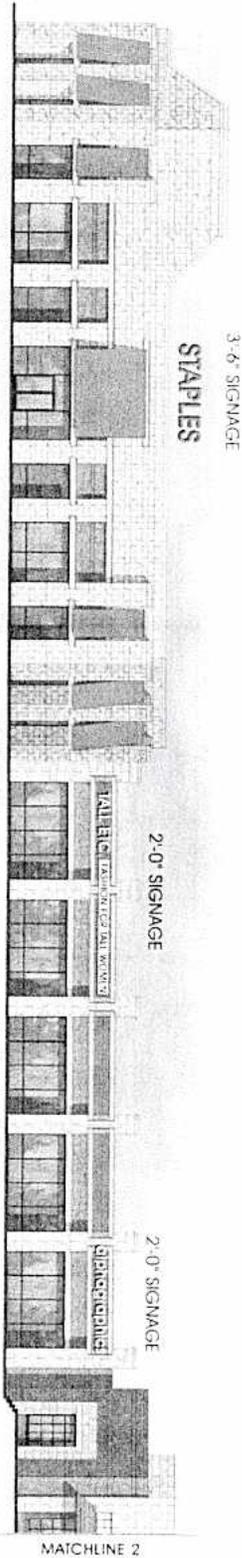
DATE
12/04/04

SHEET #
SK-01



3'-6" SIGNAGE

STAPLES



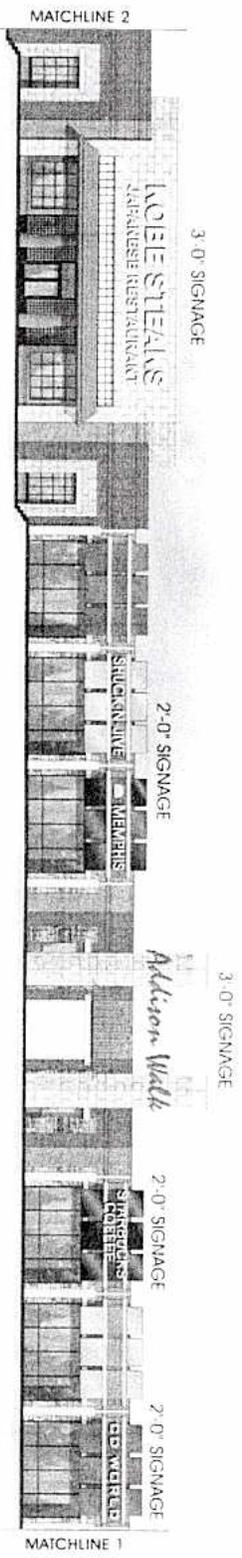
3'-6" SIGNAGE

STAPLES

2'-0" SIGNAGE

2'-0" SIGNAGE

MATCHLINE 2



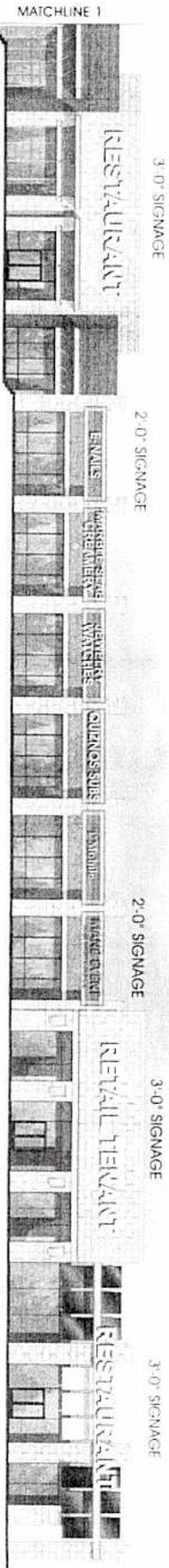
3'-0" SIGNAGE

2'-0" SIGNAGE

2'-0" SIGNAGE

2'-0" SIGNAGE

MATCHLINE 1



3'-0" SIGNAGE

2'-0" SIGNAGE

2'-0" SIGNAGE

3'-0" SIGNAGE

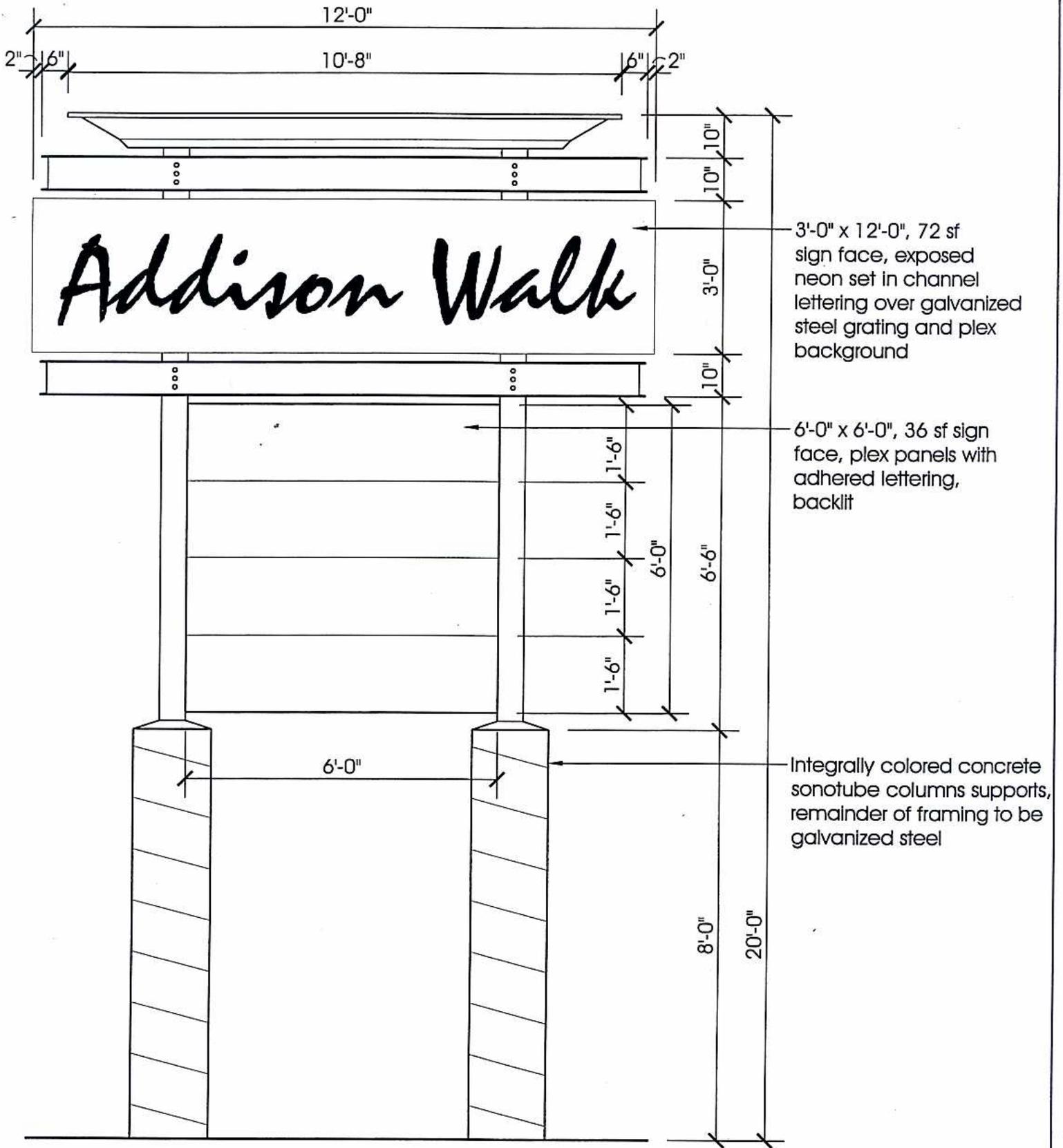
3'-0" SIGNAGE

MATCHLINE 1

DIRECT

Addiction Walk - Parkway Extension Elevations





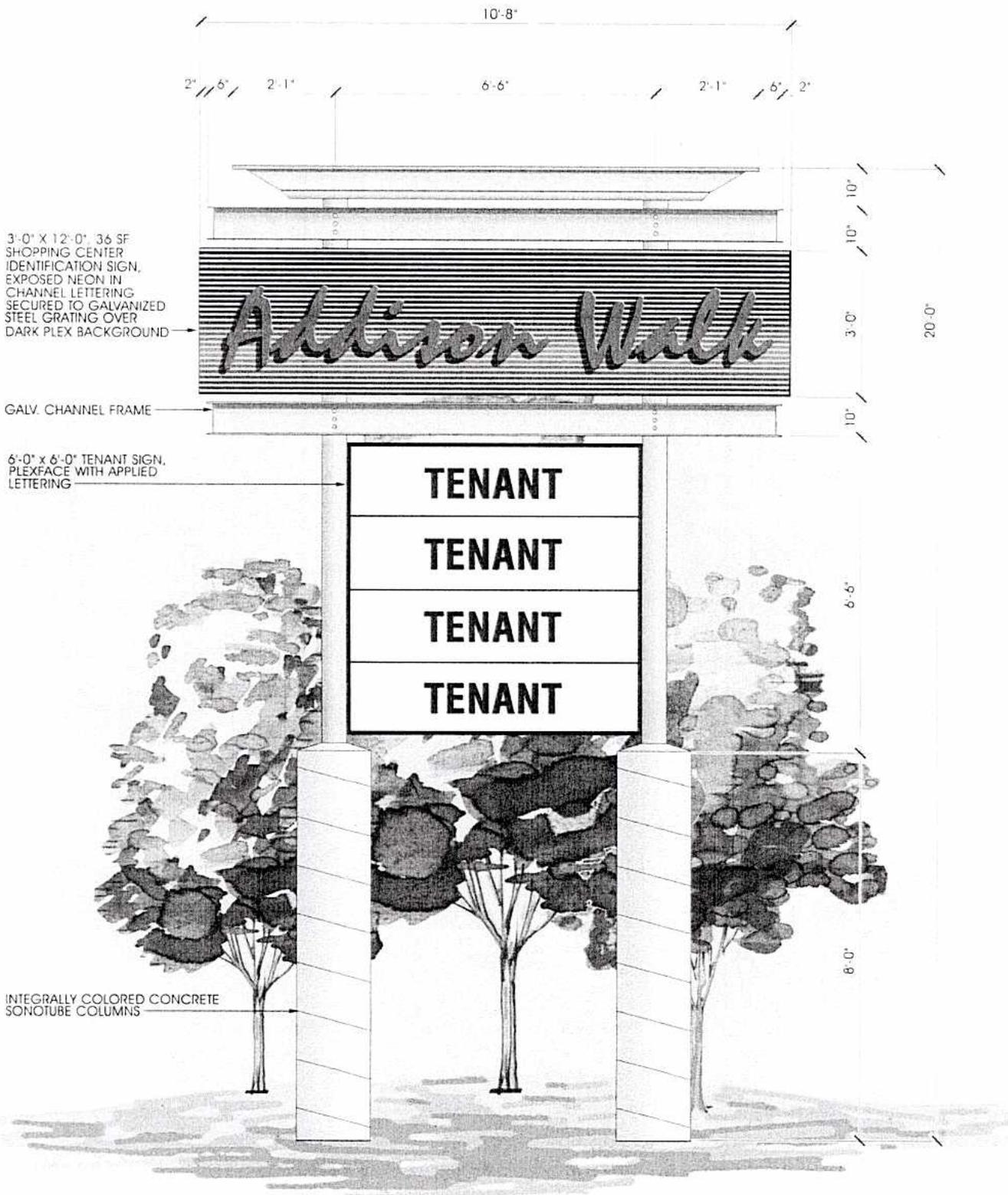
ENVIROPLAN
Architects / Planners Dallas, Inc.

Pylon Sign
Proposed design

PROJECT #
0345

DATE
12/04/04

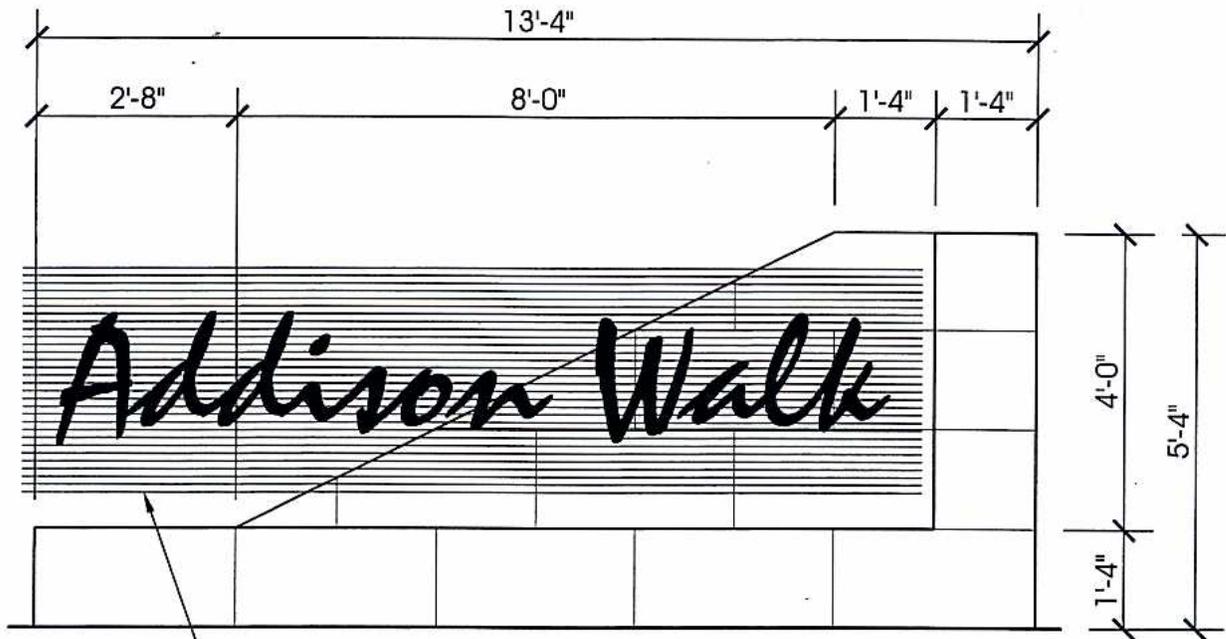
SHEET #
SK-02



Addison Walk

Proposed Pylon Sign





Exposed neon set in channel letters secured to galvanized steel grate background on natural stone base, opposite side similar. Steel grate forms 3'-0" x 12'-0", 36 sf sign face.

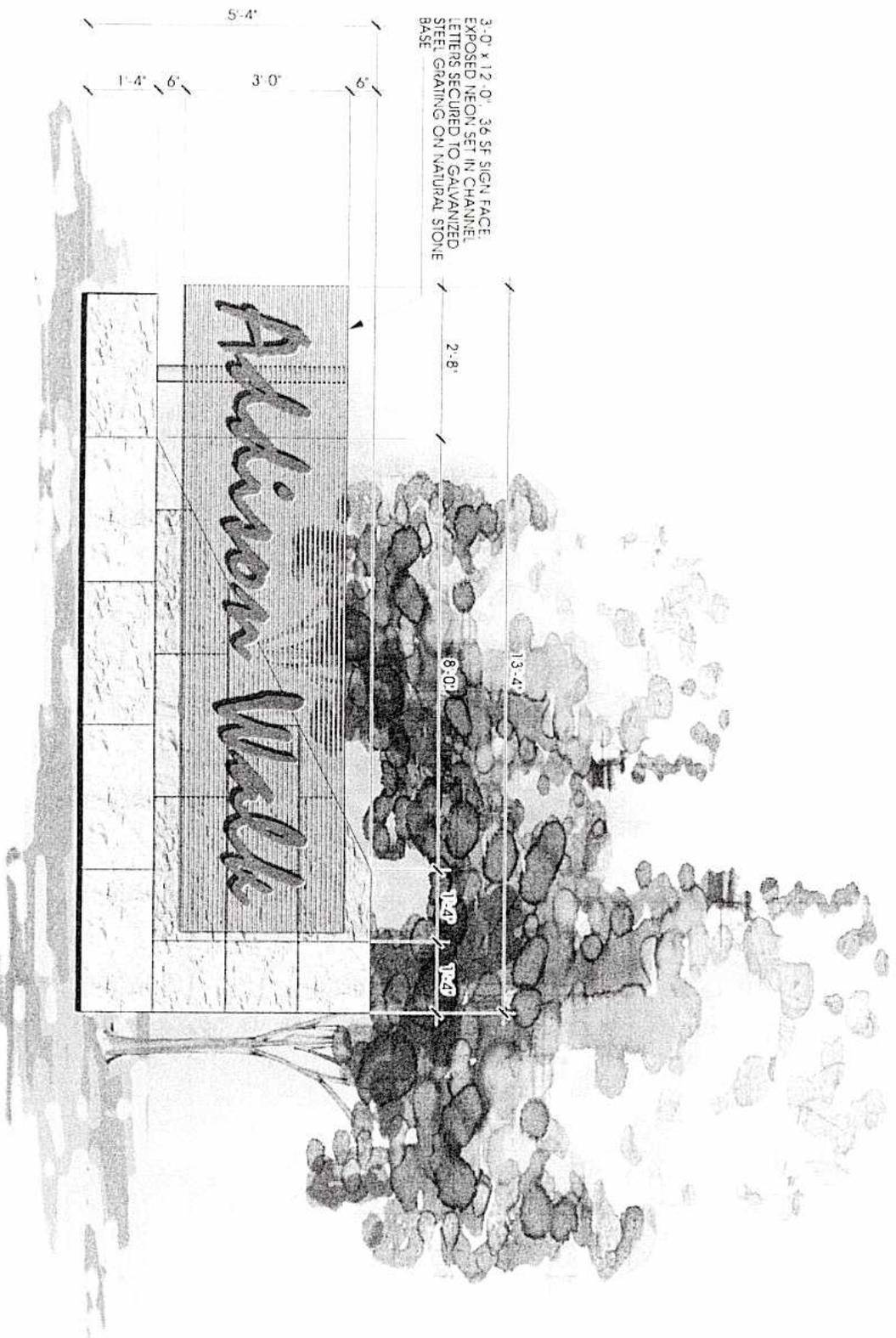
ENVIROPLAN
Architects / Planners Dallas, Inc.

Monument Sign
Proposed design

PROJECT #
0345

DATE
12/04/04

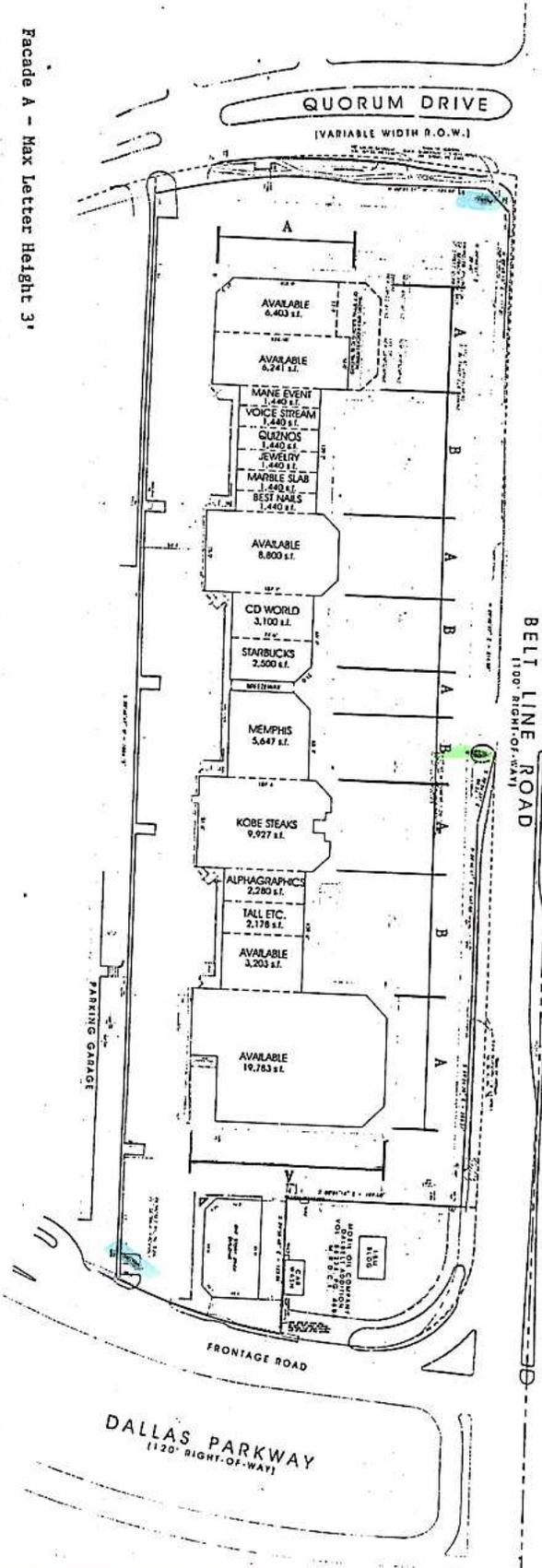
SHEET #
SK-03



Addison Walk
 Proposed Monument Sign



Facade A - Max Letter Height 3'
 Facade B - Max Letter Height 2'
 Monument Sign
 Pole Sign



MARCEY LANE
 (100' R.O.W.)

BELL LINE ROAD
 (100' RIGHT-OF-WAY)

DALLAS PARKWAY
 (120' RIGHT-OF-WAY)



SITE TABULATIONS	
EXISTING BUILDING	82,975 SF
PROPOSED BUILDING	78,702 SF
EXISTING PARKING	415 SPACES
PROPOSED PARKING	435 SPACES
PROPERTY AREA	7.376 ACRES



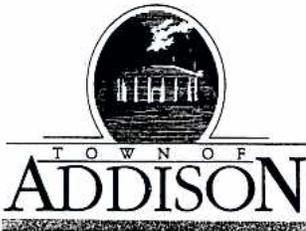
DATE: 05/06/04
 BY: N. J. [unclear]
 CHECKED: [unclear]
 TITLE: [unclear]



ENVIROPLAN
 Architects / Planners Dallas, Inc.
 CAMPBELL CENTER 1000-1
 8330 N. Central Expressway, Suite 1200 Dallas, Texas 75206
 Phone: 214-693-0831 Fax: 214-739-8849 Email: enviroplan@enviroplan.com

Addison Walk
 ADDISON • TEXAS





Addison 50!

50 YEARS OF FUN!

Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000

December 3, 2003

FAX (972) 450-7043

STAFF REPORT

RE: Case 1445-SUP/Nothing But Noodles

LOCATION: 5000 Belt Line Road, Suite 775
Addison Walk Shopping Center

REQUEST: Approval of a Special Use Permit for a restaurant, and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only

APPLICANT: Mr. Avi VanGruber

DISCUSSION:

Background. This lease space is located in the Plaza at the Quorum Shopping Center. The Center is undergoing a renovation, and will be re-named "Addison Walk" (Case 1444-Z). The goal of the redevelopment is to allow room for additional restaurants in the center, and this would be the first of the new restaurants. Nothing But Noodles is a franchise that will be purchased by Mr. VanGruber. There are not currently any restaurants in the Dallas area, but others are planned.

Proposed Plan. The floor plan shows a 3,203 square foot restaurant with a 330 square foot patio. The restaurant will offer deli-style ordering and self-service for non-alcoholic beverages. The applicant is not sure whether he will serve beer and wine, but would like to have the flexibility to apply for a beer and wine license if he chooses. The façade of the building will be changed through the re-model discussed in Case 1444-Z. The applicant has submitted plans that show how the façade for this space will look after the remodel.

Building Code. The Building Code requires that a second exit be added out of the dining area. The applicant will have to add another door to the front of the building.

Landscaping. As discussed in Case 1444-Z, the landscaping for this center will be renovated. The new landscaping must be installed and an inspection of the irrigation system done before a Certificate of Occupancy can be issued for this restaurant.

Parking. If the request in case 1444-Z/Addison Walk is approved, restaurant uses within this center will have a parking ratio of one space per 180 square feet. This restaurant will require 20 spaces under the new requirement. The site will provide sufficient parking.

Food Service Code. This restaurant will require a grease trap, and the applicant should be advised that it will be subject to all regulations contained in the Addison Food Service Ordinance.

Signage. The applicant has shown signs on the plans, but should be advised that signs cannot be approved through this process. All signs for the restaurant must comply with the requirements of the Addison Sign Ordinance. The applicant should be aware that the Town has a policy against allowing any exterior signs, which contain the words "bar", "tavern" or any terms, or graphic depictions, which relate to alcoholic beverages.

RECOMMENDATION:

Staff recommends approval of the Special Use Permit for a restaurant subject to the following conditions:

- the floor plan and elevations shall be revised to add a second exit out of the dining area.
- the new landscaping for the site shall be installed and the irrigation system for the site inspected prior to the issuance of a Certificate of Occupancy for this restaurant.
- the applicant shall not use any terms, including the term "bar," "tavern," or graphic depictions that denote alcoholic beverages in exterior signs.

Respectfully submitted,



Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on December 11, 2003 voted to recommend approval of your request subject to the following conditions:

-the floor plan and elevations shall be revised to add a second exit out of the dining area.

-the new landscaping for the site shall be installed and the irrigation system for the site inspected prior to the issuance of a Certificate of Occupancy for this restaurant.

-the applicant shall not use any terms, including the term "bar," "tavern," or graphic depictions that denote alcoholic beverages in exterior signs.

Voting Aye: Bernstein, Braun, Doepfner, Herrick, Jandura

Voting Nay: None

Absent: Benjet

To: Carmen Moran, Director Development Services

From: Lynn Chandler, Building Official

Date: December 4, 2003

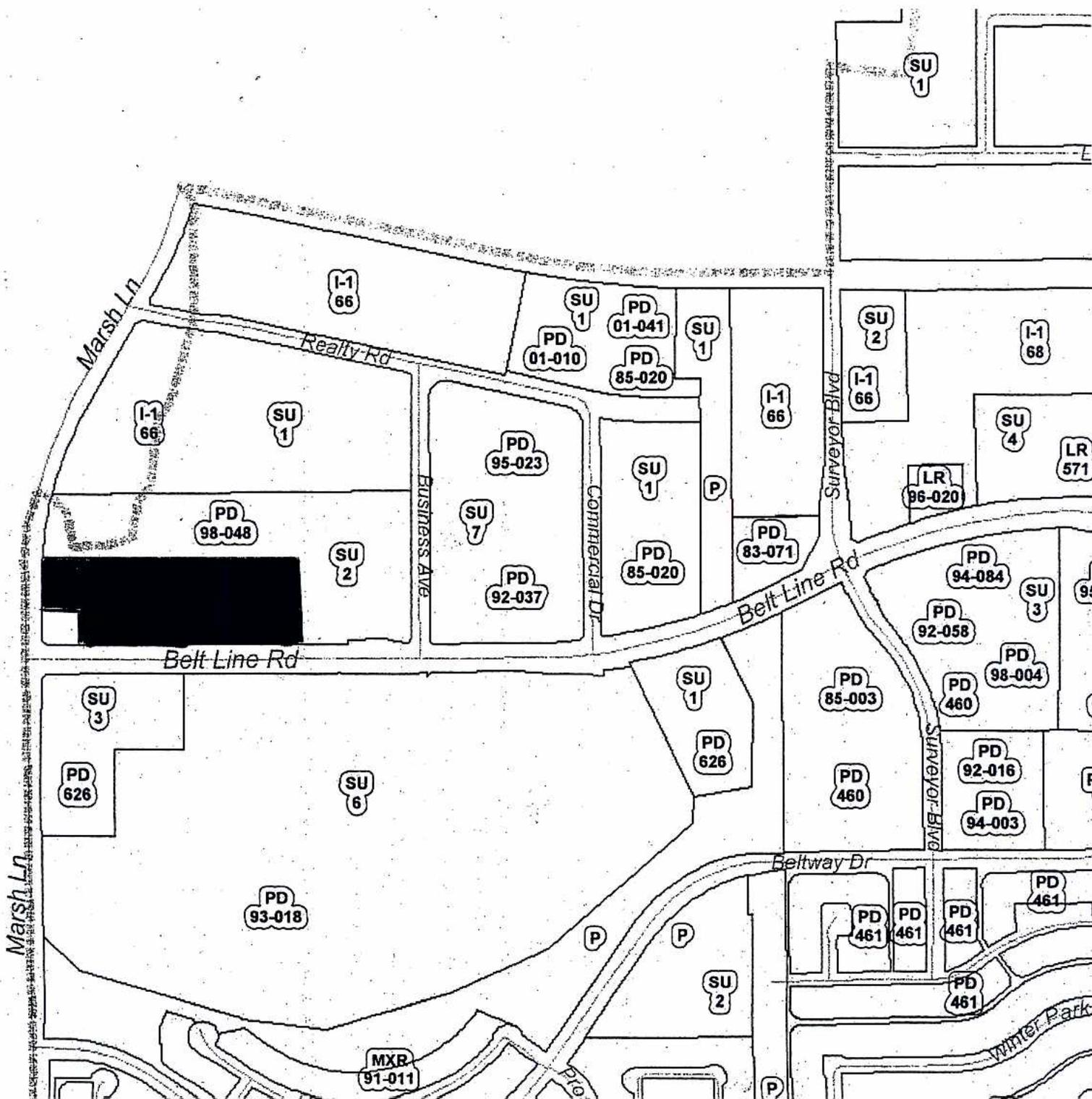
Subject: Case 1445/Nothing But Noodles

The occupant load in the dining area is 50 or more therefore two exits are required. There appears to be only one exit and the dining area may not exit through the kitchen. So an additional exit will be required from the dining area. These two exits are required to be separated by a minimum of one-half the largest diagonal of the area served by the exits.

**ITEM #R8-3
NOT AVAILABLE
ELECTRONICALLY**

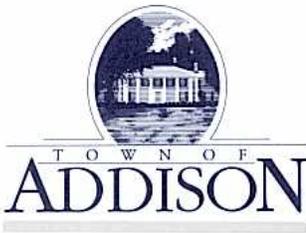
1446-SUP

Case 1446-SUP/Dunn Bros. Coffee. Requesting approval of a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 3725 Belt Line Road, (formerly CC's Coffee), on application from Mr. Alan R. Geddie.





50 YEARS OF FUN!



Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000
 FAX (972) 450-7043

December 3, 2003

STAFF REPORT

RE: Case 1446-SUP/Dunn Bros. Coffee

LOCATION: 3711 Belt Line Road (northeast corner
 Of Belt Line and Marsh Lane)

REQUEST: Approval of an amendment to an existing
 special Use Permit for a restaurant, and
 approval of a Special Use Permit for the
 sale of alcoholic beverages for on-
 premises consumption only.

APPLICANT: Dunn Bros. Coffee, represented by
 Mr. Alan Geddie

DISCUSSION:

Background. The applicant in this request seeks to re-open a 2,100 square-foot gourmet coffee shop, formerly occupied by CC's Coffee House. The lease space is in the shopping center at the northeast corner of Marsh Lane and Belt Line Road. Dunn Bros. Coffee is a franchise coffee shop. Mr. Geddie hopes to serve coffee, sandwiches, salads, and pastries. He also plans to expand the menu by offering beer and wine. Therefore, he will need a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only. Mr. Geddie also plans to offer limited live entertainment in the evenings and on weekends.

Proposed Plan. The floor plan indicates a counter for placing and picking up orders. There is a small prep kitchen. The floor plans also indicates comfortable chairs and small tables in a living room or coffee house setting.

Facades. The applicant is not planning to make any changes to the existing glass store-front of the building.

Landscaping. Landscaping is already in place on the property. The Parks Department will make an inspection of the site before the Certificate of Occupancy is issued, and it will require any dead or missing landscaping to be replaced.

Parking. Restaurant uses within a mixed-use center require a parking ratio of one space per 100 square feet. The developer has provided 246 spaces. The center only requires 161 spaces at a 1/200 retail ratio; therefore, there is sufficient parking for this restaurant use, as well as the other restaurant uses in the center.

Mechanical Equipment. The applicant and property owner should be aware that all mechanical equipment on top of the building shall be screened on all sides of the equipment.

Food Service Code. The applicant should be aware that his planned expansion of the menu may require the installation of a grease trap.

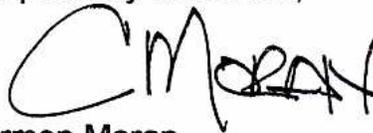
Signage. All signs for the restaurant must comply with the requirements of the Addison Sign Ordinance. The applicant should be aware that the Town has a policy against the use of the term "bar", "tavern" or any other terms, or graphic depictions that relate to alcoholic beverages.

RECOMMENDATION:

Staff recommends approval of the Special Use Permit for a restaurant subject to the following conditions:

- the applicant must meet all requirements of the Food Service Code.
- the applicant shall not use the term "bar", "tavern" or any other terms or graphic depictions that relate to alcoholic beverages in any exterior signs.

Respectfully submitted,

A handwritten signature in black ink that reads "C Moran". The signature is written in a cursive, somewhat stylized font.

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on December 11, 2003, voted to recommend approval of the request for a Special Use Permit, on application from Dunn Bros. Coffee House subject to the following condition:

- the applicant must meet all requirements of the Food Service Code.
- the applicant shall not use the term "bar", "tavern" or any other terms or graphic depictions that relate to alcoholic beverages in any exterior signs.

Voting Aye: Bernstein, Braun, Doepfner, Herrick, Jandura,
Voting Nay: None
Absent: Benjet.

**ITEM #R9-3
NOT AVAILABLE
ELECTRONICALLY**

**MERITORIOUS EXCEPTION TO THE ADDISON SIGN ORDINANCE
STAFF REPORT
ME 2004-01**

Date: December 31, 2003
Location of Request: 3711 Belt Line Road

Business: Mama Fu's Noodle House

Ordinance Requirement

Sec. 62-163. Area.
Total effective area of attached signs shall not exceed the following schedules:
(1) On an attached sign located at a height of up to 36 ft, the effective area is limited to 1 sq ft of sign area for each linear foot of building frontage not to exceed 100 sq ft
(2) An attached sign located at or exceeding a height of 36 ft shall be permitted an increase in maximum effective area. Such increases shall not exceed 4 sq ft in effective area for each additional 1 ft of height above 36 ft measured from the base of the sign to the building grade.
(3) Attached signs may be located on each façade; however, the sum of the effective area of all attached signs shall not exceed twice the allowable effective area as specified in subsections (1) and (2) of this section.
(4) Building with 4 or more stories in height may have not more than 2 attached signs per façade provided that:
a. Each sign is designated for a separate tenant.
b. One sign must be located on or near the uppermost story of the building while the 2nd sign is to be located on the 1st or ground level floor.
c. Signs may be no closer than 30 ft apart.
d. The combined effective sq footage of both signs may not exceed twice the allowed effective sq footage as specified in subsections (1) and (2) of this section.
(5) Maximum letter/logo height of attached signs shall not exceed twice the allowable effective area as specified in subsections (1) and (2) of this section. Maximum letter/logo height of attached signs shall be determined by the following schedule:

Sign Height (feet)	Letter/Logo Height (inches)	Maximum
0 - 36	16	
37 - 48	36	
49 - 100	48	
101 - 150	60	
151 and up	7	

a. Letter heights in excess of 72 inches must be approved by the city council.
b. Not more than 50% of the letters in each individual sign height category may be 25% taller than the specified maximum letter/logo height.
(6) Copy on awnings is allowed in accordance with the above regulations for area and letter height. For back-lit awnings, the area of the sign shall be based on the area of the awning that is back-lit or illuminated.

Request

The applicant is requesting:
A sign on the south and west façades with letters 30" in height and areas of 48.6 Sq. Ft.

Variance

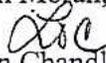
The ordinance allows 1 Sq. Ft. of signage for each Ft. of building length up to 100 Sq. Ft. and a maximum letter height of 20" for 50% of the letters with the remaining letters to be 16" or less in height.

STAFF RECOMMENDATION: The signs will be located approximately 115' or more from Belt Line Road therefore staff recommends approval of the 30" letters as requested.

STAFF: *Lynn Chandler*
Lynn Chandler, Building Official

#R10-1

To: Carmen Moran, Director Development Services

From:  Lynn Chandler, Building Official

Date: January 4, 2004

Subject: Exceptions to the Sign Ordinance

The following list consists of several exceptions to the sign ordinance that are similar to the request from Mama Fu's Noodle House:

1. Centennial Liquor Store located at 15055 Inwood Road was granted an exception to place more than one sign on the east façade. March 1999
2. Hallmark located at 14312 Marsh Lane was granted an exception for letter heights of 36" and 26" due to the thin stroke of the letters and being located 250' from Marsh Lane. June 2000
3. Abbotsford Court located at 14775 Midway Road was granted an exception for letter heights of 29" and 24 " due to the thin stroke of the letters and being located 300' from Midway road. June 2001
4. Dunhill Property Management was granted an exception to place four murals, 81 Sq. Ft. each, on the south façade and five murals, 75 Sq. Ft. each, on the west façade of Suite 840 at 5100 Belt Line Road. These murals were considered signage but were approved because they were not deemed to be a blight or offensive. October 2001
5. Gilbert's Delicatessen Restaurant located at 4930 Belt Line Road Suite 100 was granted an exception for letter heights of 24", 22" and 20" due to a set back of 278' from Belt Line Road. March 2001
6. Hilton Garden Inn located at 4090 Belt Line Road was granted an exception for letter heights of 22" due to a set back of 355' from Belt Line Road. June 2002.
7. Isotag located at 4355 Excel Parkway Suite 100 was granted an exception for an attached sign with a logo height of 31.5 " and letter heights of 25" due to a setback of 120' from Excel Parkway. July 2002.
8. BJ's Restaurant located at 4901 Belt Line Road was granted an exception for attached signs with letter heights of 39", 28", and murals with figures 8' and 9' in height. The signs were 110', 163', 135' and 143' respectively from Belt Line Road. December 2002.

9. Chip's Old Fashioned Hamburgers located at 4950 Belt line Suite 190 was granted an exception for an attached sign with letter heights of 30" due to a set back of 250' from Belt Line Road. April 2003.
10. Sigel's Liquor located at 15003 Inwood Road was granted an exception for an attached sign with letter heights of 24" due to a setback of 93' to 100' from Inwood Road. June 2003.
11. Two Rows Restaurant located at 17225 Dallas Pkwy was granted an exception for attached signage with letter heights of 30" due to setbacks of 110' from Dallas Pkwy and 147' from Addison Rd. July and September 2003.
12. Vartec Telcom/ Excel located at 16675 Addison Rd. and 4550 Excel Pkwy was granted an exception for attached signs with logo heights of 48" at 16775 Addison Rd. due to setbacks of 160' Excel Pkwy and 145' from Addison Rd. and logo heights of 36" at 4550 Excel Pkwy due to a setbacks of 95' and 105' from Excel Pkwy.
13. Pot Belly Sandwich Works located at 4945 Belt Line Rd was granted an exception for attached signs with letters 30" in height due to a setback of 95' from Belt line Rd. They were not, however, allowed any area increases. Nov 2004.

Addison!

BUILDING INSPECTION DEPARTMENT 16801 Westgrove Dr Addison Texas 75001 972/450-2881 fax: 972/450-2837

Application for Meritorious Exception to the Town of Addison Sign Ordinance

Application Date: 12-31-03 Filing Fee: \$200.00

Applicant: REYNOLDS SIGN (BRAD PILKINGTON)

Address: 1336 S. IRVING HEIGHTS DR. Suite#: _____

IRVING Tx 75060 Phone#: 972-870-1594
City State Zip Fax#: 972-870-1598

Status of Applicant: Owner _____ Tenant _____ Agent

Location where exception is requested:
3711 BELTLINE ROAD (MAMA FU'S NOODLE HOUSE)

Reasons for Meritorious Exception:
SEE ATTACHED

YOU MUST SUBMIT THE FOLLOWING:

12 COPIES OF THE PROPOSED SIGN SHOWING:

- 1. Lot Lines
- 2. Names of Adjacent Streets
- 3. Location of Existing Buildings
- 4. Existing Signs
- 5. Proposed Signs
- 6. Sketch of Sign with Scale and Dimensions Indicated (8.5 x 11 PLEASE)

Date Fees Paid 1/6-04 Check # 19648 Receipt # 16438



December 31, 2003

Lynn Chandler
Building Official
16801 Westgrove Dr.
City of Addison
Addison, TX 75001

Re: Application for Meritorious Exception (Signs)
Mama Fu's Noodle House – 3711 Beltline Road

Dear Mr. Chandler:

Please except our Application for Meritorious Exception. We are requesting City Councils approval to increase individual channel letter heights from 16"/20" allowed by code to 22-1/2"/30" on two sets of attached exterior signs.

Mama Fu's Noodle House logo typically runs horizontally in one straight line. In order to accommodate the jutting architectural features of the building, at this site, the logo must be stacked. The existing flat wall areas do not provide adequate width for horizontal mounting.

Our request relates to the Mama Fu's letters only. Noodle House letters will be 12-3/4", remaining well within the 16"/20" allowance by code. Mama Fu's Noodle House is a corporate designed logo with a proportionate balance. The Noodle House copy is 38.25% of the height of the letter "M" in Mama. If the "M" in Mama is restricted to 20" the Noodle House copy calculates to be 7.65 inches. Possible electrical hazards restrict the production of illuminated channel letters at this height. Also, at 7.65", letters will have very limited visual strength or appeal.

We feel that our request for meritorious exception is within reason. The size increase requested is proportionately balanced in relationship to the overall aesthetics of the building. Your approval will allow Mama Fu's Noodle House to retain their corporate logo while providing adequate business identity.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad Pilkington", with a long horizontal stroke extending to the right.

Brad Pilkington



801 F. Campbell Road
Suite 100
Richardson, TX 75081
Main 972.231.4505
Fax 972.231.4502
www.beltwayco.com



December 30, 2003

Via fax # 214.987.1073

Larry Klinghoffer
Mama Fu's Noodle House
6438 Stefanie
Dallas, TX 75225

Re: Sign variance for 3711 Beltline Road, Addison TX

Dear Larry:

Please accept this letter as written approval to proceed with the sign variance. Beltway Commercial Real Estate has agreed to allow Mama Fu's Noodle House to apply for a sign variance with the City of Addison at the above referenced property. Final approval for the installation of the sign will need to be submitted to Cole Snadon prior to installation.

Please contact me at 972.231.4505 with any questions or if you need additional information.

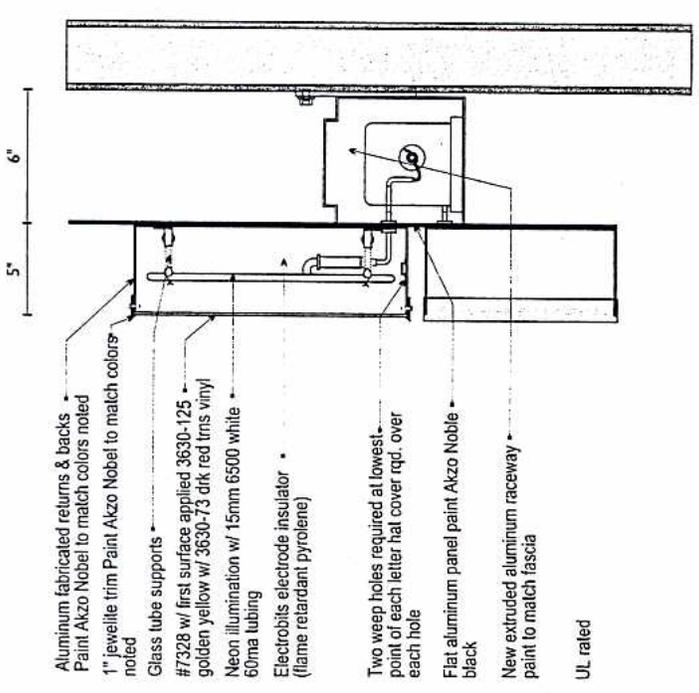
Sincerely,

Tracy White
Vice President
Property Management

cc: Cole Snadon
Andelia Guzman
file

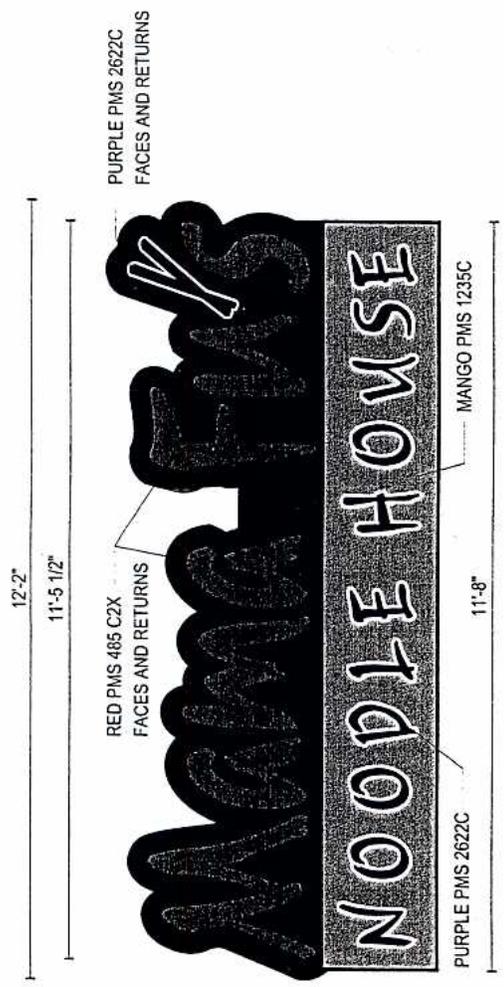


#R10-4



CHANNEL LETTER SECTION

NO SCALE



CHANNEL LETTER ELEVATION 40.8 SQ. FT. (2) TWO SETS REQUIRED

SCALE 1/2" = 1'-0"

TOTAL SQUARE FOOTAGE CALCULATIONS BASED ON THE FOLLOWING:
 "MAM FU'S" (30" X 11'-5 1/2") = 28.64 SQ. FT.
 "NOODLE HOUSE" (22 1/2" X 11 5 1/2") = 12.16 SQ FT
 TOTAL: 40.80
 BUILDING FRONTAGE: SOUTH 44'-3", WEST 71'-2"

MAMA FU'S
NOODLE HOUSE

THESE DRAWINGS ARE THE EXCLUSIVE PROPERTY OF REYNOLDS SIGN INC. AND REYNOLDS SIGN INC. IS NOT RESPONSIBLE FOR THE ACCURACY OF THESE DRAWINGS. THEY ARE SUBMITTED TO YOUR COMPANY FOR THE SOLE PURPOSE OF YOUR CONSIDERATION AND APPROVAL. REYNOLDS SIGN INC. MAKES NO WARRANTY AS TO THE ACCURACY OF THESE DRAWINGS. NO GUARANTEE OR REPRESENTATION OF THESE DRAWINGS IS MADE BY REYNOLDS SIGN INC. OR ITS COMPANY. ON USE OF THESE DRAWINGS TO CONSTRUCT A SIGN, YOU SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THAT SUCH LIMITATION OCCURS, REYNOLDS SIGN INC. EXPECTS TO BE REIMBURSED 100% IN COMPENSATION FOR THE TIME AND EXPENSES INCURRED IN CREATING THESE DRAWINGS.

REYNOLDS
Sign
 IRVING HEIGHTS, TX 75060
 P 972.870.1594
 F 972.870.1598
W. REYNOLDS SIGN .COM

APPROVALS
 CLIENT SALES COORDINATOR ART DEPT.
 DESIGN NUMBER 030721R1
 ADDRESS BELTLINE @ MARSH LN
 CITY - STATE ADDISON, TX
 DATE 12-19-03
 SALES PERSON J. CHAPPEL
 DESIGNER T. SCHULTZ

SHEET 1 OF 3

71'-2" STORE FRONT
EQ 12'-2" EQ



WEST BUILDING ELEVATION

SCALE 1/8" = 1'-0"

44'-3" STORE FRONT
EQ 12'-2" EQ



SOUTH BUILDING ELEVATION

SCALE 1/8" = 1'-0"



Mama Fu's
NOODLE HOUSE

APPROVALS

CLIENT
SALES
COORDINATOR
ART DEPT

DESIGN NUMBER

ADDRESS
CITY - STATE
DATE
SALES PERSON

030721R1

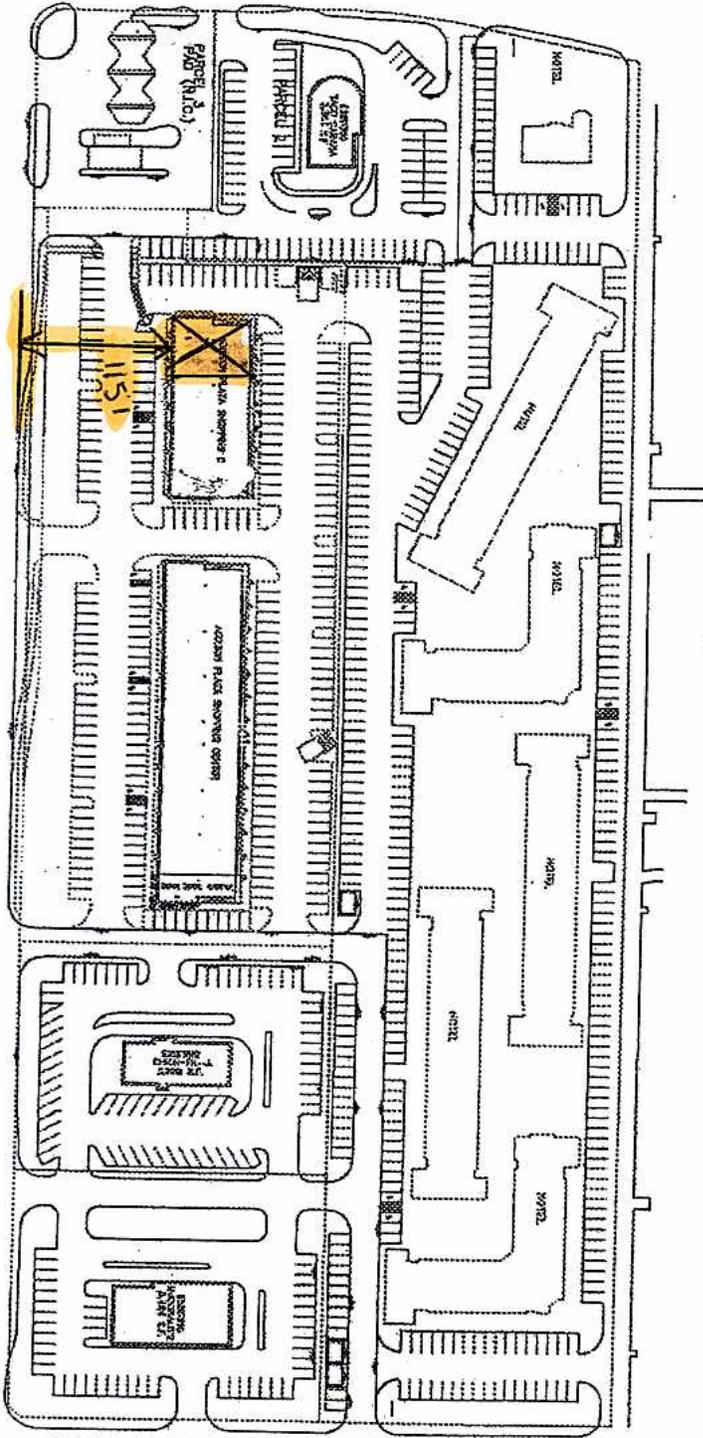
BELTUNE @ MARSH LN
ADDISON, TX
12-15-03
J CHAPPEL

SHEET 2 OF 3

MARSH LANE

ARCHITECTURAL SITE PLAN

BELT LINE ROAD



BUSINESS AVENUE

Council Agenda Item: #R11

SUMMARY:

This item is an amendment to the fence ordinance to allow fences to be constructed in the required front yard of municipal property.

FINANCIAL IMPACT:

Budgeted Amount: “N/A”

BACKGROUND:

The current Fence Ordinance only allows front yard fences where approved as part of a zoning request and also approved as a variance by the Building Code Board of Appeals, in R-16 zoning, or on school property.

This ordinance will allow fences to be placed in the required front yard of municipal property.

RECOMMENDATION:

Staff recommends approval of an ordinance amending the Fence Ordinance to allow front yard fences on municipal property.

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING ARTICLE X, "FENCES," OF CHAPTER 18, "BUILDINGS AND BUILDING REGULATIONS," OF THE CODE OF ORDINANCES BY AMENDING SECTION 18-621 TO EXEMPT MUNICIPALLY OWNED PROPERTY FROM THE SETBACK REQUIREMENT FOR FENCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in certain instances, fencing in various areas of municipally owned property may be necessary or desirable for security purposes or for the general welfare and benefit of the public; and

WHEREAS, the City Council finds that it is in the public interest to exempt municipally owned property from the setback restrictions applicable to fences in certain zoning districts; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Amendment. The Code of Ordinances ("Code") of the Town of Addison, Texas (the "City") is hereby amended by amending Section 18-621, "Setback Requirements - Generally," of Article X, "Fences" of Chapter 18, "Building and Building Regulations," to read as follows:

“ It shall be unlawful for any person to build, erect, construct, maintain or suffer or permit the building, erecting, constructing or maintaining of any fence within the town limits in such a manner that any portion of the fence extends nearer to the street on which the main house, building, or structure faces than the required front yard setback line. Except as otherwise provided, the restrictions on building fences set forth in this section shall be applicable to property located in zoning districts classified as A (apartment dwelling district), R-1 (single-family dwelling district), MXR (mixed use residential district), LR (local retail district), C-1 (commercial -1 district), C-2 (commercial-2 district), I-3 (industrial-3 district), and PD (planned development district). Such restrictions do not apply to municipally owned property.”

Section 2. Savings. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict, subject to Section 18-612, with the provisions of this Ordinance.

Section 3. Severability. That the sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have adopted such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 4. Effective Date. This Ordinance shall become effective from and after its date of passage as provided by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the _____ day of _____, 2003.

R. Scott Wheeler, Mayor

ATTEST:

By: _____
Carmen Moran, City Secretary

APPROVED AS TO FORM:

By: _____
Kenneth C. Dippel, City Attorney

Council Agenda Item: #R12

SUMMARY:

Consideration of a resolution authorizing the City Manager to enter into an amendment to a contract with Krause Advertising to provide marketing consultation, creative ad production services, administrative and account oversight for the Town marketing and special events initiatives.

FINANCIAL IMPACT:

Budgeted Amount: \$126,000

Cost: 1. \$12,500 per month for Krause's services

2. Any outside suppliers engaged by Krause on behalf of the Town will be invoiced by Krause and billed to the Town with a 17.65% mark-up.

3. Town will reimburse at cost any services such as courier, freight, postage, long distance or similar expenditures incurred for Town.

BACKGROUND:

In July 2003 staff solicited proposals from area advertising firms to provide creative and marketing services to the Town. As a result of that process, Krause advertising was selected to provide creative and marketing services for the Town. The terms of the agreement provided for a two year period with the understanding that should a new event be created or a significant change in the proposed marketing initiatives occur, either party had the opportunity to review the fee structure.

Based on the proposed work program for 2003-2004 as well as the cost of last year's marketing initiatives, Krause has proposed an increase to the monthly marketing fee from \$10,000 to \$12,500. The new fee will be effective January 1. Staff has reviewed the proposed fee increase and feels it is appropriate. The total cost for Krause's services for a 12-month period is \$142,500. The amount budgeted is \$126,000. At this point, staff believes that the additional funds can be absorbed by the Marketing budget; however, if that is not the case, staff will address the issue with the mid year budget amendment process.

RECOMMENDATION:

Staff recommends approval.

Advertising for FY2004 – Exhibit A**Addison Direct**

CREATIVE/PRODUCTION
Update collateral piece
Update hotel voucher
Create restaurant vouchers

Hotel Advertising

CREATIVE/PRODUCTION
Create new meeting planner ad
Keep same leisure ad

Restaurant Advertising

CREATIVE/PRODUCTION
26 full page Guide Ads
Ad production
Ad production for 5-10 other publications (Where Magazine, Soccer program, Texas Chamber Orchestra program, My Specials Direct, etc.)

Collateral

CREATIVE/PRODUCTION
Visitor rack brochure design and production
Restaurant rack brochure design and production
Restaurant tear off map
See collateral piece under Addison Direct

Events

CREATIVE/PRODUCTION
Jazz Festival – print ad, mailer, flier, program, etc.
Taste Addison – print ad, flier, poster, radio ad, web page template design, brochure cover, center spread and map, t-shirt design, etc.
Kaboom Town – print ad, radio ad, flier, web page template design
Oktoberfest – print ad, flier, poster, radio ad, web page template design, brochure cover, center spread and map, t-shirt design, etc.
July Jazz concert series – print ad, flier, etc.
Big Daddy's Car Show – print ad, flier, t-shirt art, etc.
Bookworm Bash – print ad, flier
Hoops and Hopes – print ad
Arbor Day – print ad

1/9/2004

Town of Addison

Arts & Events District

CREATIVE/PRODUCTION

Update brochure

Other

CREATIVE/PRODUCTION

Update folder

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

ADVERTISING AGREEMENT

This Advertising Agreement (“Agreement”) is made as of January 28, 2003 by and between the Town of Addison, Texas (the “Town”) and Krause Advertising (“Krause”).

WHEREAS, the Town is a Texas home rule municipality operating under and pursuant to article 11, section 5 of the Texas Constitution, the laws of the State of Texas, and its Home Rule Charter; and

WHEREAS, Krause is a Coporation doing business in the State of Texas; and

WHEREAS, the Town and Krause desire to enter into this Agreement setting forth the terms and conditions under which Krause will provide to the Town advertising services on a non-exclusive basis.

NOW, THEREFORE, for and in consideration of the above and foregoing premises, the mutual promises and covenants contained herein, and other good and valuable consideration, the Town of Addison, Texas and Krause Advertising do contract and agree as follows:

1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein in their entirety.

2. Term. Subject to the earlier termination of this Agreement as provided for herein and subject to the annual appropriation of funds by the Town to make payments under this Agreement, this Agreement shall be in effect for a period of two (2) years, beginning on January 1, 2003 and ending on December 31, 2004. If funds to make any payment or payments under this Agreement during the said Term are not appropriated by the Town, this Agreement shall terminate.

3. Services. Krause shall provide to the Town, and to the Town’s satisfaction, advertising services in any and all fields of advertising (the “Services”) as the Town may request from time to time, in the Town’s sole discretion and including, without limitation, the items outlined in Exhibit A (entitled “Krause Creative for FY 2003”) attached hereto and incorporated herein. In connection with the provision of such Services, Krause shall comply with all applicable federal, state and local laws, rules and regulations.

4. Compensation. For the Services provided by Krause, the Town shall pay Krause in accordance with the following:

(a) A monthly fee of \$10,000 (“Monthly Fee”), which will cover all internal agency labor in performance of account service, marketing consultation, creative ad production services, administrative and account oversight. This Monthly Fee is based on the initiatives as outlined in the Town’s marketing and special events agendas as outlined in the attached Exhibit A. In the event a new event be created or a significant increase in the marketing budget occur, both parties may discuss adjusting the fee accordingly.

(b) All scans, photography, illustration, printing, and any other outside suppliers engaged by Krause on the Town's behalf and with the Town's prior consent will be invoiced to Krause and billed to the Town with an effective 17.65% mark-up in accordance with the terms hereof.

(c) Krause will receive reimbursement at cost for outlays made by Krause for courier, freight, postage, long distance and similar expenditures incurred by Krause for the Town in accordance with the terms hereof.

5. Billing.

(a) Krause shall submit to the Town, on the last day of each month during the Term hereof and beginning with January 31, 2003, an invoice for the Monthly Fee.

(b) Krause shall submit to the Town, on or before the fifth day of each month, a detailed statement in writing of all costs and expenses authorized pursuant to this Agreement and incurred by Krause during the immediately preceding month (the first such statement, for the month of January, 2003, being due on or before February 5, 2003, and the last such statement due on or before January 5, 2005).

(c) Each such invoice and statement shall include (i) a description of the work performed for the month preceding the date of the invoice and statement, (ii) time reports for that month for all Krause personnel who work under this Agreement, (iii) true and correct copies of any and all receipts, invoices, and other documents and materials in support of the invoice and statement, and (iv) any such additional documents or materials as the Town may request in connection with the invoice and statement and/or the compensation paid to Krause.

(d) The Town shall pay the Monthly Fee set forth in the invoice and all costs and expenses properly incurred by Krause and set forth in the statement within thirty (30) days following the Town's receipt of the invoice and statement.

(e) The obligations of the parties extending into January, 2005 shall survive the expiration of this Agreement.

6. Termination.

(a) *Without cause.* Either party may terminate this Agreement at any time and for any reason by giving to the other party at least 90 days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. In the event of termination, all finished or unfinished data, studies, reports and other materials and items (whether kept electronically, in writing, or otherwise) prepared by Krause shall be and become the property of the Town, and Krause shall promptly deliver such items to the Town. Krause shall be paid for all work satisfactorily completed prior to the effective date of said termination.

(b) *With cause.* If Krause, Krause's agents or employees fail to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the Town, then Town shall have the right to terminate this Agreement effective

immediately upon the Town giving written notice thereof to Krause. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. In the event of termination, all finished or unfinished data, studies, reports and other items (whether kept electronically, in writing, or otherwise) prepared by Krause shall be and become the property of the Town and Krause shall promptly deliver such items to the Town. Krause shall be paid for all work satisfactorily completed prior to the effective date of such termination.

7. Entire Agreement and Modification. This Agreement supersedes all previous Agreements and constitutes the entire understanding of the parties hereto. Krause shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Krause specifically acknowledges that in entering into and executing this Agreement, it relies solely upon the provisions contained in this Agreement and no others.

8. Assignment. Inasmuch as this Agreement is intended to secure the specialized services of Krause, Krause has no authority or power to and may not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of Town, and any such assignment, transfer, delegation, subcontract or other conveyance without the Town's prior written consent shall be considered null and void.

9. Applicable Law; Venue. In the event of any action under this Agreement, venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Contract; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

10. Enforceability. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

11. Independent Contractor. Krause shall, during the entire term of the Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the Town to exercise discretion or control over the professional manner in which Krause performs the services which are the subject matter of the Agreement; provided, however, that the Services to be provided by Krause shall be provided in a manner consistent with all applicable standards and regulations governing such Services.

12. Insurance; Indemnity.

(a) Krause, at its own expense, shall purchase, maintain and keep in force such insurance as described and in the minimum amounts set forth below:

- (i) Commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence, which shall include coverages for bodily injury (including, without limitation, death) and property damage, and particularly for liability arising from premises operations, independent contractors, products/completed operations, personal injury, advertising injury, and contractual liability (including, without limitation, the liability assumed under the indemnity provisions of this Agreement). If such CGL insurance contains a general aggregate limit, it shall apply separately to the Work under this Agreement.
- (ii) Commercial Automobile Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned and hired car coverage.
- (iii) Worker's compensation insurance through an insurance company licensed to do business in Texas or, if qualified by law, through self-insurance.

The above policies shall be endorsed to provide the following, as applicable: (i) in all liability policies, name the Town of Addison, Texas as an additional insured; (ii) in all liability policies, provide that such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of activities conducted hereunder, and that insurance applies separately to each insured against whom claim is made or suit is brought; and (iii) a waiver of subrogation in favor of the Town of Addison must be included in all such policies. All insurance policies shall be issued by an insurance company with an A.M. Best's rating of not less than A- and authorized to do business in Texas and in the standard form approved by the Texas Department of Insurance, and shall be endorsed to provide for at least 30 days advance written notice to the Town of a material change in or cancellation of a policy. Certificates of insurance, satisfactory to the Town, evidencing all coverage above, shall be furnished to the Town prior to January 31, 2003, with complete copies of policies furnished to the Town upon request. The Town reserves the right to review and revise from time to time the types of insurance and limits of liability required herein.

(b) Krause shall defend and indemnify the Town, its officials, officers, employees and agents (together, for purposes of this section, the "Indemnified Parties") against, and hold the Indemnified Parties harmless from, any and all liability, actions, causes of action, lawsuits, judgments, claims, damages, penalties, fines, costs or fees, including attorney's fees and costs of defense, for personal injury, property damage or destruction (including without limitation loss of use of property not otherwise physically injured), breach of contract, or other harm for which recovery of damages or any other form of relief (whether at law or in equity) is sought (and including, without limitation, any claim relating to copyright or any other intellectual property right), resulting from or arising out of, in whole or in part, any act or omission of Krause, its officers, employees and agents under this Agreement. The provisions of this paragraph shall survive the expiration or termination of this Agreement.

13. Records.

(a) Krause shall keep complete and accurate records for the services performed pursuant to this Agreement and any records required by law or government regulation and shall make such records available to Town upon request.

(b) Krause shall assure the confidentiality of any records that are required by law to be so maintained.

(c) Krause shall prepare and forward such additional or supplementary records as Town may reasonably request.

14. Notices. Where the terms of this Agreement require that notice in writing be provided, such notice shall be deemed received by the party to whom it is directed upon being hand-delivered or upon three (3) days following the deposit of the notice in the United States mail, postage pre-paid, and sent by certified mail, return receipt requested and properly addressed as follows:

To the Town:

Town of Addison
5300 Belt Line Road
Dallas, Texas 75254
Attn: Lea Dunn

To Krause:

Krause Advertising
5307 E. Mockingbird Lane
Suite 250
Dallas, Texas 75206

15. Findings Confidential. No reports, information, documents, or other materials given to or prepared by Krause under this Agreement which Town requests to be kept confidential shall be made available to any individual or organization by Krause without the prior written approval of Town. However, Krause shall be free to disclose such data as is publicly available.

16. Ownership of Reports. The reports, documents and materials prepared by Krause under this Agreement shall be the sole property of the Town upon payment by the Town to Krause for the fees earned under this Agreement in connection with the preparation and delivery of such reports, documents and materials.

17. Agreement Controlling. The Proposal is incorporated into this Agreement, except to the extent any such terms or provisions are in conflict with any term or provision of this Agreement, in which event the express terms and provisions of this Agreement shall control.

18. Severability. If any clause, paragraph, section or portion of this Agreement shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Agreement shall remain in full force and effect and the parties shall be deemed to have contracted as if said clause, section, paragraph or portion had not been in the Agreement initially.

19. Survival. Any rights and remedies either party may have with respect to the other arising out of the performance of services during the term of this Agreement shall survive the cancellation, expiration or termination of this Agreement. Obligations of either party hereunder arising prior to the termination or cancellation of this Agreement allocating responsibility or

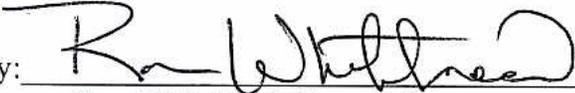
liability of or between the Town and Krause shall survive the completion of this Services hereunder and termination or cancellation of this Agreement.

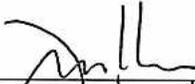
20. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

IN WITNESS WHEREOF, the Town and Krause have executed this Agreement on the day and year first hereinabove set forth.

TOWN OF ADDISON, TEXAS

KRAUSE ADVERTISING

By: 
Ron Whitehead, Town Manager

By: 
Printed Name: Jim KRAUSE
Title: PRESIDENT

Council Agenda Item: #R13

SUMMARY:

Consideration of a Resolution regarding certain matters pertaining to a Ground Lease at Addison Airport between the Town, as Landlord, and Raymond F. Sawtelle, Jr. and Sheila L. Sawtelle, as Tenant, (d/b/a Monarch Air Addison) as follows: (i) approval of First Amendment to Ground Lease (regarding the mortgaging of the leasehold estate of Tenant), and (ii) consent to an estoppel letter to Legacy Bank with regard to a loan to Trey Aviation, a Texas limited liability company, a wholly owned subsidiary of Tenant.

FINANCIAL IMPACT:

None

BACKGROUND:

Consideration of the Town's consent of a leasehold mortgage in favor of Legacy Bank of Texas (Bank) in the amount of \$1,550,000 to Trey Aviation, a Limited Liability Company wholly owned by Raymond F. Sawtelle, Jr. and Sheila L. Sawtelle (Tenant.).

Airport management recommends to the Town that it grant the required consent subject to the following:

1. Any such leasehold mortgage and deed of trust will never require Landlord to subordinate Landlord's interest in the demised premises to the mortgage of such proposed leasehold mortgage.
2. The proceeds from the financing arrangement are used for improvements to the lease premises or for the benefit of the Tenant's business operations at the Airport and for no other purpose.
3. The execution of an amendment to the Ground Lease expanding the Tenant's right to enter into leasehold mortgages for other purposes than the financing of real property improvements.

The Town's attorney has reviewed the proposed estoppel letter (Exhibit 2) required by the Bank and the proposed First Amendment to the Ground Lease (Exhibit 3) and has no objection to their form.

RECOMMENDATION:

Staff recommends approval.

MA

M E M O R A N D U M

TO: Mark Acevedo, Administrator
Facilities & Fleet Services
Town of Addison

FROM: Lisa Pyles, Airport Director

Cc: Bill Dyer, Real Estate Manager

DATE: December 5, 2003

SUBJECT: Requested Action by the Town of Addison
Raymond F. Sawtelle, Jr. and Sheila L. Sawtelle
a/k/a Monarch Air
Ground Lease #41 (Lease #0620-4101)

Requested Action and Recommendation by Airport Operator

Consideration of the Town's consent of a leasehold mortgage in favor of Legacy Bank of Texas (Bank) in the amount of \$1,550,000 to Trey Aviation, a Limited Liability Company wholly owned by Raymond F. Sawtelle, Jr. and Sheila L. Sawtelle (Tenant).

Airport management recommends to the Town that it grant the required consent subject to the following:

1. Any such leasehold mortgage and deed of trust will never require Landlord to subordinate Landlord's interest in the demised premises to the mortgage of such proposed leasehold mortgage.
2. The proceeds from the financing arrangement are used for improvements to the lease premises or for the benefit of the Tenant's business operations at the Airport and for no other purpose.
3. The execution of an amendment to the Ground Lease expanding the Tenant's right to enter into leasehold mortgages for other purposes than the financing of real property improvements.

The Town's attorney has reviewed the proposed estoppel letter (Exhibit 2) required by the Bank and the proposed First Amendment to the Ground Lease (Exhibit 3) and has no objection to their form.

Background Information

The lease premises are located at 4850 Claire Chennault (also referenced as Building #U-11 being situated between Taxiway Uniform and Taxiway Victor). The property consists of 2.394 acres, more or less (104,300 square feet), with improvements consisting of one 110' x 170' metal building with attached shops and offices, in addition to associated aircraft ramps and vehicle parking (see Exhibit 1: Location Map and Exhibit 2: Aerial View of ADS).

The Ground Lease was entered into by and between the City of Addison, Texas and Addison Airport of Texas, Inc. (Landlord) and Triple "K" Leasing, Inc. (Tenant) on July 12, 1982 with a commencement date of March 1, 1983. The lease has a term of 480 months and is due to expire on February 28, 2023. Subsequently, the lease was assigned to Moss-Tauscher Associates, Inc. effective December 12, 1984. Moss-Tauscher Associates, Inc. and later known as Tauscher and Associates, assigned the Ground Lease to Raymond F. Sawtelle, Jr. and Sheila L. Sawtelle effective August 31, 1994. In conjunction with the assignment, an estoppel letter in favor of Plano Bank & Trust was acknowledged and consented to by Addison Airport of Texas, Inc. for a leasehold mortgage to secure a note financing the purchase of Tauscher's leasehold interest.

NOTE: Airport records show the Assignment of Lease between Tauscher and Associates, Inc. (formerly Moss-Tauscher Associates, Inc.), Assignor, and Raymond F. Sawtelle, Jr. and Sheila L. Sawtelle, Assignee, and aforementioned Letter Agreement, both dated August 31, 1994, were consented to in writing by Addison Airport of Texas, Inc., Landlord but not by the City of Addison. A search of the city's meeting minutes does not indicate the matter was brought before the Council for their consideration and consent.

Summary of Ground Lease Terms

Name of Tenant	Raymond F. Sawtelle Jr. & Sheila L. Sawtelle
Doing Business As	Monarch Air Addison
Lease #	0620-4101
Lease Type	Ground Lease
Other Lease Ref. Or ID	GL #41
AA Survey Lot Reference	Lease Tract #62
Property Name	Raymond F. Sawtelle Jr. & Sheila L. Sawtelle
Legal Address (1)	4580 Claire Chennault
Legal Address (2)	
City	Addison
State	Texas
Zip	75001

Primary Contact	Ray Sawtelle
Contact Phone #	972-931-0345 Off / 972-931-0450 Fax
On-Property Address	U-11 (formerly M-11)
Brief Description of Premises	1 Metal building includes shops, and offices, plus associated aircraft ramps and vehicle parking.
Land Area (SF)	104,300 SF
Building Area (SF)	22,185
Office	
Hangar/Air Serv.	
Other	
Ramp Area (SF)	

Lease Commencement Date	3/1/1983
Lease Expiration Date	2/28/2023
Current Monthly Rental Rate	\$3,284.45 / \$39,413.40 annual
Rental Rate/Building Area SF	\$1.78
Rental Rate/ Land Area SF	\$.38
Lease Amendment	
Lease Assignment	Assigned by Triple "K" Leasing, Inc., to Moss-Tauscher Associates, Inc by assignment dated December 12, 1984. Assigned by Moss-Tauscher Associates, Inc to Raymond F. Sawtelle Jr. & Sheila L. Sawtelle by assignment dated August 4, 1994.
Last CPI Adjustment Date	4/1/2003 (4.68%)
Next CPI Adjustment Date	4/1/2005

Current Status

The Ground Lease tenant, Raymond and Sheila Satelle own and operate Monarch Air, a flight school and aviation services center on the leased premises at Addison Airport. Established in 1986, Monarch Air is "one of Dallas' longest operating flight training facilities." Additionally, Monarch Air provides aircraft maintenance, charter services, aircraft sales, parts and accessories. Monarch Air is also active in aircraft leasebacks.

The Ground Lease Tenant is current on all rents and in good standing with the Airport.

Summary of Leasehold Interests Valuation Analysis:

1) Estimated Landlord's Leasehold Estate (<i>Net Present Value (NPV) of the contracted rental payments</i>) ²	\$378,063
2) Estimated Tenant Leasehold Interest (<i>NPV of the fair market rental rate in excess of the contract rate NPV</i>) ^B	<u>\$ 42,941</u>
3) Current FMV of Land derived from Leasehold Interests (1+2)	\$421,004
Per Square Foot	\$ 4.03
4) Estimated value of improvements ^C	<u>\$495,000</u>
Total Estimated Value of Leased Premises (3+4)	\$916,000
Per Square Foot	\$ 8.77

Note A: As of 12/1/2003 and assumes no change to lease terms, CPI increase of 3% every two years

Note B: Based upon 10% discount rate

Note C: Source is the DCAD valuation

Conclusion and Recommendation of Airport Operator

Section 9 of the Ground Lease restricts the Tenant from assigning any rights under the Lease without the prior written consent of the Landlord except to a leasehold mortgagee for the purpose of securing a loan to finance construction improvements described in Paragraph [Section] 6 or for other improvements to the premises approved by Landlord. The tenant has represented the proposed leasehold mortgage is to secure (among other security given to the bank) the financing for the acquisition of aircraft used in their daily charter operations. Such a mortgage is considered to be beyond the standard permitted under Section 9 of the Lease.

It is generally accepted that the "leasehold value" (the ownership interest of a tenant to a ground lease) is the net present value of the current fair market rental rate in excess of the contract rental rate plus the current worth (not cost) of all real property improvements made to the property. This leasehold value is a source of equity or worth the tenant may want or need access to, so it may finance additional capital improvements or other aspects of their business operations.

The ground lease, as written and subject of the requested action, only permits the creation of a leasehold mortgage for the purpose of financing real property improvements to the premises. Provided the tenant has demonstrated they are a viable enterprise contributing to the Airport's economic base and in good standing with the Landlord, Landlord may desire to allow the tenant to create a leasehold mortgage for other purposes than the financing of real property improvements. As long as the Landlord's lien remains superior

to all other lien holders or claimant's, Landlord's contracted interests should remain secure.

Raymond & Shiela Sawtelle is seeking Landlord's consent to assign its leasehold rights in favor of Legacy Bank of Texas as security for a newly created second lien deed of trust. Airport management recommends to the Town that it grant the required consent subject to:

1. Any such leasehold mortgage and deed of trust will never require Landlord to subordinate Landlord's interest in the demised premises to the mortgage of such proposed leasehold mortgage.
2. The proceeds from the financing arrangement are used for improvements to the lease premises or for the benefit of the Tenant's business operations at the Airport and for no other purpose.
3. The execution of an amendment to the Ground Lease expanding the Tenant's right to enter into leasehold mortgages for other purposes than the financing of real property improvements.

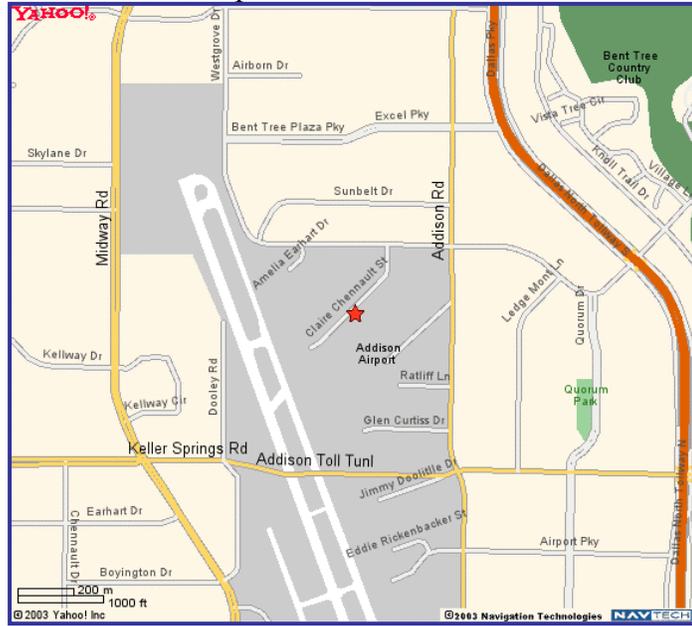
The Town's attorney has reviewed the proposed estoppel letter (Exhibit 2) requested by the Bank and the proposed First Amendment to the Ground Lease (Exhibit 3) and has no objection to their form.

Summary of Attached Exhibits

- Exhibit 1: Location Map & Aerial View of Lease Premises
- Exhibit 2: Proposed Estoppel Letter & Deed of Trust
- Exhibit 3: Proposed First Amendment to Ground Lease
- Exhibit 4: Valuation Worksheet

EXHIBIT 1

Location Map of 4850 Claire Chennault



Aerial View of Lease Premises



EXHIBIT 2
(Estoppel Letter and Deed of Trust)



William M. Dyer
Real Estate Manager
16051 Addison Road,
Suite 220
Addison, Texas 75001

Main: 972-392-4650
Direct: 972-392-4856
Fax: 972-788-9334
bill.dyer@staubach.com

Memorandum

To: Mark Acevedo
From: Bill Dyer
CC: Lisa Pyles
Date: 01/02/2004
Re: Monarch Air Request for Amendment to Ground Lease and Landlord's consent to Leasehold Mortgage

For your use, please find attached copies of Exhibit 2 relating to the above referenced matter which is not available to us electronically.

LEGACY TEXAS GROUP



Legacy Bank
of Texas



Legacy Texas
Insurance Services



Legacy Texas
Wealth Management



Legacy Women's
Financial

RE: Ground Lease ("Lease") dated July 12, 1982 (the "Ground Lease"), by and among the Town of Addison, Texas, a municipal corporation (the "City", the same being the Town of Addison, Texas) and Addison Airport of Texas, Inc., a Texas corporation, as Landlord (the City now being the sole Landlord under the Lease, the "Base Lease" (as defined in the Ground Lease) having expired, and the City alone being referred to herein as the "Landlord") and Triple K Leasing, Inc., as tenant; the said Ground Lease then having been assigned to Tauscher & Associates, Inc., f/k/a Moss-Tauscher Associates, Inc. ("Tauscher"), by that Assignment of Lease entered into on December 12, 1984; the said Ground Lease then having been assigned by Tauscher to Raymond F. Sawtelle, Jr., and Sheila L. Sawtelle (together, the "Tenant") by that Assignment entered into on August 31, 1994, whereby Landlord leases to Tenant certain real property (the "Real Property") located at the Addison Airport in Dallas County, Texas, as specifically described in the Ground Lease (and being approximately 2.394 acres in Dallas County, Texas), and being generally described as the "Demised Premises" in the Terms and Conditions set forth in the Ground Lease.

Gentlemen:

Legacy Bank of Texas (the "Bank") intends to make a loan to Trey Aviation, a Texas Limited Liability Company, which is a wholly owned subsidiary of Tenant, which loan (the "Loan") in the amount of \$1,550,000.00 will be secured by, among other things a lien against the leasehold interest of Tenant in the Real Property created pursuant to a leasehold deed of trust (the "Leasehold Deed of Trust") to be executed by Tenant to Thomas Higier, as Trustee for the benefit of Bank, which Deed of Trust shall be subordinate and inferior to the Ground Lease and Landlord's lien (contractual and statutory) and other rights thereunder and all terms and conditions thereof, which Deed of Trust shall be in substantially the form of the Deed of Trust attached hereto.

The Bank has advised Tenant that Bank requires the written acknowledgment of Landlord to the execution by Tenant of the above-described Deed of Trust and the written acknowledgment and consent of the Landlord to the statements set forth in this letter.

Therefore, by executing the enclosed copy of this letter and returning it to the undersigned, Landlord hereby specifically states as follows:

1. Landlord takes notice of the Leasehold Deed of Trust and the subordinate and inferior lien provided for therein being impressed solely against the leasehold interest of Tenant in the Real Property.
2. The Lease has not been modified, altered or amended except as described herein.

3. Landlord has no actual knowledge of the existence of any lien against the Real Property other than that created by the Ground Lease and any lien for taxes as may be provided by law.
4. Landlord will give to Bank, at the address of Bank specified in this letter or at such other address as Bank may hereafter designate in writing to Landlord, prompt written notice of any default by Tenant under the Lease simultaneously with the giving of such notice to Tenant, and Bank shall have the right, but not the obligation, for a period of fifteen (15) days after its receipt of such notice or within any longer period of time specified in such notice, to take such action or to make such payment as may be necessary or appropriate to cure any such default so specified. Landlord shall not exercise Landlord's right to terminate the lease without first giving Bank the notice provided for herein and affording Bank the right to cure such default as provided for herein.
5. For the purposes of this letter, any notice to Bank may be delivered in person or shall be deemed to be delivered, whether actually received or not, when deposited in United States mail, postage prepaid, registered, or certified mail, return receipt requested, addressed to Bank at the above-described address.
6. If Bank or a third party (provided such third party is approved by Landlord in accordance with the terms of the Lease for approval of an assignee) succeeds to the interest of Tenant in and to the Lease and the Real Property by means of foreclosure under the Deed of Trust, by means of a transfer in lieu of such foreclosure, or by any other means due to the failure or inability of Tenant to pay the Loan secured by the Deed of Trust, Landlord shall thereafter accept, recognize and treat Bank or such approved third party as the tenant under the Lease and Landlord shall continue to perform all of its obligations under the Lease. Bank may thereafter, with the written consent of the Landlord, which consent shall not be unreasonably withheld or delayed, assign its leasehold right, title, and interest in and to the Ground Lease. For purposes hereof and any applicable law, and without limitation as to other grounds for Landlord withholding consent, it shall be deemed to be reasonable for Landlord to withhold its consent when any one or more of the following apply:
 - (a) the proposed assignee is of a character or of a reputation or is engaged in a business which is not consistent with the master or strategic plan of Addison Airport as determined by Landlord;
 - (b) the proposed assignee has not demonstrated sufficient financial responsibility or creditworthiness to the satisfaction of Landlord in light of the duties, obligations, and responsibilities of the tenant under the Ground Lease at the time when the consent is requested;
 - (c) the proposed assignee's intended use of the demised premises as defined in the Ground Lease is inconsistent with the Ground Lease;

(d) the proposed assignment would cause Landlord to be in violation of another lease or agreement to which Landlord is a party or to which Landlord or the Addison Airport is subject (including, without limitation, any grant agreements or grant assurances of the Federal Aviation Administration or any other governmental entity or agency);

(e) if at any time consent is requested or at any time prior to the granting of consent, tenant is in default under the Ground Lease or would be in default under the Ground Lease but for the pendency of a grace or cure period; or

(f) the proposed assignee does not intend to occupy the entire demised premises as described in the Ground Lease and conduct its business therefrom for a substantial portion of the then remaining term of the Ground Lease.

For purposes hereof and any applicable law, and without limitation as to other grounds for Landlord delaying consent, it shall be deemed to be reasonable for Landlord to delay its consent for a period of 45 days after the receipt by Landlord of all information requested by Landlord regarding or in connection with the proposed assignment and the proposed assignee.

7. To the actual knowledge of Landlord no rent has been paid more than thirty (30) days in advance of its due date.

Very truly yours,

By: Steve Young EVP
Name: STEVE YOUNG
Its: EXECUTIVE VICE PRESIDENT

Acknowledged and consented to the _____ day of _____, 20__.

TOWN OF ADDISON, TEXAS

By: _____
By: _____
Name: _____
Its: _____

By: _____
By: _____
Name: _____
Its: _____

Cc: Real Estate Manager
Addison Airport
16051 Addison Road, Suite 220
Addison, Texas 75001

BENEFICIARY'S ADDRESS,
and after recording, return to:
LEGACY BANK OF TEXAS
5000 Legacy Drive
Plano, Texas 75024
Attn: Collateral Department

DEED OF TRUST
(With Security Agreement and Assignment of Rents)

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF DALLAS §

THAT THE UNDERSIGNED, Raymond F. Sawtelle, Jr. and Sheila L. Sawtelle (hereinafter called 'Grantor,' whether one or more), whose mailing address is 2 Heritage Place, Allen, Texas 75002, for and in consideration of the debt hereinafter described, has granted, bargained, sold, transferred, assigned, and conveyed, and by these presents does grant, bargain, sell, transfer, assign and convey, in trust unto Thomas Higier, as trustee, and unto his, her or their successors or substitutes in the trust hereby created (such trustee and any successors or substitutes being hereinafter collectively called "Trustee"), and unto the Trustee's assigns, forever, all and singular the property of Grantor, both real and personal, situated in the County of Dallas and State of Texas, which is described as follows:

Leasehold estate and all of Grantor's right, title, and interest under that certain Ground Lease, dated July 12, 1982 (the "Lease"), by and among the City of Addison, Texas (the "City"), Addison Airport of Texas, Inc. ("AATI") and Triple "K" Leasing, Inc., which subsequently assigned its interest in said lease to Tauscher & Associates, Inc., f/k/a Moss-Tauscher Associates, Inc., which assigned its interest in said lease to Grantor and all of Grantor's right, title and interest in and under that certain Agreement for Operation of the Addison Airport dated December 30, 1976 by and between AATI and the City, as renewed, extended and amended (as renewed, extended and amended, the "Operating Agreement"), which Lease and Operating Agreement cover, among other things, certain real property located in Dallas County, Texas, and more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference for all purposes; together with all Grantor's right, title, and interest in improvements thereon or hereafter placed thereon and with all Grantor's right, title, and interest in equipment, fixtures and articles of personal property now or hereafter attached to or used in and about the buildings and other improvements located upon the property; including, but not limited to, all electrification equipment and power lines, whether owned individually or jointly with others, all inventory, water supply equipment, all heating, lighting, refrigeration, plumbing, ventilating, incinerating, water heating, cooking, radio, communications, electrical dishwashing equipment, air conditioning equipment, all appliances, furniture, doors, windows, window screens, sprinklers, disposals, range hoods, tables, chairs, drapes, rods, bookcases, cabinets, sprinklers, hoses, tools, television antenna systems, speakers, electrical wiring, pipe and floor coverings, signs; all renewals or replacements thereof or in substitution therefor, whether or not the same are or shall be attached to the property in any manner; all building materials and equipment now or hereafter delivered to the property and intended to be installed therein; all plans and specifications for the property (including, without limitation, all designs for the hangar); all deposits, funds, accounts, rights, instruments, documents, general intangibles (including trademarks, trade names and symbols used in connection therewith), and notes or chattel paper arising from or by virtue of any transactions related to the property; all assignable permits, licenses, certificates, and other rights and privileges obtained in connection with the property; all proceeds arising from or by virtue of the sale, lease or other disposition of any of the real or personal property described herein; all proceeds (including premium

refunds) payable or to be payable under each policy of insurance relating to the property; all proceeds arising from the taking of all or a part of the real property or any rights appurtenant thereto, for any public or quasi-public use under any law, or by right of eminent domain, or by private or other purchase in lieu thereof; and all other interest of every kind and character which Grantor now has or at any time hereafter acquires in and to the above-described real and personal property and all property which is used or useful in connection therewith, including rights of ingress and egress and all reversionary rights or interests of Grantor with respect to such property, unto the Trustee, his successors in this trust and his assigns forever.

It is hereby agreed that to the extent permitted by law all of the foregoing personal property and fixtures (hereinafter collectively referred to as "Collateral") are to be deemed and held to be a part of and affixed to the real property. This conveyance shall include and the lien, security interest and assignment created hereby shall encumber and extend to all other, further or additional title, estates, interest or rights which may exist now or at any time be acquired by Grantor in or to the property demised under the lease creating such leasehold estate (including the Lease and the Operating Agreement) and including Grantor's rights, if any, to purchase the property demised under such lease and, if fee simple title to any of such property shall ever become vested in Grantor, such fee simple interest shall be encumbered by this Deed of Trust in the same manner as if Grantor had fee simple title to such property as of the date of execution hereof. The foregoing described real and personal property is hereinafter collectively called the "Mortgaged Property".

TO HAVE AND TO HOLD the Mortgaged Property unto the Trustee and his or her successors or substitutes forever, Grantor hereby binds itself and its successors and assigns to warrant and forever defend the title to the Mortgaged Property unto the Trustee and his or her successors and substitutes, against every person lawfully claiming or to claim the same or any part thereof.

This conveyance is made in trust, however, to secure and enforce the payment of that certain Promissory Note (hereinafter called the "Note"), dated of even date herewith, executed by Trey Aviation, a Limited Liability Company ("Maker"), payable to the order of LEGACY BANK OF TEXAS whose address is 5000 Legacy Drive, Plano, Texas 75024 (hereinafter called "Beneficiary"), in the stated principal amount of \$1,550,00.00, bearing interest, being payable and maturing as more particularly set forth therein.

This Deed of Trust shall secure, in addition to the Note, all funds hereafter advanced by Beneficiary to or for the benefit or account of Maker, as contemplated by any covenant or provision herein contained or contained in the Note or any other document evidencing, governing, guaranteeing or securing the indebtedness evidenced by the Note, and all other indebtedness, of whatever kind or character, owing or which may hereafter become owing by Maker to Beneficiary, whether such indebtedness is evidenced by note, open account, overdraft, endorsement, surety agreement, guaranty, or otherwise, it being contemplated that Maker may hereafter become indebted to Beneficiary for further sums, and any security given or pledged in connection with any such other indebtedness or hereafter owing by Maker to Beneficiary shall likewise secure all indebtedness evidenced by the Note and this Deed of Trust. All indebtedness secured hereby shall be payable at Beneficiary's address above, and, unless otherwise provided in the instrument evidencing such indebtedness, shall bear interest at the same rate per annum as the Note bears, from the date of accrual of such indebtedness until paid. If the Note or any other indebtedness secured hereby shall be collected by legal proceedings, whether through a probate or bankruptcy court or otherwise, or shall be placed in the hands of an attorney for collection following default or after maturity, whether matured by the expiration of time or by any option given to the Beneficiary to accelerate the maturity, Grantor agrees Beneficiary's reasonable attorney's and collection fees shall be a part of the indebtedness secured hereby.

To better secure payment of such indebtedness, Grantor does hereby covenant, warrant and represent to and agree with Beneficiary and with the Trustee as follows:

1. Address. Grantor's mailing address as shown in the first paragraph hereof is true and correct.

2. **Payment.** Maker will pay all of the indebtedness secured hereby, together with the interest thereon, when the same shall become due, in accordance with the terms of the Note or any other instrument evidencing, securing, or pertaining to such indebtedness, or evidencing any renewal or extension of such indebtedness, or any part thereof, and further, Grantor shall punctually and properly perform all of Grantor's covenants, obligations, and liabilities hereunder.

3. **Title.** Grantor has in its own right good, and indefeasible title in fee simple, except as otherwise provided herein, to the Mortgaged Property which is free from encumbrance superior to the indebtedness hereby secured, except in favor of Beneficiary or as otherwise provided herein, and has full right to make this conveyance, and with respect to each Grantor who is an individual, no part of the Mortgaged Property constitutes any part of his business or residential homestead.

4. **Insurance.** Grantor will keep all insurable Mortgaged Property insured against the risks covered by policies of fire and extended coverage insurance and such other risks as Beneficiary may require, such insurance to be written in form and with companies acceptable to Beneficiary, with loss made payable to Beneficiary by mortgagee clauses of standard form, and will deliver the policies of insurance to Beneficiary promptly as issued; and in case Grantor fails to do so, Beneficiary, at its option, may procure such insurance at Grantor's expense. In the event the Mortgaged Property, or any portion thereof, lies within a flood plain, a flood prone area or any designated flood hazard area, Grantor shall, in addition to the foregoing insurance, obtain and maintain flood insurance in form and with companies acceptable to Beneficiary, with loss made payable to Beneficiary by mortgagee clauses of standard form. All renewal and substitute certificates of insurance shall be delivered at the office of Beneficiary, premiums paid, at least ten (10) days before termination of policies theretofore delivered to Beneficiary. If renewal policies are not so delivered to Beneficiary, Beneficiary, while not obligated, may obtain the required insurance on behalf of Grantor (or insurance in favor of Beneficiary alone) and pay the premiums thereon. Beneficiary may rely upon any cancellation notice from any insurance carrier of any policy of insurance furnished pursuant to this provision and may, but shall not be obligated, to obtain the required insurance as authorized herein and such coverage shall continue in the company selected by Beneficiary, and Grantor shall pay on demand the premiums for such coverage notwithstanding the fact that Grantor may have procured separate or additional coverage to that obtained by Beneficiary. In case of loss, (i) if Grantor is in default hereunder, Beneficiary, at its option, shall be entitled to receive and retain the proceeds of the insurance policies, applying the same to the indebtedness secured hereby or Beneficiary may apply such proceeds to restore the Mortgaged Property, and (ii) if Grantor is not in default hereunder, Grantor may, at its option, apply such proceeds to the indebtedness secured hereby or apply such proceeds to the restoration of the Mortgaged Property. If Grantor elects to apply such proceeds to the restoration of the Mortgaged Property, such restoration shall be promptly completed in accordance with plans and specifications approved by Beneficiary, and the costs and expenses thereof, to the extent they exceed the proceeds of the insurance policies, shall be borne by Grantor.

5. **Taxes.** Grantor will pay all taxes and assessments against or affecting the Mortgaged Property as the same become due and payable (unless such payments are made by Beneficiary as hereinafter provided), and, if Grantor fails to do so, the Beneficiary may pay them (but shall have no obligation to do so), together with all costs and penalties thereon, at Grantor's expense, provided however, that, upon strict compliance by Grantor of the requirements stated below, Grantor may in good faith, in lieu of paying such taxes and assessments as they become due and payable, by appropriate proceedings, contest the validity thereof; and pending such contest Grantor shall not be deemed in default hereunder because of such nonpayment, if (i) prior to delinquency of the asserted tax or assessment, Grantor furnishes the Beneficiary an indemnity bond, conditioned that such tax or assessment with interest, cost and penalties be paid as therein stipulated secured by a deposit in cash, or security acceptable to Beneficiary, or with surety acceptable to Beneficiary, in the amount of the tax or assessment being contested by Grantor, and a reasonable additional sum to pay all possible costs, interest and penalties imposed or incurred in connection therewith; (ii) Grantor promptly pays any amount adjudged by a court of competent jurisdiction to be due, with all costs, penalties and interest thereon, before such judgment becomes final; and (iii) in any event, each such contest shall be concluded and the tax, assessment, penalties, interest and costs shall be paid prior to the date such judgment becomes final or any writ or order is issued under which the Mortgaged Property may be sold pursuant to such judgment.

6. **Reserve Funds.** At the request of Beneficiary, Grantor shall create a fund or reserve for the payment of all insurance premiums, taxes, and assessments against or affecting the Mortgaged Property by paying to Beneficiary, on the first day of each calendar month prior to the maturity of the Note, a sum equal to the premiums that will next become due and payable on the hazard insurance policies covering the Mortgaged Property, or any part thereof, plus taxes and assessments next due on the Mortgaged Property, or any part thereof, as estimated by Beneficiary, less all sums paid previously to Beneficiary therefor, divided by the number of months to elapse before one month prior to the date when such premiums, taxes and assessments will become delinquent, such sums to be held by Beneficiary, without interest, unless interest is required by applicable law, for the purposes of paying such premiums, taxes and assessments. Any excess reserve shall, at the discretion of Beneficiary, be credited by Beneficiary on subsequent reserve payments or subsequent payments to be made on the Note by the maker thereof, and any deficiency shall be paid by Grantor to Beneficiary on or before the date when such premiums, taxes, and assessments shall become delinquent. Transfer of legal title to the Mortgaged Property shall automatically transfer title to all sums deposited with Beneficiary under the provisions hereof or otherwise.

7. **Condemnation.** All judgment, decrees and awards for injury or damage to the Mortgaged Property, and all awards pursuant to proceedings for condemnation thereof, are hereby assigned in their entirety to Beneficiary, who shall apply the same to the indebtedness secured hereby first to interest accrued to date of receipt of the condemnation proceeds and then to principal, provided however, in the event Grantor is not in default hereunder, Grantor may apply same to the indebtedness secured hereby or may apply same to restore the Mortgaged Property, to the extent, but only to the extent, that such restoration is commercially feasible. Beneficiary is hereby authorized, in the name of Grantor, to execute and deliver valid acquittances for, and to appeal from, any such award, judgment or decree. In the event Beneficiary, as a result of any such judgment, decree or award, believes that the payment or performance of any indebtedness or obligation secured by this Deed of Trust is impaired, Beneficiary may, without notice, declare all of the indebtedness secured hereby immediately due and payable.

8. **Defense of Title.** If, while this trust is in force, the title of the Trustee to, or the interest of Beneficiary in, the Mortgaged Property hereby conveyed or any part thereof, shall be endangered or shall be attacked directly or indirectly, Grantor hereby authorizes Beneficiary, at Grantor's expense, to take all necessary and proper steps for the defense of such title or interest, including the employment of counsel, the prosecution or defense of litigation, and the compromise or discharge of claims made against such title or interest. At any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Deed of Trust, or upon any rights, titles, liens, or security interests created hereby, or upon the Note, or any part thereof, Grantor shall immediately pay all such taxes, or cause same to be paid or reimburse Beneficiary for the payment of same immediately upon written notice from Beneficiary. Grantor shall at any time and from time to time, furnish promptly, upon request, a written statement or affidavit, in such form as may be required by Beneficiary, stating the unpaid balance of the Note, and stating that there are no offsets or defenses against full payment of the Note and performance of the terms hereof, or if there are any such offsets and defenses, specifying them.

9. **Reimbursement.** If, in pursuance of any covenant contained herein or in any other instrument executed in connection with the loan evidenced by the Note or in connection with any other indebtedness secured hereby, Beneficiary shall expend any money chargeable to Grantor or subject to reimbursement by Grantor under the terms of such covenant or agreement, Grantor will repay the same to Beneficiary immediately upon demand at the place where the Note or other indebtedness secured hereby is payable, together with interest thereon at the rate of interest payable under the Note or on account of such other indebtedness in the event of a default thereunder from and after the date of Beneficiary's expenditure. The sum of each such payment shall be added to the indebtedness hereby secured and thereafter shall form a part of the same, and it shall be secured by this Deed of Trust and by subrogation to all of the rights of the person or entity receiving such payment.

10. **Maintenance of Property.** Grantor will keep every part of the Mortgaged Property in first-class condition and presenting a first-class appearance, making promptly all repairs, renewals and replacements necessary to such end, and doing promptly all else necessary to such end; but Grantor will discharge all claims for labor performed

and material furnished therefor, and will not suffer any lien of mechanics or materialmen to attach to any part of the Mortgaged Property; and Grantor will guard every part of the Mortgaged Property from removal, destruction and damage, and will not do or suffer to be done any act whereby the value of any part of the Mortgaged Property may be lessened.

11. **Prohibition of Transfer.** The sale, transfer, disposition or encumbrance, whether by operation of law or otherwise, of all or any part of the Mortgaged Property (other than items of personalty which have become obsolete or worn beyond practical use and which have been replaced by adequate substitutes having a value equal to or greater than the replaced items when new) without the written consent of Beneficiary shall constitute a default hereunder. Grantor shall not grant any easement whatever with respect to any of the Mortgaged Property without the joinder therein of Beneficiary or rent or lease any of the Mortgaged Property for any purpose whatever without the prior written consent of Beneficiary. In the event Grantor is a corporation or a limited liability company, it agrees that the sale, conveyance, hypothecation, transfer or disposition of more than ten percent (10%) of its issued and outstanding capital stock or ownership interests, without the prior written consent of Beneficiary, shall constitute a default; or, that in the event Grantor is a limited or general partnership, or a joint venture, a change of any general partner or any joint venturer, either voluntarily or involuntarily, or the sale, conveyance, transfer, disposition or encumbrance of any such general partner or joint venture interests, without the prior written consent of Beneficiary, shall constitute a default. In the event Beneficiary should consent to any sale or conveyance of the Mortgaged Property, Grantor will not sell all or any portion of the Mortgaged Property unless the purchaser, as a part of the consideration, either (a) expressly agrees to assume the payment of the indebtedness hereby secured or (b) expressly agrees that the title and rights of purchaser are and shall remain unconditionally subject to all of the terms of this Deed of Trust for the complete fulfillment of all obligations of the Grantor hereunder, and the deed effecting such transfer shall expressly set forth such agreement of the purchaser.

12. **No Discharge Upon Transfer.** If the ownership of the Mortgaged Property or any part thereof becomes vested in a person other than Grantor, Beneficiary may, without notice to Grantor, deal with such successor or successors in interest with reference to this Deed of Trust and to the indebtedness hereby secured in the same manner as with Grantor without in any way vitiating or discharging Grantor's liability hereunder or upon the indebtedness hereby secured. No sale of the Mortgaged Property, and no forbearance on the part of Beneficiary, and no extension of the time for the payment of the indebtedness hereby secured, given by Beneficiary, shall operate to release, discharge, modify, change or affect the original liability of Maker or Grantor or the liability of any guarantors or sureties of Maker or Grantor, either in whole or in part.

13. **Default in Payment or Performance.** Grantor shall be in default hereunder upon the occurrence of an "**Event of Default**" as such term is defined in that certain Loan Agreement (the "**Loan Agreement**") of even date herewith by and between Maker and Beneficiary. Upon the occurrence of any such default, Beneficiary, at its option, without notice, may pursue any rights and remedies it may have hereunder or at law, or in equity, including, without limitation, filing suit on the Note and/or enforcing the power of sale granted herein, and Beneficiary may, without limitation, declare the entire indebtedness secured hereby immediately due and payable, whereupon it shall be so due and payable.

14. **Sale by Trustee.** If Maker pays the Note and other debt that may be owing, or causes same to be paid, and keeps and performs each and every covenant, condition and stipulation contained herein and in the Note, then this Deed of Trust shall become null and void; otherwise to be and remain in full force and effect. If there is a default hereunder, then the Note, together with all other sums secured hereby, shall at the option of the Beneficiary, become at once due and payable without demand, notice or judicial hearing except as may be required by law (such requirement of law being hereby waived to the extent permitted by law), and the Trustee, when requested to do so by the Beneficiary after such default, shall sell the Mortgaged Property, at public auction, to the highest bidder, for cash at the County Courthouse of the County in Texas in which the Mortgaged Property or any part thereof is situated as herein described in the area in such Courthouse designated for real property foreclosure sales in accordance with applicable law (or in the absence of such designation, in the area set forth in the notice of sale hereinafter described), between the hours of 10:00 o'clock A.M. and 4:00 o'clock P.M., on the first Tuesday of any month, after giving notice of the time, place and terms of said sale, and of the property to be sold in accordance with applicable laws in the State of Texas in effect at the

time such notice is given, provided however, such sale shall begin at the time stated in such notice or within three (3) hours thereafter.

Notice of such proposed sale shall be given by posting written notice of the sale at the courthouse, and by filing a copy of the notice in the office of the county clerk of the county in which the sale is to be made at least twenty-one (21) days preceding the date of the sale. If the property to be sold is situated in more than one county, a notice shall be posted at the courthouse and filed with the county clerk of each county in which the property to be sold is situated. In addition, Beneficiary shall, at least twenty-one (21) days preceding the date of sale, serve written notice of the proposed sale by certified mail on each debtor obligated to pay the debt secured hereby according to the records of Beneficiary. Service of such notice shall be completed upon deposit of the notice, enclosed in a postpaid wrapper, properly addressed to such debtor at the most recent address as shown by the records of Beneficiary, in a post office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed shall be prima facie evidence of the fact of service.

Any notice that is required or permitted to be given to Grantor may be addressed to Grantor at Grantor's address as stated above. Any notice that is to be given by certified mail to any other debtor may, if no address for such other debtor is shown by the records of Beneficiary, be addressed to such other debtor at the address of Grantor as is shown by the records of Beneficiary. The Trustee may appoint any attorney-in-fact or agent to act in his or her stead as Trustee to perform all duties of the Trustee authorized herein. Grantor authorizes and empowers the Trustee to sell the Mortgaged Property, together or in lots or parcels, as the Trustee shall deem expedient; to receive the proceeds of said sale; and to execute and deliver to the purchaser or purchasers thereof good and sufficient deeds of conveyance thereto by fee simple title, with covenants of general warranty, and Grantor binds himself or herself to warrant and forever defend the title of such purchaser or purchasers. The proceeds of such sale shall be applied in the following order:

- (a) to the payment of all necessary costs and expenses incident to the execution of said trust, including a reasonable fee to the Trustee not exceeding five percent (5%) of the gross proceeds of the sale of the Mortgaged Property;
- (b) the indebtedness secured hereby, discharging first that portion of the indebtedness arising under the covenants or agreements herein contained and not evidenced by the Note;
- (c) the remainder, if any, to Grantor or such other person or persons entitled thereto by law.

15. **Appointment of Receiver.** Upon the commencement of any action to enforce the lien herein given, Beneficiary shall have the additional right to have a court of competent jurisdiction appoint a receiver to take possession of the Mortgaged Property. This provision is a right created by this contract and is cumulative of, and shall not affect in any way, the right of the Beneficiary to the appointment of a receiver given the Beneficiary by law.

16. **Election of Remedies.** Upon the occurrence of a default hereunder, Beneficiary shall have the option to proceed with foreclosure in satisfaction of such delinquent or then matured debt, either through the courts or by directing the Trustee to proceed as if under a foreclosure, conducting the sale as herein provided and without declaring the whole debt due, and provided that if said sale is made because of such default, such sale may be made subject to the unmatured part of the Note and debt secured by this Deed of Trust; such sale, if so made, shall not in any manner affect the unmatured part of the debt secured by this Deed of Trust, it being the purpose to provide for a foreclosure and the sale of the Mortgaged Property for any matured portion of said debt, without exhausting the power of foreclosure, and to sell the Mortgaged Property for any other part of said debt whether matured at the time or subsequently maturing.

17. **Prerequisites to Sale.** In case of any sale hereunder, all prerequisites to the sale shall be presumed to have been performed, and in conveyance given hereunder, all statements of facts or other recitals made therein as to any of the following, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true; i.e., the nonpayment of money secured; the request to the Trustee to enforce this trust; the proper and due

appointment of any substitute trustee; the advertisement of sale or time, place and manner of sale; or any other preliminary fact or thing. Trustee shall not be liable for any action taken or omitted to be taken by Trustee in good faith and reasonably believed to be within the discretion or power conferred upon Trustee by this Deed of Trust and shall be answerable only for losses occurring through his or her gross negligence or willful misconduct. Grantor agrees to save and hold the Trustee and Beneficiary harmless from all loss and expense, including reasonable attorney's fees, costs of a title search or abstract, and preparation of survey, incurred by reason of any action, suit or proceeding (including an action, suit or proceeding to foreclose or to collect the debt secured hereby) in and to which Trustee or Beneficiary may be or become a party by reason hereof, including, but not limited to, condemnation, bankruptcy and administration proceedings, as well as any other proceeding wherein proof of claim is required by law to be filed or in which it becomes necessary to defend or uphold the terms of this Deed of Trust, and in each such instance, all money paid or expended by Trustee or Beneficiary, together with interest thereon from date of such payment at the rate set forth in said Note or at the legal rate, whichever is higher, shall be so much additional indebtedness secured hereby and shall be immediately due and payable by Grantor.

18. **Substitute Trustee.** Beneficiary may, at its option, appoint a successor or substitute Trustee without any formality or notice (except as may be required by law) other than a designation in writing of such appointment to such successor or substitute trustee who shall thereupon become vested with and succeed to all the powers and duties named herein, the same as if the successor or substitute had been named original Trustee herein; such right to appoint a successor or substitute trustee shall exist as often and whenever the Beneficiary desires. If the Beneficiary is a corporation, it may act through any authorized officer or by any agent or attorney-in-fact properly authorized by any such officer.

19. **No Waiver.** The exercise of any option given under the terms of this Deed of Trust shall not be considered a waiver of the right to exercise any other option herein; and the filing of a suit to foreclose this Deed of Trust, either on any matured portion of the debt or for the whole debt, shall never be considered an election of remedies so as to preclude foreclosure under power of sale after a dismissal of the suit; nor shall the filing of the necessary notices for foreclosure, as provided in this Deed of Trust, preclude the prosecution of a later suit thereon.

20. **Creation of Landlord - Tenant Relationship.** Any sale of the Mortgaged Property under this Deed of Trust shall, without further notice, create the relation of landlord and tenant at sufferance between the purchaser at such sale as landlord, and Grantor as tenant; and upon failure to surrender possession thereof, Grantor may be removed by a writ of possession at suit by the purchaser.

21. **Disaffirm Encumbrances.** The purchaser at any trustee's or foreclosure sale hereunder may disaffirm any easement granted, or rental, lease or other contract made, in violation of any provision of this Deed of Trust, and may take immediate possession of the Mortgaged Property free from, and despite the terms of, such easement or rental, lease or other contract.

22. **Beneficiary May Bid.** Beneficiary may bid and become the purchaser of all or any part of the Mortgaged Property at any Trustee's or foreclosure sale hereunder.

23. **Right of Entry.** The Grantor agrees, to the full extent that Grantor lawfully may, that in case one or more of the defaults hereunder shall have occurred and shall not have been remedied, then, and in every such case, the Beneficiary shall have the right and power to enter into and upon and take possession of all or any part of the Mortgaged Property in the possession of the Grantor, Grantor's successors and assigns; and, holding the same, the Beneficiary may use, administer, manage, operate and control the Mortgaged Property and conduct the business thereof to the same extent as the Grantor, Grantor's successors or assigns, might at the time do and may exercise all rights and powers of the Grantor, in the name, place and stead of the Grantor, or otherwise as the Beneficiary shall deem best; and in the exercise of any of the foregoing rights and powers Beneficiary shall not be liable to Grantor for any loss or damage thereby sustained unless due solely to the willful misconduct or gross negligence of Beneficiary.

24. **Release.** Any part of the Mortgaged Property may be released by the Beneficiary without affecting the lien, security interest and assignment hereof against the remainder. The lien, security interest and other rights granted hereby shall not affect or be affected by any other security taken for the same indebtedness or any part thereof. The taking of additional security, or the extension or renewal of the indebtedness secured hereby or any part thereof, shall not release or impair the lien, security interest and other rights granted hereby, or affect the liability of any endorser, guarantor or surety, or improve the right of any permitted junior lien holder; and this Deed of Trust, as well as any instrument given to secure any renewal or extension of the indebtedness secured hereby, or any part thereof, shall be and remain a first and prior lien, except as otherwise provided herein, on all of the Mortgaged Property not expressly released until the indebtedness secured hereby is completely paid.

25. **Waiver of Marshalling, Etc.** To the extent that Grantor may lawfully do so, Grantor agrees that Grantor shall not assert and hereby expressly waives, any right under any statute or rule of law pertaining to the marshalling of assets, the exemption of homestead, the administration of estates of decedents, or any other matter whatever to defeat, reduce or affect the right of Beneficiary, under the terms of this Deed of Trust, to sell the Mortgaged Property for the collection of the indebtedness secured hereby (without any prior or different resort for collection) or the right of Beneficiary, under the terms of this Deed of Trust, to the payment of such indebtedness out of the proceeds of sale of the Mortgaged Property in preference to every other person and claimant whatsoever. Grantor expressly waives and relinquishes any right or remedy which it may have or be able to assert by reason of the provisions of Chapter 34 of the Business and Commerce Code of the State of Texas, pertaining to the rights and remedies of sureties. Grantor further waives, to the extent permitted by law, the benefit of all laws now existing or that hereafter may be enacted providing for (i) any appraisal before sale of any portion of the Mortgaged Premises, commonly known as Appraisal Laws, and (ii) the benefit of all laws that may be hereafter enacted in any way extending the time for the enforcement of the collection of the debt secured hereby or creating or extending a period of redemption from any sale made in collection of said debt, commonly known as Stay Laws and Redemption Laws.

26. **Rents, Royalties, Etc.** All of the rents, royalties, issues, profits, revenue, income and other benefits derived from the Mortgaged Property or arising from the use or enjoyment of any portion thereof or from any lease or agreement pertaining thereto (hereinafter called the "**Rents and Profits**") are hereby absolutely and unconditionally assigned, transferred, conveyed and set over to Beneficiary, to be applied by Beneficiary in payment of the principal and interest and all other sums payable on the Note, and any other indebtedness secured hereby. Prior to the occurrence of any default hereunder, Grantor shall collect and receive all Rents and Profits as trustee for the benefit of Beneficiary, and Grantor shall apply the funds so collected first to the payment of the principal and interest and all other sums then due and payable on the Note and payment of all other indebtedness secured hereby and then due and payable, and thereafter, so long as no default hereunder has occurred, the balance shall be distributed to the account of Grantor. Grantor will not (i) execute an assignment of any of its right, title or interest in the Rents and Profits, or (ii) terminate or consent to the cancellation or surrender of any lease of the Mortgaged Property or any part thereof, now or hereafter existing, or (iii) modify any lease of the Mortgaged Property or any part thereof so as to shorten the unexpired term thereof or so as to decrease the amount of the rent payable thereunder, or (iv) accept prepayment of any installments of rent to become due under any of such leases in excess of one month, or (v) in any other manner impair the value of the Mortgaged Property or the security of this Deed of Trust. Grantor will not execute any lease of all or any substantial portion of the Mortgaged Property except for actual occupancy by the lessee thereunder, and will at all times promptly and faithfully perform, or cause to be performed, each covenant, condition and agreement contained in each lease of the Mortgaged Property now or hereafter existing, on the part of lessor thereunder to be kept and performed. Grantor shall furnish to Beneficiary, within ten (10) days after a request by Beneficiary to do so, a written statement containing the names of all lessees of the Mortgaged Property, the terms of their respective leases, the spaces occupied and the rentals payable thereunder.

27. **No Subordinate Mortgage.** Grantor will not, without the prior written consent of Beneficiary, execute or deliver any pledge, security agreement, mortgage or deed of trust covering all or any portion of the Mortgaged Property (hereinafter called "**Subordinate Mortgage**"). In the event of consent by Beneficiary to the foregoing or in the event the foregoing prohibition is determined by a court of competent jurisdiction to be unenforceable by the provisions

of any applicable law, Grantor will not execute or deliver any Subordinate Mortgage unless there shall have been delivered to Beneficiary not less than ten (10) days prior to the date thereof a copy thereof which shall contain express covenants to the effect:

(a) That the Subordinate Mortgage is in all respects unconditionally subject and subordinate to the lien, security interest and assignment evidenced by this Deed of Trust and each term and provision thereof;

(b) That if any action or proceeding shall be instituted to foreclose the Subordinate Mortgage (regardless of whether the same is a judicial proceeding or pursuant to a power of sale contained therein), no tenant of any portion of the Mortgaged property will be named as a party defendant, nor will any action be taken with respect to the Mortgaged Property which would terminate any occupancy or tenancy of the Mortgaged Property without the prior written consent of Beneficiary;

(c) That the Rents and Profits, if collected through a receiver or by the holder of the Subordinate Mortgage, shall be applied first to the obligations secured by this Deed of Trust, including principal and interest due and owing on or to become due and owing on the Note and the other indebtedness secured hereby and then to the payment of maintenance, operating charges, taxes, assessments, and disbursements incurred in connection with the ownership, operation and/or maintenance of the Mortgage Property; and

(d) That if any action or proceeding shall be brought to foreclose the Subordinate Mortgage, written notice of the commencement thereof will be given to Beneficiary contemporaneously with the commencement of such action or proceeding.

28. **Payment of Outstanding Liens.** To the extent that proceeds of the Note are used to pay any outstanding liens, charges or encumbrances against or affecting the Mortgaged Property, such proceeds have been advanced by Beneficiary at Grantor's request, and Beneficiary shall be subrogated to all rights, interest and liens owned or held by any owner or holder of such outstanding liens, charges and encumbrances, irrespective of whether such liens, charges or encumbrances are released of record.

29. **General Interest and Usury Provisions.**

(a) **Savings Clause.** It is expressly stipulated and agreed to be the intent of Grantor and Beneficiary at all times to comply strictly with the applicable Texas law governing the maximum rate or amount of interest payable on the indebtedness evidenced by the Note and the Related Indebtedness (as hereinafter defined) or applicable United States federal law to the extent that it permits Beneficiary to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law. If the applicable law is ever judicially interpreted so as to render usurious any amount (i) contracted for, charged, taken, reserved or received pursuant to the Note, any of the other Loan Documents or any other communication or writing by or between Maker or Grantor and Beneficiary related to the transaction or transactions that are the subject matter of the Loan Documents, (ii) contracted for, charged, taken, reserved or received by reason of Beneficiary's exercise of the option to accelerate the maturity of the Note and/or the Related Indebtedness, or (iii) Maker will have paid or Beneficiary will have received by reason of any voluntary prepayment by Maker of the Note and/or the Related Indebtedness, then it is Grantor's and Beneficiary's express intent that all amounts charged in excess of the Maximum Lawful Rate shall be automatically canceled, *ab initio*, and all amounts in excess of the Maximum Lawful Rate theretofore collected by Beneficiary shall be credited on the principal balance of the Note and/or the Related Indebtedness (or, if the Note and all Related Indebtedness have been or would thereby be paid in full, refunded to Maker), and the provisions of the Note and the other Loan Documents shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable laws, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder; provided, however, if the Note has been paid in full before the end of the stated term of the Note, then Grantor and Beneficiary agree that Beneficiary shall, with reasonable promptness after Beneficiary discovers or is advised by Grantor that interest was received in an amount in excess of the Maximum Lawful Rate, either

credit such excess interest against the Note and/or any Related Indebtedness then owing by Maker to Beneficiary and/or refund such excess interest to Maker. Grantor hereby agrees that as a condition precedent to any claim seeking usury penalties against Beneficiary, Grantor will provide written notice to Beneficiary, advising Beneficiary in reasonable detail of the nature and amount of the violation, and Beneficiary shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Maker or crediting such excess interest against the Note and/or the Related Indebtedness then owing by Maker to Beneficiary. All sums contracted for, charged, taken, reserved or received by Beneficiary for the use, forbearance or detention of any debt evidenced by the Note and/or the Related Indebtedness shall, to the extent permitted by applicable law, be amortized, prorated, allocated or spread, using the actuarial method, throughout the stated term of the Note and/or the Related Indebtedness (including any and all renewal and extension periods) until payment in full so that the rate or amount of interest on account of the Note and/or the Related Indebtedness does not exceed the Maximum Lawful Rate from time to time in effect and applicable to the Note and/or the Related Indebtedness for so long as debt is outstanding. In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to the Note and/or any of the Related Indebtedness. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Beneficiary to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration. The terms and provisions of this paragraph shall control and supersede every other term, covenant or provision contained herein, in any other Loan Document or in any other agreement between the Grantor and Beneficiary.

(b) Ceiling Election. To the extent that Beneficiary is relying on Chapter 303 of the Texas Finance Code to determine the Maximum Lawful Rate payable on the Note and/or any other portion of the Related Indebtedness, Beneficiary will utilize the weekly ceiling from time to time in effect as provided in such Chapter 303, as amended. To the extent United States federal law permits Beneficiary to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law, Beneficiary will rely on United States federal law instead of such Chapter 303 for the purpose of determining the Maximum Lawful Rate. Additionally, to the extent permitted by applicable law now or hereafter in effect, Beneficiary may, at its option and from time to time, utilize any other method of establishing the Maximum Lawful Rate under such Chapter 303 or under other applicable law by giving notice, if required, to Maker or Grantor as provided by such applicable law now or hereafter in effect.

(c) Definitions.

(i) As used herein, the term "Maximum Lawful Rate" shall mean the maximum lawful rate of interest which may be contracted for, charged, taken, received or reserved by Beneficiary in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that such law permits Beneficiary to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all Charges made in connection with the transaction evidenced by the Note and the other Loan Documents.

(ii) As used herein, the term "Charges" shall mean all fees, charges and/or any other things of value, if any, contracted for, charged, taken, received or reserved by Beneficiary in connection with the transactions relating to the Note and the other Loan Documents, which are treated as interest under applicable law.

(iii) As used herein, the term "Related Indebtedness" shall mean any and all indebtedness paid or payable by Maker or Grantor to Beneficiary pursuant to the Loan Documents or any other communication or writing by or between Maker or Grantor and Beneficiary related to the transaction or transactions that are the subject matter of the Loan Documents, except such indebtedness which has been paid or is payable by Maker to Beneficiary under the Note.

30. No Subsequent Waiver. No waiver of any default on the part of Maker or Grantor or breach of any of the provisions of this Deed of Trust or of any other instrument executed in connection with the indebtedness secured

hereby shall be considered a waiver of any other or subsequent default or breach, and no delay or omission in exercising or enforcing the rights and powers herein granted shall be construed as a waiver of such rights and powers, and likewise no exercise or enforcement of any rights or powers hereunder shall be held to exhaust such rights and powers, and every such right and power may be exercised from time to time. If any provision of this Deed of Trust is held to be illegal, invalid, or unenforceable under present or future laws effective while this Deed of Trust is in effect, the legality, validity, and enforceability of the remaining provisions of this Deed of Trust shall not be affected thereby, and in lieu of each such illegal, invalid, or unenforceable provision there shall be added automatically as a part of this Deed of Trust a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. If any of the liens, security interest or assignment of rents created by this Deed of Trust shall be invalid or unenforceable, the unsecured portion of the indebtedness shall be completely paid prior to the payment of the remaining and secured portion of such indebtedness and all payments made on account of such indebtedness shall be considered to have been paid on and applied first to the complete payment of the unsecured portion of such indebtedness.

31. (a) **Security Agreement.** With respect to any of the Collateral governed by the Uniform Commercial Code of the State of Texas (hereinafter called the "Code"), this Deed of Trust shall constitute a security agreement between Grantor as the debtor and Beneficiary as the secured party, and Grantor hereby grants to Beneficiary a security interest in such portion of the Mortgaged Property. Cumulative of all other rights of Beneficiary hereunder, Beneficiary shall have all of the rights conferred upon secured parties by the Code. Grantor will execute and deliver to Beneficiary all financing statements that may from time to time be required by Beneficiary to establish and maintain the validity and priority of the security interest of Beneficiary, or any modification thereof, and shall bear all costs and expenses of any searches reasonably required by Beneficiary. Beneficiary may exercise any or all of the remedies of a secured party available to it under the Code with respect to such property, and it is expressly agreed that if upon default Beneficiary should proceed to dispose of such property in accordance with the provisions of the Code, then five (5) days' notice by Beneficiary to Grantor shall be deemed to be reasonable notice under any provision of the Code requiring such notice; provided, however, that Beneficiary may at its option dispose of such property in accordance with Beneficiary's rights and remedies with respect to the real property pursuant to the provisions of this Deed of Trust, in lieu of proceeding under the Code. Additionally, but not in lieu of any other rights held by Beneficiary, Beneficiary may offset against any accounts or sums of Grantor held by Beneficiary up to the full amount of the indebtedness secured hereby, as the same becomes due.

(b) **Notice of Name, Etc.** Grantor shall give advance notice in writing to Beneficiary of any proposed change in Grantor's name, identity, or structure, and will execute and deliver to Beneficiary, prior to or concurrently with the occurrence of any such change, all additional financing statements that Beneficiary may require to establish and maintain the validity and priority of Beneficiary's security interest with respect to any Mortgaged Property described or referred to herein.

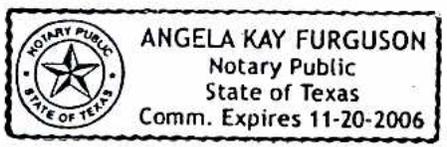
(c) **Fixtures.** Should some of the items of Mortgaged Property described herein be goods that are or are to become fixtures related to the real estate described herein, it is intended that, as to any such goods, this Deed of Trust shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the Mortgaged Property is situated. Information concerning the security interest created by this instrument may be obtained from Beneficiary, as secured party, at the address of Beneficiary stated above. The mailing address of the Grantor, as debtor, is as stated above.

32. **Corporate Existence.** Grantor, if a corporation, agrees that as long as it is the owner of the Mortgaged Property, it will do all things necessary to preserve and keep in full force and effect its existence, franchises, rights and privileges as a business or stock corporation under the laws of the state of its incorporation.

33. **Successors and Assigns.** The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto, and to any substitute Trustee. Whenever used, the singular number shall include the plural, the plural

STATE OF TEXAS §
 §
COUNTY OF ^{Collin} DALLAS §

This instrument was acknowledged before me on the 1 day of October, 2003, by Sheila L. Sawtelle.



Angela Kay Furguson
Notary Public, State of Texas

Exhibit "A"

BEING a tract of land situated in the William Lomax Survey, Abstract No. 792, Dallas County, Texas and located on Addison Municipal Airport, Addison, Texas and being more fully described as follows:

COMMENCING at a point for the intersection of the West right of way line of Addison Road, a 60 foot right of way, and the South right of way line of Westgrove Road, a 60 foot right of way;

THENCE South 89 degrees 54 minutes 46 seconds West along the South line of said Westgrove Road a distance of 730.00 feet to a point in the centerline of Claire Chennault Road (an undedicated 60 foot right of way);

THENCE South 00 degrees 05 minutes 14 seconds East along the centerline of Claire Chennault Road projected a distance of 301.36 feet to an angle point;

THENCE South 43 degrees 26 minutes 09 seconds West along the centerline of Claire Chennault Road projected a distance of 635.27 feet to an angle point in the centerline of Claire Chennault Road;

THENCE South 46 degrees 33 minutes 51 seconds East to the Southerly right of way of said Claire Chennault Road a distance of 30 feet to a $\frac{5}{8}$ " iron rod found at the beginning point of this description;

THENCE North 43 degrees 26 minutes 09 seconds East along the Southerly right of way line of said Claire Chennault Road a distance of 298.0 feet to a $\frac{3}{8}$ " iron rod set for corner;

THENCE South 46 degrees 33 minutes 51 seconds East a distance of 350 feet to the Northerly right of way line of taxiway (120 feet wide) to a god nail set for corner;

THENCE South 43 degrees 26 minutes 09 seconds West along the Northerly right of way of said taxiway, a distance of 298 feet to a god nail set for corner;

THENCE North 46 degrees 33 minutes 51 seconds West a distance of 350 feet to the beginning point and containing 2.394 acres of land or 104,300-square feet of land.

EXHIBIT 3

Proposed First Amendment to Ground Lease

STATE OF TEXAS §
 § **FIRST AMENDMENT TO GROUND LEASE**
COUNTY OF DALLAS §

This First Amendment to Ground Lease (hereinafter referred to as the "Amendment") is entered into and effective as of _____, 2004 by and between the Town of Addison, Texas, a municipal corporation (the "Landlord") and Raymond F. Sawtelle, Jr. & Sheila L. Sawtelle ("Tenant").

WHEREAS, on July 12, 1982 (the "Ground Lease"), by and among the Town of Addison, Texas, a municipal corporation (the "City", the same being the Town of Addison, Texas) and Addison Airport of Texas, Inc., a Texas corporation, as Landlord (the City now being the sole Landlord under the Lease, the "Base Lease" (as defined in the Ground Lease) having expired, and the City alone being referred to herein as the "Landlord") and Triple K Leasing, Inc., as tenant; the said Ground Lease then having been assigned to Tauscher & Associates, Inc., f/k/a Moss-Tauscher Associates, Inc. ("Tauscher"), by that Assignment of Lease entered into on December 12, 1984; the said Ground Lease then having been assigned by Tauscher to Raymond F. Sawtelle, Jr., and Sheila L. Sawtelle (together, the "Tenant") by that Assignment entered into on August 31, 1994, whereby Landlord leases to Tenant certain real property (the "Real Property") located at the Addison Airport in Dallas County, Texas, as specifically described in the Ground Lease (and being approximately 2.394 acres in Dallas County, Texas), and being generally described as the "Demised Premises" in the Terms and Conditions set forth in the Ground Lease.

WHEREAS, Landlord and Tenant desire to amend the Ground Lease in the manner set forth below.

NOW THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

Section 1. **Amendment to Section 9.** Section 9, subparagraph B. of the Ground Lease is hereby amended so that it shall hereafter read as follows:

- “B. Tenant shall have the right to mortgage the leasehold estate of Tenant created hereby in order to secure a mortgage loan for the purpose of (i) obtaining funds for the construction of the improvements described in paragraph 6, or (ii) for other construction upon the demised premises approved from time to time, in advance, by Landlord in writing, or (iii) for other purposes which may be approved from time to time, in advance, by Landlord in

writing. In the event that Tenant, pursuant to mortgages or deeds of trust, mortgages the leasehold estate of Tenant created hereby, the leasehold mortgagee shall in no event become personally liable to perform the obligations of Tenant under this Lease unless and until said mortgagee becomes the owner of the leasehold estate pursuant to foreclosure, transfer in lieu of foreclosure, or otherwise, and thereafter said leasehold mortgagee shall remain liable for such obligations only so long as such mortgagee remains the owner of the leasehold estate pursuant to mortgages or deeds of trust mortgages the leasehold estate. Notwithstanding the foregoing, it is specifically understood and agreed that no such mortgaging by Tenant and/or any actions taken pursuant to the terms of such mortgage shall ever relieve Tenant of Tenant's obligation to pay the rental due hereunder and otherwise fully perform the terms and conditions of this Lease."

Section 2. No Other "Amendments. Except to the extent modified or amended herein, all other terms and obligations of the Ground Lease shall remain unchanged and in full force and effect.

Section 3. Applicable Law; Venue. This Amendment shall be constructed under, and in accordance with, the laws of the State and all obligations of the parties created by this Amendment are performed in Dallas County, Texas. Venue for any action under this Amendment shall be in Dallas County, Texas.

Section 4. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Amendment on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

IN WITNESS WHEREOF, the undersigned parties execute this Agreement this _____ day of _____, 2004.

LANDLORD:

TOWN OF ADDISON, TEXAS

By: _____
Ron Whitehead, City Manager

TENANT:

**Raymond F. Sawtelle, Jr. &
Sheila L. Sawtelle**

By: _____
Raymond F. Sawtelle, Jr.

By: _____
Shelia L. Sawtelle

EXHIBIT 4: Valuation Worksheet

0650-4101	GL41	Ray and Sheila Sawtelle				
Monthly Rent		\$3,284.45				
Annual Rent	\$ 0.38	\$ 39,413.40	10% Discount Rate	\$ 0.42	43,890	
Begin Date		03/01/1983				
Ending Date		02/28/2023				
CPI	2 year		3.00%			
Land Area		104,500 SF				
Analysis Date		12/01/2003	\$ 13,137.80	12/01/2003	\$ 14,630.00	
Next Anni	0.00%	04/01/2004	\$ 39,413.40 \$0.38	04/01/2004	\$ 43,890.00 \$ 0.42	
	3.00%	04/01/2005	\$ 40,595.80 \$0.39	04/01/2005	\$ 45,206.70 \$ 0.43	
	0.00%	04/01/2006	\$ 40,595.80 \$0.39	04/01/2006	\$ 45,206.70 \$ 0.43	
	3.00%	04/01/2007	\$ 41,813.68 \$0.40	04/01/2007	\$ 46,562.90 \$ 0.45	
	0.00%	04/01/2008	\$ 41,813.68 \$0.40	04/01/2008	\$ 46,562.90 \$ 0.45	
	3.00%	04/01/2009	\$ 43,068.09 \$0.41	04/01/2009	\$ 47,959.79 \$ 0.46	
	0.00%	04/01/2010	\$ 43,068.09 \$0.41	04/01/2010	\$ 47,959.79 \$ 0.46	
	3.00%	04/01/2011	\$ 44,360.13 \$0.42	04/01/2011	\$ 49,398.58 \$ 0.47	
	0.00%	04/01/2012	\$ 44,360.13 \$0.42	04/01/2012	\$ 49,398.58 \$ 0.47	
	3.00%	04/01/2013	\$ 45,690.93 \$0.44	04/01/2013	\$ 50,880.54 \$ 0.49	
	0.00%	04/01/2014	\$ 45,690.93 \$0.44	04/01/2014	\$ 50,880.54 \$ 0.49	
	3.00%	04/01/2015	\$ 47,061.66 \$0.45	04/01/2015	\$ 52,406.96 \$ 0.50	
	0.00%	04/01/2016	\$ 47,061.66 \$0.45	04/01/2016	\$ 52,406.96 \$ 0.50	
	3.00%	04/01/2017	\$ 48,473.51 \$0.46	04/01/2017	\$ 53,979.16 \$ 0.52	
	0.00%	04/01/2018	\$ 48,473.51 \$0.46	04/01/2018	\$ 53,979.16 \$ 0.52	
	3.00%	04/01/2019	\$ 49,927.72 \$0.48	04/01/2019	\$ 55,598.54 \$ 0.53	
	0.00%	04/01/2020	\$ 49,927.72 \$0.48	04/01/2020	\$ 55,598.54 \$ 0.53	
	3.00%	04/02/2021	\$ 51,425.55 \$0.49	04/02/2021	\$ 57,266.50 \$ 0.55	
	0.00%	04/01/2022	\$ 51,425.55 \$0.49	04/01/2022	\$ 57,266.50 \$ 0.55	
	3.00%	02/28/2023	\$ 52,968.31 \$0.51	02/28/2023	\$ 58,984.49 \$ 0.56	
		\$ 877,385.32	Estimated Remaining Lease Obligation	\$ 977,039.33		
		\$365,349.90	PV of Future Years	\$406,846.59		
		\$12,712.88	PV of Current Year	\$14,156.81		
		\$378,062.78	Total NPV	\$421,003.40		

\$42,940.62	Est. NPV of Contract Rate in excess of Market Rate
\$ 495,000.00	Est. FMV of Improvements per DCAD
\$ 537,940.62	Leasehold Value (to Tenant)
\$378,062.78	Leasehold Estate (to Landlord)
<u>\$916,003.40</u>	Estimated FMV of Leased Premises
\$ 8.77	Per Square Foot
\$421,003.40	FMV of Land derived from leasehold interests
\$ 4.03	Per Square Foot

Council Agenda Item: #R14

SUMMARY:

Council approval is requested of an ordinance amending Section 2-74 Entertainment Expenses of the Town of Addison Code of Ordinances.

FINANCIAL IMPACT:

There is no financial impact associated with this item.

BACKGROUND:

The Town requires all employees to complete an entertainment voucher prior to receiving a reimbursement for entertainment expenses. The purpose of the entertainment voucher is to 1) adequately document expenses, and 2) prevent mismanagement of the Town's resources on entertainment expenses. According to the code of ordinances, the entertainment voucher only requires the Finance Director's signature if the reimbursement amount is less than \$50. The entertainment voucher also requires the signature of the City Manager if the reimbursement amount is greater than \$50. Council approval is required for any reimbursement of expenses greater than \$2,500.

After a review of this process, staff has determined that the code of ordinances does not address two key issues. First, only department directors are designated as eligible to receive a reimbursement of entertainment expenses in the code. The Town, however, has followed a policy over the past several years of allowing other Town employees to receive a reimbursement with the approval of their department director. Since there are a number of Town employees other than department directors that serve in key administrative roles, staff recommends that the code of ordinances be amended to allow all Town employees to receive a reimbursement for entertainment expenses with the approval of their department director.

Secondly, the code does not specifically address how an expense between \$500 and \$2,500 should be processed. In August 2002, the Council approval threshold was raised to \$2,500, but all of the appropriate sections of the code were not amended. Staff, therefore, recommends that the relevant sections of the code be amended so that the City Manager is authorized to reimburse an employee for an entertainment expenses in an amount not to exceed \$2,500.

The recommended amendments to the code of ordinances (Section 2-74) are identified in the attachment to this agenda item.

RECOMMENDATION:

Staff recommends that Council approve an ordinance amending Section 2-74 Entertainment Expenses of the Town of Addison Code of Ordinances.

TOWN OF ADDISON CODE OF ORDINANCES

Section 2-74 - Entertainment expenses

(a) All members of the city council, the city manager, and ~~department heads~~ **other Town employees** are authorized to incur reasonable expenses to entertain guests for the sole purpose of conducting town business or promoting the interests of the town.

(b) Officials are responsible for exercising discretion (i.e., having or showing discernment of good judgment in conduct) when incurring entertainment expenses.

(c) Prior to receiving reimbursement of incurred expenses, the town official shall explain the benefit the town received from the meeting or event at which entertainment expenses were incurred. The request for reimbursement as well as the explanation shall be made on forms maintained at the finance department. Receipts shall accompany all requests for reimbursement.

(d) All requests for reimbursement of entertainment expenses of less than \$50.00 by members of the city council, city manager, or ~~department heads~~ **other Town employees** shall be made directly to the director of finance. **If the Town employee is not a department head, the reimbursement request must be approved by the employee's department director prior to being submitted to the director of finance.**

(e) All requests for reimbursement of entertainment expenses in excess of \$50.00 and less than ~~\$500.00~~ **\$2,500** by members of the city council shall be approved by the mayor prior to submittal to the director of finance for processing.

(f) All requests for reimbursement of entertainment expenses in excess of \$50.00 and less than ~~\$500.00~~ **\$2,500** by the city manager or ~~department heads~~ **other Town Employees** shall be approved by the city manager prior to submittal to the director of finance for processing. **If the Town employee is not a department head, the reimbursement request must also be approved by the employee's department director prior to being submitted to the director of finance.**

(g) If it is anticipated that entertainment expenses will exceed \$2,500.00 for one event or occurrence, approval of the expenses prior to the event shall be made by the majority of the city council at a regularly scheduled meeting of the council.

(h) The city manager shall be responsible for the administration and proper enforcement of these policies.

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE CODE OF ORDINANCES OF THE CITY BY AMENDING CHAPTER 2 (ADMINISTRATION) THEREOF BY AMENDING SECTION 2-74 RELATING TO ENTERTAINMENT EXPENSES AS SET FORTH HEREIN; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Amendment. Chapter 2 (Administration) of the Code of Ordinances of the Town of Addison, Texas is hereby amended by amending the following sections thereof so that they shall hereafter read as follows:

Section 2-74 (“Entertainment expenses”) is hereby amended by amending subsections (a), (d), (e), and (f) thereof to read as follows:

“(a) All members of the city council, the city manager, and ~~department heads~~ other Town employees are authorized to incur reasonable expenses to entertain guests for the sole purpose of conducting town business or promoting the interests of the town.”

“(d) All requests for reimbursement of entertainment expenses of less than \$50.00 by members of the city council, city manager, or ~~department heads~~ other Town employees shall be made directly to the director of finance. If the Town employee is not a department head, the reimbursement request must be approved by the employee’s department director prior to being submitted to the director of finance.”

“(e) All requests for reimbursement of entertainment expenses in excess of \$50.00 and less than ~~\$500.00~~ \$2,500 by members of the city council shall be approved by the mayor prior to submittal to the director of finance for processing.”

“(f) All requests for reimbursement of entertainment expenses in excess of \$50.00 and less than ~~\$500.00~~ \$2,500 by the city manager or ~~department heads~~ other Town Employees shall be approved by the city manager prior to submittal to the director of finance for processing. If the Town employee is not a department head, the reimbursement request must also be approved by the employee’s department director prior to being submitted to the director of finance.

Section 2. Savings. This Ordinance shall be cumulative of all other ordinances of the City affecting the matters set forth in Section 1 above and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

Section 3. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 4. Effective Date. This Ordinance shall take effect from and after its date of passage and approval.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the ____ day of _____, 2004.

R. Scott Wheeler, Mayor

ATTEST:

By: _____
Carmen Moran, City Secretary

APPROVED AS TO FORM:

By: _____
Ken Dippel, City Attorney

Council Agenda Item: #R15

SUMMARY:

Council approval is requested of a resolution authorizing the staff and Council dinner expense associated with the Texas Municipal League (TML) conference.

FINANCIAL IMPACT:

Budgeted Amount: \$35,000 is budgeted in the Combined Services department for organization wide travel and training.

Cost: The total cost for the staff and Council dinner at the TML conference was \$2,663.80.

BACKGROUND:

Each year, the Council and staff are invited to attend a special dinner during the TML conference. The dinner provides an opportunity for staff and the Council to build productive relationships for the upcoming year. In addition, the dinner provides a forum to thank staff and the Council for all of their dedication and work from the past year.

The Town's entertainment policy allows for reasonable entertainment expenses to be incurred to conduct or facilitate city business. Expenses in excess of \$2,500 per event require a majority vote of the City Council. Typically, the Council is asked to approve any entertainment expense greater than \$2,500 in advance. Since staff did not anticipate that the cost of the dinner would be greater than \$2,500, however, staff did not request Council approval prior to the dinner. To comply with the entertainment policy, we are now requesting that the Council formally approve an entertainment expense in the amount of \$2,663.80 for the TML staff and Council dinner.

RECOMMENDATION:

Staff recommends that Council approve the resolution authorizing the staff and Council dinner expense associated with the TML conference.

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN EXPENDITURE IN THE AMOUNT OF \$2,663.80 FOR THE ANNUAL STAFF/COUNCIL DINNER AT THE TEXAS MUNICIPAL LEAGUE (TML) CONFERENCE.

WHEREAS, the Town’s entertainment policy allows for the incurring of reasonable expenses for the entertainment of guests needed to conduct or facilitate city business; and,

WHEREAS, expenses in excess of \$2,500 per event require a majority vote of the City Council; and,

WHEREAS, the annual staff/council dinner as part of the TML Conference, falls within the scope of the entertainment policy; and,

WHEREAS, the cost for the staff/council dinner totaled \$2,663.80; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

THAT, the City Council does hereby approve an entertainment expense for the purposes and in the amount as stated above.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this _____ day of January 2004.

R. Scott Wheeler, Mayor

ATTEST:

By: _____
Carmen Moran, City Secretary

APPROVED AS TO FORM:

By: _____
Ken Dippel, City Attorney