



## AGENDA

### REGULAR MEETING OF THE CITY COUNCIL

MAY 8, 2007

7:30 P.M.

TOWN HALL

5300 BELT LINE ROAD

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### REGULAR SESSION

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Item #R1 - Consideration of Old Business.

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Item #R2 - Consent Agenda.

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#2a - Approval of the Minutes for the April 17, 2007, Special Meeting and Work Session and the Minutes for the April 24, 2007, Council Meeting.

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Item #R3 - Presentation to Wipe Out Kids' Cancer of the proceeds generated through the 2007 Town of Addison Bowl-A-Thon.

Attachment:

1. Council Agenda Item Overview

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Item #R4 - Consideration of approval of the First Amendment to Existing Right-of-Way License and Use Agreement between the Town of Addison and RedMoon, Inc., to among other things allow RedMoon to upgrade their existing network in Addison to provide high-speed Internet Wi-Fi services to the residents and the business community, and authorizing the City Manager to execute the First Amendment, subject to the City Attorney's final approval.

Attachments:

1. Council Agenda Item Overview
2. First Amendment to Existing R.O.W. License and Use Agreement
3. Deployment Map
4. Deployment Plan

Administrative Recommendation:

Administration recommends approval.

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Item #R5 - **PUBLIC HEARING** and consideration of an Ordinance approving 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 for Case 1538-SUP/Café Astoria, 15701 Quorum Drive, represented by Ms. Teodora Arseva.

Attachments:

1. Staff Report
2. Docket Map
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on April 26, 2007, voted to recommend approval of the request on application from Café Astoria, subject to the following condition:

-The applicant shall not use any term or graphic depiction that relates to alcoholic beverages in any exterior signs.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay, Wood  
Voting Nay: None

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Absent: None

Administrative Recommendation:

Administration recommends approval.

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Item #R6 - **PUBLIC HEARING** and consideration of an Ordinance approving a Special Use Permit for a restaurant, Case 1539-SUP/Rise and Dine Restaurant, 4135 Belt Line Road, Suite 100, represented by Mr. Joseph Spates.

Attachments:

1. Staff Report
2. Docket Map
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on April 26, 2007, voted to recommend approval of the request on application from Rise and Dine Restaurant, subject to no conditions.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay, Wood

Voting Nay: None

Absent: None

Administrative Recommendation:

Administration recommends approval.

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Item #R7 - Presentation of Proclamation to Councilmember Diane Mallory.

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**EXECUTIVE SESSION**

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Item #ES1 - Closed (executive) session of the City Council, pursuant to Section 551.071 of the Texas Government Code, to conduct a private consultation with its attorney(s) to (i) seek the advice of its attorney(s) about pending litigation, to wit: *In re Calla Davis, et al*, Case No. 07-0147, Supreme Court of Texas, and (ii) on a matter in which the duty of the attorney(s) to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code, regarding and relating to the sale of alcoholic beverages, and including House Bill No. 2957 and Senate Bill 1735 filed with the 80<sup>th</sup> Regular Session of the Texas Legislature.

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Item #ES2 - Closed (executive) session of the City Council, pursuant to Section 551.071 of the Texas Government Code, to conduct a private consultation with its attorney(s) to seek the advice of its attorney(s) regarding certain pending litigation, to wit: *The City of Addison, Texas v. Transcontinental Realty Investors, Inc., et al.*, No. 05-05-01554-CV, Fifth District Court of Appeals, Dallas, Texas, and on a matter in which the duty of the attorney(s) to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code, regarding and relating to matters concerning access to Addison Airport and including House Bill 2955 and Senate Bill 1462 filed with the 80<sup>th</sup> Regular Session of the Texas Legislature.

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Item #ES3 - Closed (executive) session of the City Council, pursuant to Section 551.071 of the Texas Government Code, to conduct a private consultation with its attorney(s) on a matter in which the duty of the attorney(s) to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code, regarding and relating to matters concerning and including the Dallas Area Rapid Transit 2030 Transit System Plan and the Cotton Belt Rail Line, and House Bill No. 107 filed with the 80<sup>th</sup> Regular Session of the Texas Legislature.

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Item #R8 - Discussion and consideration of any action in connection with or related to pending litigation, to wit: *In re Calla Davis, et al*, Case No. 07-0147, Supreme Court of Texas, and/or relating to the sale of alcoholic beverages, and including House Bill No. 2957 and Senate Bill 1735 filed with the 80<sup>th</sup> Regular Session of the Texas Legislature.

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Item #R9 - Discussion and consideration of any action regarding pending litigation, to wit: *The City of Addison, Texas v. Transcontinental Realty Investors, Inc., et al*, No. 05-05-01554-CV, Fifth District Court of Appeals, Dallas, Texas, and/or regarding and relating to matters concerning access to Addison Airport, including House Bill 2955 and Senate Bill 1462 filed with the 80<sup>th</sup> Regular Session of the Texas Legislature.

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Item #R10 - Discussion and consideration of any action in connection with or related to the Dallas Area Rapid Transit 2030 Transit System Plan and the Cotton Belt Rail Line, and House Bill No. 107 filed with the 80<sup>th</sup> Regular Session of the Texas Legislature.

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Adjourn Meeting

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Posted:  
May 4, 2007 at 5:00 p.m.  
Mario Canizares - 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  
SPECIAL MEETING AND WORK SESSION**

April 17, 2007  
6:30 P.M.  
Town Hall  
5300 Belt Line Road  
Addison, Texas

Present: Mayor Chow, Councilmembers Braun, Hirsch, Kraft, Mallory and Mellow

Absent: Councilmember Niemann

At 6:41 P.M., Mayor Chow announced that Council would convene into Executive Session to discuss the following Item:

Item #ES1 - Closed (executive) session of the City Council pursuant to Section 551.071, Texas Government Code, to conduct a private consultation with its attorney(s) on a matter in which the duty of the attorney(s) to the Town Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Tex. Gov. Code, regarding and relating to the Addison Airport fuel farm.

The Council came out of Executive Session at 7:14 P.M.

Item #WS1 - Discussion and consideration of any action regarding and relating to the Addison Airport fuel farm.

No action was taken on this Item.

Item #WS2 - Discussion regarding RedMoon Broadband, Incorporated's proposed amendment to the existing non-exclusive agreement for wi-fi services between Addison and RedMoon.

Hamid Khalehipour reported on RedMoon Broadband, Incorporated's proposed amendment to the existing non-exclusive agreement for wi-fi services between Addison and RedMoon.

Item #WS3 - Discussion re proposed change of zoning from UC - Commercial sub-district to UC - Residential sub-district, and approval of a concept and preliminary development plan, located on 3.918 acres at the southeast corner of Airport Parkway and Quorum Drive, on application from Intervest Ventures Group (Case 1534-Z – Intervest Ventures Group).

Ron Whitehead and Carmen Moran led the discussion on the proposed change of zoning from UC - Commercial sub-district to UC - Residential sub-district, and approval of a concept and preliminary development plan, located on 3.918 acres at the southeast corner of Airport Parkway and Quorum Drive, on application from Intervest Ventures Group (Case 1534-Z – Intervest Ventures Group).

There being no further business, the meeting was adjourned at 8:44 P.M.

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Mayor

Attest:

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City Secretary

**OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL  
WORK SESSION**

April 24, 2007  
6:30 P.M. – Town Hall  
5300 Belt Line Road  
Upstairs Conference Room

Present: Mayor Chow, Councilmembers Braun, Hirsch, Kraft, Mallory, Mellow and Niemann

Absent: None

Work Session

Item #WS1 - Presentation and discussion regarding relocating the Historic Addison Train Depot to the Town of Addison and related matters.

Nancy Cline led the discussion regarding relocating the Historic Addison Train Depot to the Town of Addison and related matters.

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

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Secretary



**OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL  
REGULAR SESSION**

April 24, 2007  
7:30 P.M. – Town Hall  
5300 Belt Line Road  
Council Chambers

Present: Mayor Chow, Councilmembers Braun, Hirsch, Kraft, Mallory, Mellow and Niemann

Absent: None

Regular Session

Item #R1 - Consideration of Old Business.

The following employees were introduced to the Council: Tim Hastings with the Environmental Health Department, Jack Burns with the Police Department, Justin Bass with the City Manager's Office and Cedric Gray with the Utilities Department.

Mike Gillen with the Police Department gave a report on his participation in the 2007 World Police and Fire Games in Australia.

Item #R2 - Consent Agenda.

Items #2a, #2b and #2c were considered separately.

#2a - Approval of the Minutes for the April 10, 2007, Council Meeting. (Approved with one correction)

Councilmember Chow moved to duly approve the Minutes for April 10, 2007, to include one correction.

Councilmember Kraft seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann

Voting Nay: None

Absent: None

#2b - Consideration and approval to authorize the City Manager to approve a resolution amending the Town of Addison's Purchasing Manual to clarify provisions regarding change orders, contingency budgets and to allow electronic submission of bids and proposals.

#2c - Consideration and approval to authorize the City Manager to establish a contingency budget for the Addison Road capital project.

Councilmember Niemann moved to duly table Items #2b and #2c.

Councilmember Braun seconded. The motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann  
Voting Nay: None  
Absent: None

#2d - Consideration and approval to authorize the City Manager to enter into a contract with Northstar Construction, Inc., for miscellaneous pavement repairs to various streets for \$139,900.

Councilmember Mallory moved to duly authorize the City Manager to enter into a contract with Northstar Construction, Inc., for miscellaneous pavement repairs to various streets for \$139,900.

Councilmember Niemann seconded. The motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann  
Voting Nay: None  
Absent: None

Item #R3 - Consideration and approval to authorize the City Manager to enter into an Early Termination of Ground Lease Agreement with, and acquisition of, the Omniflight Helicopters, Inc., Ground Lease 0080-2501 at 15809 Addison Road on Addison Airport.

Councilman Mallory moved to duly authorize the City Manager to enter into an Early Termination of Ground Lease Agreement with, and acquisition of, the Omniflight Helicopters, Inc., Ground Lease 0080-2501 at 15809 Addison Road on Addison Airport.

Councilmember Niemann seconded. The motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann  
Voting Nay: None  
Absent: None

Item #R4 - Consideration and approval of a Contract of Sale in an amount not to exceed \$40,000, by and between Mark Hitchcock d/b/a Hitchcock House Movers, as seller, and the Town of Addison, as buyer, regarding the Town's purchase, move and all permitting costs of the historic Addison Train Depot building.

Councilman Mellow moved to duly approve of a Contract of Sale by and between Mark Hitchcock d/b/a Hitchcock House Movers, as seller, and the Town of Addison, as buyer,

regarding the Town's purchase of the historic Addison Train Depot building.

Councilmember Kraft seconded. The motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann

Voting Nay: None

Absent: None

Item #R5 - Consideration of and approval to authorize the City Manager to execute a master agreement with Cunningham Architects.

Councilmember Niemann moved to duly authorize the City Manager to execute a master agreement with Cunningham Architects, subject to City Attorney's approval.

Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann

Voting Nay: None

Absent: None

Item #R6 - Consideration and approval to authorize the City Manager to enter into an agreement with Cunningham Architects to assist with the Belt Line Road redevelopment plan in an amount not to exceed \$50,000.

Councilmember Mallory moved to duly authorize the City Manager to enter into an agreement with Cunningham Architects to assist with the Belt Line Road redevelopment plan in an amount not to exceed \$50,000.

Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann

Voting Nay: None

Absent: None

Item #R7 - Consideration and approval of an Ordinance to amend Section 78-165, which section designates certain no parking and permitted parking areas, by amending the table designating streets on which stopping, standing, or parking, except at certain times, is allowed by modifying the provisions for LeGrande Drive, by removing the allowance to stop, stand or park on the east side of 14700 and 14701 of LeGrande Drive.

Councilmember Braun moved to duly approve Ordinance No. 007-011 to amend Section 78-165, which section designates certain no parking and permitted parking areas, by amending the table designating streets on which stopping, standing, or parking, except at certain times, is allowed by modifying the provisions for LeGrande

Drive, by removing the allowance to stop, stand or park on the east side of 14700 and 14701 of LeGrande Drive.

Councilmember Kraft seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann  
Voting Nay: None  
Absent: None

Item #R8 - **PUBLIC HEARING**, discussion and consideration of approval of a change of zoning from UC - Commercial sub-district to UC - Residential sub-district, and approval of a concept and preliminary development plan, located on 3.918 acres at the southeast corner of Airport Parkway and Quorum Drive, on application from Intervest Ventures Group, represented by Mr. David Simmons (Case 1534-Z – Intervest Ventures Group).

Mayor Chow continued the public hearing. There were no questions or comments. Mayor Chow closed the meeting as a public hearing.

The Applicant presented a Letter of Withdrawal.

Councilmember Kraft moved to duly withdraw Item #R8, **PUBLIC HEARING**, discussion and consideration of approval of a change of zoning from UC - Commercial sub-district to UC - Residential sub-district, and approval of a concept and preliminary development plan, located on 3.918 acres at the southeast corner of Airport Parkway and Quorum Drive, on application from Intervest Ventures Group, represented by Mr. David Simmons (Case 1534-Z – Intervest Ventures Group).

Councilmember Hirsch seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow  
Voting Nay: None  
Abstained: Niemann

At 8:35 P.M., Mayor Chow announced that Council would convene 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 conduct a private consultation with its attorney(s) to (i) seek the advice of its attorney(s) about pending litigation, to wit: *In re Calla Davis, et al*, Case No. 07-0147, Supreme Court of Texas, and (ii) on a matter in which the duty of the attorney(s) to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code, regarding and relating to the sale of alcoholic beverages, and including House Bill No. 2957 and Senate Bill 1735 filed with the 80<sup>th</sup> Regular Session of the Texas Legislature.

No action was taken on this item. The item was withdrawn by Staff.

Item #ES2 - Closed (executive) session of the City Council, pursuant to Section 551.071 of the Texas Government Code, to conduct a private consultation with its attorney(s) to seek the advice of its attorney(s) regarding certain pending litigation, to wit: *The City of Addison, Texas v. Transcontinental Realty Investors, Inc., et al.*, No. 05-05-01554-CV, Fifth District Court of Appeals, Dallas, Texas, and on a matter in which the duty of the attorney(s) to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code, regarding and relating to matters concerning access to Addison Airport and including House Bill 2955 and Senate Bill 1462 filed with the 80<sup>th</sup> Regular Session of the Texas Legislature.

Item #ES3 - Closed (executive) session of the City Council, pursuant to Section 551.071 of the Texas Government Code, to conduct a private consultation with its attorney(s) on a matter in which the duty of the attorney(s) to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code, regarding and relating to matters concerning and including the Dallas Area Rapid Transit 2030 Transit System Plan and the Cotton Belt Rail Line, and House Bill No. 107 filed with the 80<sup>th</sup> Regular Session of the Texas Legislature.

No action was taken on this item. The item was withdrawn by Staff.

The Council came out of Executive Session at 8:58 P.M.

Item #R9 - Discussion and consideration of any action in connection with or related to pending litigation, to wit: *In re Calla Davis, et al*, Case No. 07-0147, Supreme Court of Texas, and/or relating to the sale of alcoholic beverages, and including House Bill No. 2957 and Senate Bill 1735 filed with the 80<sup>th</sup> Regular Session of the Texas Legislature.

No action was taken on this item. The item was withdrawn by Staff.

Item #R10 - Discussion and consideration of any action regarding pending litigation, to wit: *The City of Addison, Texas v. Transcontinental Realty Investors, Inc., et al.*, No. 05-05-01554-CV, Fifth District Court of Appeals, Dallas, Texas, and/or regarding and relating to matters concerning access to Addison Airport, including House Bill 2955 and Senate Bill 1462 filed with the 80<sup>th</sup> Regular Session of the Texas Legislature.

No action was taken on this item.

Item #R11 - Discussion and consideration of any action in connection with or related to the Dallas Area Rapid Transit 2030 Transit System Plan and the Cotton Belt Rail Line, and House Bill No. 107 filed with the 80<sup>th</sup> Regular Session of the Texas Legislature.

No action was taken on this item. The item was withdrawn by Staff.

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

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Secretary

**Council Agenda Item: #R3**

**SUMMARY:**

Staff requests a presentation to Wipe Out Kids' Cancer as a result of the efforts of the 3<sup>rd</sup> Annual Town of Addison Bowl-A-Thon.

**FINANCIAL IMPACT:**

Revenue Budgeted Amount:           None

Expenses Budgeted Amount:         None

**BACKGROUND:**

On April 12, 2007, the 3<sup>rd</sup> Annual Bowl-A-Thon as held as a fundraiser for Wipe Out Kids' Cancer. This event was coordinated through the Town's Employee Action Committee. Since 2005, the Town of Addison along with sponsors and local businesses has been able to raise over \$15,800 for Wipe Out Kids' Cancer.

The end results of this year's efforts resulted in donations of over \$9,000. Once expenses were paid, the actual contribution to Wipe Out Kids' Cancer was \$8,062.84. A representative from Wipe Out Kids' Cancer will be in attendance at the May 8<sup>th</sup> City Council meeting to receive a check from the Town of Addison.

2007 Bowl-A-Thon Statistics

Money Raised	\$9,990.84
Expenses	\$1,863.00
Total Donation	\$8,127.84

Total Bowlers:

Addison Employees:	114
Wipe Out Kids Cancer Ambassadors/Family:	45
Non-Addison Employees:	51
Total Participants:	210

Council Agenda Item: #R4

**SUMMARY:**

This item is to request the Council's approval of an amendment to an existing Right-of-Way License and Municipal Facilities Use Agreement to allow RedMoon to upgrade their network. Copies of the amendment and deployment plan are attached.

**FINANCIAL IMPACT:**

Budgeted Amount: \$0

Cost of upgrade paid by vendor: N/A

**BACKGROUND:**

The Town of Addison WiFi initiative started in 2003 and was planned to be deployed in two (2) phases,

- 1) Implementing WiFi services at the Addison Conference Centre and Theatre and upon successful deployment of the 1<sup>st</sup> phase,
- 2) Expanding the services to the residents and the business community in the final phase.

In February of 2005, Council approved RedMoon as the implementer for the 2<sup>nd</sup> phase. RedMoon was one of the five (5) vendors who submitted a proposal to enter into a non-exclusive franchise agreement with Addison to deploy WiFi services in Addison. The intent of their proposal was to introduce the Town to a new and exciting technology that enabled the Town to offer an affordable alternative wireless broadband network to its residents and business. The goal was to enhance productivity for residents, and act as an incentive to continue to attract the strong business community that Addison is known for.

This upgrade should eliminate RedMoon's ongoing problems with the current wireless network equipment provider. It also puts RedMoon in a better situation to provide stronger signal, broader coverage, multi-tier rate plan, and services (e.g. VOIP, Offer content with dedicated Town of Addison Splash Page which will be focused on news and events within the Town of Addison only).



The major difference between the proposed amendment and the original contract is the revenue sharing calculation...

**RECOMMENDATION:**

Staff recommends that the Council authorize the City Manager to amend the existing contract between the Town of Addison and RedMoon inc., to allow RedMoon to upgrade their existing network in Addison to provide high-speed Internet services to the residents and business community subject to the City Attorney's final approval...

# First Amendment to Right-of-Way License and Municipal Facilities Use Agreement

This First Amendment to the Right-of-Way License and Municipal Facilities Use Agreement (the "First Amendment") is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2007 by and between RedMoon Broadband, Inc., a Delaware corporation ("RedMoon") and the Town of Addison, Texas (the "City") (RedMoon and the City are sometimes referred to herein together as the "parties" and separately as a "party").

## Recitals:

1. RedMoon and the City entered into a Right-of-Way License and Municipal Facilities Use Agreement dated February 17, 2005 (the "License Agreement") regarding the provision by RedMoon within the City of a wireless broadband digital data communications radio network, popularly known as "Wi-Fi," utilizing Radios (as defined in the License Agreement) and related equipment certified by the Federal Communications Commission. A true and correct copy of the License Agreement is attached to this First Amendment as Exhibit A.

2. RedMoon desires to upgrade and enhance the Wi-Fi system and used and utilized and RedMoon's Services provided within the City, including, without limitation, the installation of new Radios.

3. In connection with the upgraded and enhanced Wi-Fi system, RedMoon and the City desire to modify and amend the License Agreement as set forth in this First Amendment.

**NOW, THEREFORE**, for and in consideration of the above and foregoing recitals and other good and valuable consideration, the sufficiency of which is hereby acknowledged, RedMoon Broadband, Inc. and the Town of Addison, Texas, do hereby agree as follows:

Section 1. Incorporation of Recitals. The above and foregoing recitals are true and correct and are incorporated herein and made a part hereof for all purposes.

### Section 2. Amendment.

A. Subject to all of the provisions, terms and conditions of the Agreement, the term of the License Agreement as set forth in Section 2 thereof is hereby extended so that it shall expire and end on February 28, 2012, unless it is earlier terminated by either party in accordance with the provisions of the License Agreement.

B. The Municipal Rights-of-Way Use Rental Fee and Municipal Facility Use Fee, as defined and described in Section 4.1 of the License Agreement and in Exhibit A attached to and incorporated into the License Agreement, is modified and amended so that, from and after \_\_\_\_\_, 2007 the Municipal Rights-of-Way Use Rental Fee and Municipal Facility Use Fee shall be calculated in accordance with and as set forth in Exhibit B to this First Amendment.

C. Section 11.19 of the License Agreement (captioned "City's Notice of Wi-Fi Service Availability") is deleted in its entirety and shall have no further force or effect.

D. The speed of Wi-Fi Services in and throughout the City (in its present or future boundaries) shall, no later than \_\_\_\_\_, 200\_\_, be enhanced over the Wi-Fi network.

Further, RedMoon shall offer and provide throughout the City multi-tier Services (e.g. Mbps, 3Mbps, 6Mbps, etc.) for both business and residents of the City.

Section 3. RedMoon Services. In addition to all other provisions, requirements, conditions and standards set forth in the License Agreement, RedMoon shall provide the Wi-Fi network and system and Services within the City in accordance with the provisions, standards, and conditions set forth in Exhibit C attached hereto and incorporated herein.

Section 4. Miscellaneous.

A. The initial-letter capitalized terms and other terms used herein shall have the same meanings as set forth in the License Agreement.

B. This First Amendment creates no rights, title or interest in any Person whatsoever (whether under a third party beneficiary theory or otherwise) other than RedMoon and the City.

Section 5. No Other Amendments. Except to the extent modified or amended herein, all other terms, conditions, standards, and obligations of the License Agreement shall remain unchanged and in full force and effect.

Section 6. Authority to Execute. The undersigned officers and/or agents of the Town and Hand hereto are the properly authorized officials and have the necessary authority to execute this First Amendment on behalf of each of the respective parties.

Section 7. Effective Date. This First Amendment shall be deemed effective as of the date first set forth above.

**IN WITNESS WHEREOF**, the undersigned hereto have executed this First Amendment to the to the Right-of-Way License and Municipal Facilities Use Agreement as of the day and year first written above.

<b>REDMOON BROADBAND, INC.</b>	<b>TOWN OF ADDISON, TEXAS</b>
By: _____	By: _____
Typed/printed name: _____	Ron Whitehead
Title: _____	City Manager
<u>Date:</u> _____	<u>Date:</u> _____

## **EXHIBIT A**

[Copy of License Agreement]

## **Exhibit B**

**Amendment to** Exhibit A attached to the License Agreement:

**Municipal Rights-of-Way Use Rental Fee and Municipal Facility Use Fee as Compensation paid to the City**

A. As compensation to be paid to the Town Of Addison in consideration of RedMoon's use of Municipal Rights-of-Way and Easements and placements of Radios on Municipal Facilities RedMoon agrees it will compensate the Town of Addison on a monthly basis, 30 days after the end of the month, by paying the following sums (in addition to the minimum monthly Municipal Facility Use Fee as set forth herein):

1. 0.00 % of the first \$25,000 of Adjusted Gross Revenue of each month is to be paid to the City, and,

2. 25% of the monthly Adjusted Gross Revenue greater than \$25,000 is to be paid to the City each month.

B. The Municipal Rights-of-Way Use Rental Fee and Municipal Facility Use Fee shall continue accrual from and after the effective date of the First Amendment and shall end accrual on the date of termination of this License Agreement. Within thirty (30) days after the termination of this License Agreement, compensation shall be paid for the period elapsing since the end of the last month for which compensation has been paid.

C. RedMoon shall furnish to the City with each payment of compensation required by this section and License Agreement a statement, executed by an authorized officer of RedMoon or his or her designee, showing the amount of Adjusted Gross Revenues as applicable, for the period covered by the payment. If RedMoon discovers any error in the correct amount of compensation due, the City shall be paid within thirty (30) days of discovery of the error or determination of the correct amount. Any overpayment to the City through error or otherwise shall be refunded or offset against the next payment due. Acceptance by the City of any payment due under this section and License Agreement shall not be deemed to be a waiver by the City of any breach of this License Agreement occurring prior thereto, nor shall the acceptance by the City of any such payments preclude the City from later establishing that a larger amount was actually due or from collecting any balance due to the City.

D. Notwithstanding the fees set out above, there shall be a minimum monthly Municipal Facility Use Fee for the placement of Radios and related equipment on Municipal Facilities which accrues at the time of placement of the Radio on Municipal Facilities and which shall be paid monthly, 30 days after the end of the previous month in which the attachment was made. Such minimum monthly fee shall be at either the rate calculated on utility poles and conduits in accordance with the federal Pole Attachment Act, (47 USC Section 224), to the extent applicable, or the reasonable rental value of the other Municipal Facilities, as reasonably determined by the City, Whichever is greater. By way of example, and being subject to changes based on market rates, at the time of the execution of this License Agreement, the monthly minimal rate for an attachment to a municipal street light or pole per Radio would be \$30.00 annually per pole or street light, the minimum monthly fee for an attachment to a City structure, such as a City building per site would be \$ 4,000/annually. To the extent the minimum Municipal Facility Use Fee payment is paid to the City, it may be taken as a credit against subsequent Municipal Rights-of-Way Use Rental Fee and Municipal Facility Use Fee payments to the City under section A above.

E. With each monthly payment RedMoon shall also submit a report in substantially the same form as is attached as Exhibit A.1. Entitled, "REDMOON, INC., TOWN OF ADDISON REMITTANCE FORM MONTHLY MUNICIPAL RIGHTS-OF-WAY USE FEE AND MUNICIPAL FACILITY USE FEE." Such form may be modified by the City to ensure proper compensation validation.

## **EXHIBIT C**

### **Coverage:**

- Outdoor coverage will be provided for a minimum of 95% of all developed areas of the Town. An area is considered covered under this requirement if a laptop, handheld or other personal computing device - equipped with a minimum of a built-in 802.11b/g (Wi-Fi) interface - can access the network at the provisioned service level with no additional hardware required beyond the device's standard wireless interface.

### **Multi-Use:**

- The Network will support concurrent usage by Addison, residents, businesses, institutions and visitors to the Town.
- The Network will support the logical segmentation of different "domains" of users (e.g. secure and/or open access for public users, residential users, business users, etc.). This will include the ability to define and manage different profiles (e.g. VLANs) for authentication, encryption and other service characteristics based on the requirements of each user-domain.
- The Network will support the ability to prioritize traffic for government usage as required by the Town.

### **Open Access:**

- The Network will support unilateral, inbound roaming relationships whereby subscribers to other Wi-Fi roaming services may gain access to the Network.
- The Network will support unilateral, outbound roaming relationships whereby subscribers to the Network may gain access to other fee-based Wi-Fi roaming services.

- No client software that is specific to the Network Operator or Service Provider(s) shall be required on PCs, laptops, or other mobile devices in order to use the Network.

### **Marketing Plan:**

- RedMoon should effectively market the network and services to small, medium and large businesses throughout Addison; non-profit organizations and institutions; and residents on a fair, reasonable and non-discriminatory basis.

### **Customer Service and Network Support:**

- Tier 1 Customer Service for all services will be provided to all customers. Tier 1 Support will provide subscribers with phone, web, e-mail and instant messaging support options.
- Tier 2 Customer Service and Support will be provided to all customers. Tier 2 support should be provided 24 hours a day, 7 days a week. Tier 2 Support must provide subscribers with phone and email support options.
- The Network must be monitored and supported 24 hours a day, 7 days a week continuously.

### **Network Upgrade Requirement:**

- It is imperative that Wi-Fi service to Addison customers not be interrupted during the upgrade process. If the upgrade is accomplished and achieves satisfactory results, the Town may consider utilizing the system for some of its other needs, with appropriate compensation to RedMoon.
- In connection with any upgrade, the agreement between the Town of Addison and RedMoon establishes among other things the maximum size and number of radios which may be employed by RedMoon, and those maximums cannot be exceeded without the Town's written permission.



# **RedMoon city wide mesh upgrade for Town of Addison**

## **Deployment Plan**

The objective of this plan is to provide a high level plan as to how RedMoon plans to replace the existing Tropos Mesh Network with a SkyPilot Mesh Network with minimum, if any downtime for customers.

### **PHASE 1**

#### **Pre Deployment:**

- 1: Build and test DHCP server and Redundant EMS server s.
- 2: Program EMS with Gateway, Extender and SkyAccess Profiles.
- 3: Perform pre deployment testing of provisioning system in Lab.
- 4: Perform pre deployment testing of DHCP system in Lab.
- 5: Perform total system integration testing of all elements in Lab.

#### **Deployment Prep:**

- 1: Program Firewall in Data Center for EMS Servers.
- 2: Deploy EMS Servers in Data Center.
- 3: Deploy SkyPilot DHCP Server in Addison head end.
- 4: Deploy Backhaul Radios on Spectrum for Gateway Backhaul.
- 5: Install Gateways with backhaul radios in Addison.
- 6: Perform Channel Planning for Network based on Gateway RF Scans.
- 8: Update profiles for each zones channel plan.
- 7: Test Backhaul Network.
- 8: Test Gateway Provisioning.
- 9: Implement channel Plan for Mesh Network.

#### **North Zone Deployment:**

1: Deploy Key DualBand Extenders to locations where we can have both units installed.

2: Test Propagation in North Zone.

4: Test Customer WiFi connectivity using a hidden test SSID.

3: Turn on moonoveraddison SSID on North Zone Profiles.

4: Replace all Tropos Units with DualBand Extenders and SkyAccess Units for North Zone.

5: Perform Drive Test to find RF gaps.

6: Deploy additional SkyAccess Units to fill gaps.

7: Perform Additional Drive Test to verify all gaps are filled.

## **PHASE 2**

### **Central Zone Deployment**

1: Deploy Key DualBand Extenders to locations where we can have both units installed.

2: Test Propagation in Central Zone.

4: Test Customer WiFi connectivity using a hidden test SSID.

3: Turn on moonoveraddison SSID on North Zone Profiles.

4: Replace all Tropos Units with DualBand Extenders and SkyAccess Units for Central Zone.

5: Perform Drive Test to find RF gaps.

6: Deploy additional SkyAccess Units to fill gaps.

## **PHASE 3**

### **West Zone Deployment**

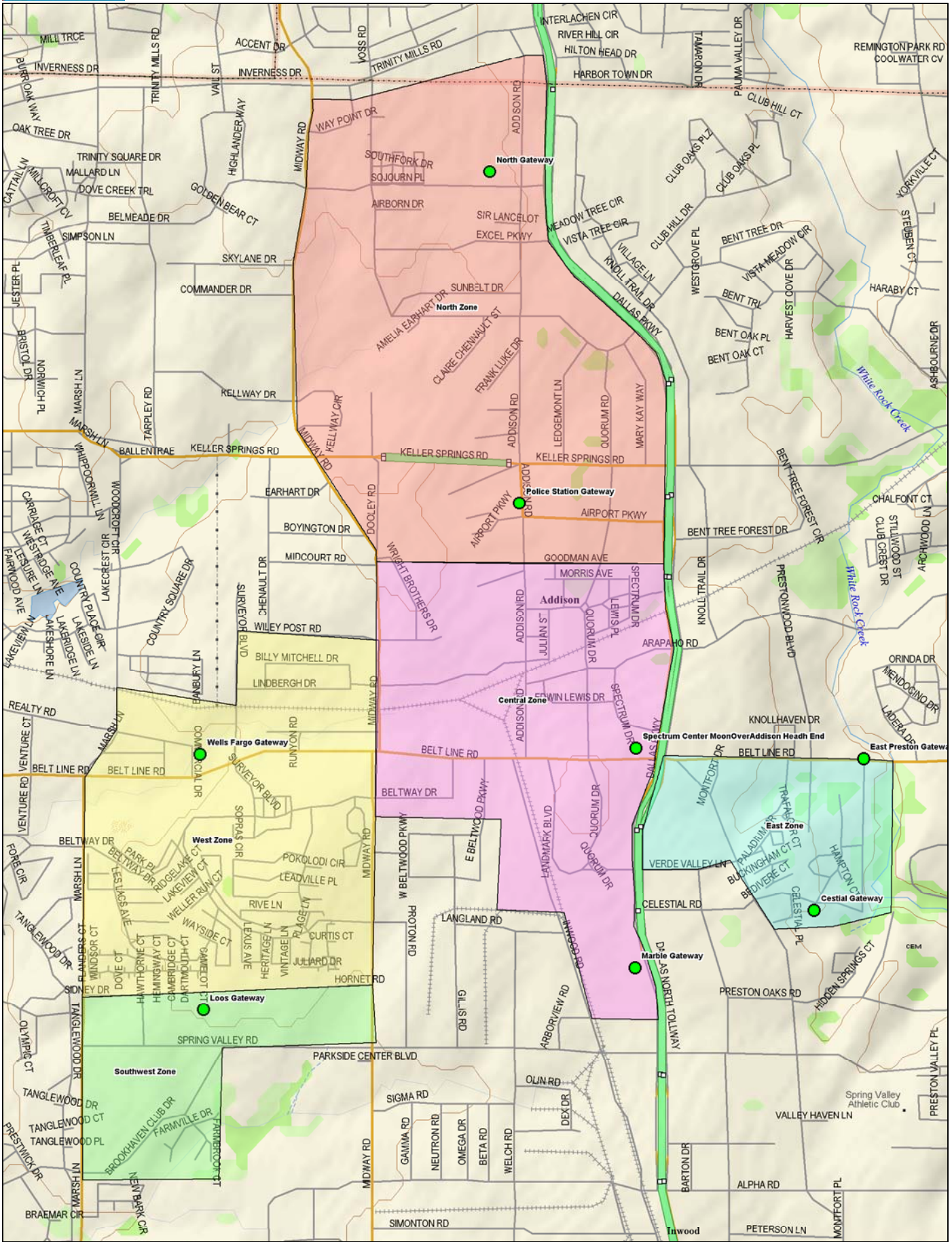
1: Deploy Key DualBand Extenders to locations where we can have both units installed.

- 2: Test Propagation in West Zone.
- 4: Test Customer WiFi connectivity using a hidden test SSID.
- 3: Turn on moonoveraddison SSID on West Zone Profiles.
- 4: Replace all Tropos Units with DualBand Extenders and SkyAccess Units for West Zone.
- 5: Perform Drive Test to find RF gaps.
- 6: Deploy additional SkyAccess Units to fill gaps.

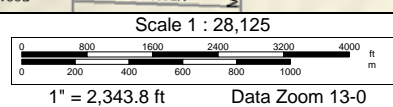
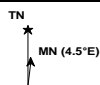
#### **PHASE 4**

##### **Southwest Zone Deployment**

- 1: Deploy DualBand Extenders and SkyAccess Units.
- 2: Test Propagation in Southwest Zone.
- 4: Test Customer WiFi connectivity using a hidden test SSID.
- 3: Turn on moonoveraddison SSID on Southwest Zone.
- 4: Perform Drive Test to find RF gaps.
- 5: Deploy additional SkyAccess Units to fill gaps.



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**PLANNING AND ZONING COMMISSION  
NOTICE OF HEARING**

- CASE NO:** 1538-SUP/Café Astoria
- LOCATION:** 15701 Quorum Drive
- APPLICANT:** Ms. Teodora Arsoua
- REQUESTING:** 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
- PURPOSE:** So as to re-open the former Blimpie's Sandwich Shop, with a coffee/dessert shop which will sell wine and beer.

A public hearing to consider the above noted case has been scheduled before the PLANNING AND ZONING COMMISSION on:

**THURSDAY, APRIL 26, 2007  
6:00 p.m.**

The hearing will be held in the Council Chambers of the Addison Town Hall at 5300 Belt Line Road, Addison, Texas. Plans, drawings, and reports submitted by the applicant are available for public inspection at the Addison Service Center, 16801 Westgrove Drive (972-450-2886).

The Commission desires that all persons interested in the matter be informed of the public hearing. Even if you do not wish to testify on this matter, you and your neighbors are invited to attend.

Respectfully submitted,

Carmen Moran  
Director of Development Services

April 19, 2007

STAFF REPORT

RE: Case 1538-SUP/Café Astoria

LOCATION: 15701 Quorum Drive

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

APPLICANT: Care Astoria, represented by Ms. Teodora Arseva

DISCUSSION:

Background. This lease space is located in Building C of Phase I of Addison Circle. The lease space is at the northwest corner of Quorum Drive and Morris Avenue. It was originally opened as a Blimpie's Sandwich Shop, which was approved by the Council on November 11, 1997, through Ordinance 097-050. Blimpie's did not serve alcohol, and it had only a Special Use Permit for a restaurant.

At this point, Café Astoria wants to re-open the former Blimpie's as a coffee shop which would also sell panini sandwiches and bakery items. Café Astoria is making only minor modifications to the interior of the space, and could take it over with an administrative approval. However, Café Astoria also wants to sell beer and wine, and coffee drinks with liqueurs, such as Irish coffees. Therefore, Café Astoria needs a Special Use Permit for the sale of alcoholic beverages for on-premises consumption.

Proposed Plan. The floor plan shows a 1,316 square foot restaurant. The restaurant will be open for lunch and dinner. The restaurant will have a fast/casual concept, with orders taken at a counter. The restaurant will feature fresh-brewed coffees, panini sandwiches, and bakery items. Blimpie's did not have any outside dining. However, this restaurant is proposing to add some tables and chairs outside the restaurant. The tables and chairs appear to occupy about 200 square feet.

Façade. The applicant is not proposing any changes to the exterior facades, but may add decorative awnings to the space.

Parking. The parking requirement for this restaurant is figured at a 1/100 ratio, which means that the restaurant needs 15 (1,316 + 200 in patio) spaces. There is sufficient parking in Addison Circle for this restaurant. However, the applicant should be aware that his required parking spaces are located in garages throughout the district and are not located in front of his business. The spaces in front of and adjacent to this lease space are public street spaces, for use by all residents and visitors to the district. They cannot be marked off, reserved, or designated for his exclusive use.

Food Service Code. The applicant should be advised that the restaurant will be subject to all regulations contained in the Addison Food Service Ordinance.

Signage. The applicant has not shown signs on the plans. He should be advised that all signs for the restaurant must comply with the requirements of the Addison Sign Ordinance. In addition, the Town has a policy against the use of any term or graphic depiction that relates to alcoholic beverages in any exterior signs.

RECOMMENDATION:

Staff recommends approval of the amendment to the existing Special Use Permit for a restaurant and the Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following condition:

-The applicant shall not use any term or graphic depiction that relates to alcoholic beverages in any exterior signs.

Respectfully submitted,

Carmen Moran  
Director of Development Services



COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on April 26, 2007, voted to recommend approval of the request on application from Café Astoria, subject to the following conditions:

-The applicant shall not use any term or graphic depiction that relates to alcoholic beverages in any exterior signs.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay, Wood

Voting Nay: None

Absent: None

April 30, 2007

Ms. Teodora Arseva  
T.N. Management LLC  
7707 Cliffbrook Drive  
Dallas, TX 75254

RE: Case 1538-SUP/Café Astoria

Dear Ms. Arseva:

Please be advised that the Addison Planning and Zoning Commission, meeting in regular session on April 26, 2007, voted to recommend approval of your request subject to the following condition:

-The applicant shall not use any term or graphic depiction that relates to alcoholic beverages in any exterior signs.

Your request has been scheduled for City Council action on:

**TUESDAY, May 8, 2007  
7:30 P.M.  
COUNCIL CHAMBERS  
ADDISON TOWN HALL  
5300 BELT LINE ROAD**

The agenda for this meeting is available on our web site at [www.ci.addison.tx.us](http://www.ci.addison.tx.us) at least 72 hours prior to the meeting. You or your representative should attend this meeting. Please contact me at 450-7018 if you need additional information.

Sincerely,

Carmen Moran  
Director of Development Services



**PLANNING AND ZONING COMMISSION  
NOTICE OF HEARING**

**CASE NO:** 1539-SUP/Rise and Dine Restaurant  
**LOCATION:** 4135 Belt Line Road, Suite 100  
**APPLICANT:** Mr. Joseph Spates  
**REQUESTING:** Approval of a Special Use Permit for a restaurant.  
**PURPOSE:** So as to open a Rise and Dine Restaurant in this lease space.

A public hearing to consider the above noted case has been scheduled before the PLANNING AND ZONING COMMISSION on:

**THURSDAY, APRIL 26, 2007  
6:00 p.m.**

The hearing will be held in the Council Chambers of the Addison Town Hall at 5300 Belt Line Road, Addison, Texas. Plans, drawings, and reports submitted by the applicant are available for public inspection at the Addison Service Center, 16801 Westgrove Drive (972-450-2886).

The Commission desires that all persons interested in the matter be informed of the public hearing. Even if you do not wish to testify on this matter, you and your neighbors are invited to attend.

Respectfully submitted,

Carmen Moran  
Director of Development Services

April 20, 2007

STAFF REPORT

RE: Case 1539-SUP/Rise and Dine  
Restaurant

LOCATION: 4135 Belt Line Road, Suite 100

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

APPLICANT: Best Thai Restaurant, represented by  
Mr. Kunya Chaiuwan

DISCUSSION:

Background. This lease space is located in the shopping center that recently opened at 4135 Belt Line Road. This is the fourth restaurant tenant the Commission has seen for this center. The other three tenants are Which Wich Superior Sandwiches, Berry Berry Yogurt, and Best Thai Restaurant.

A Rise and Dine Restaurant is being proposed for the lease space on the west end of the westernmost building in the center. Rise and Dine is a new concept for this area. It will be a morning and lunch restaurant, similar to Benedict's. The restaurant will be a full-service restaurant with waiter service. It will not serve alcohol.

Proposed Plan. The floor plan shows a 2,628 square foot restaurant with seating for 97 customers. There is not any patio or outside dining shown on the plan.

Façade. There will be no changes to the existing façade of the shopping center.

Parking. The parking requirement for this restaurant is figured at a 1/100 ratio, which is 21 spaces. The owners have provided 346 total parking spaces in the center. At a 1/200 ratio, the center would only require 227 spaces. There were 119 extra spaces that could be allocated to restaurants. Which Wich? took 17 space, Berry Berry Yogurt took 13 more, and Best Thai took 21. This restaurant will take an additional 26 spaces.

Therefore, there are 42 spaces left in the center that can be allocated to restaurant use. The center has sufficient parking for this use.

Landscaping. Landscaping for the center has been installed and complies with the requirements of the ordinance.

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

Building Code. Lynn Chandler, the Building Official, notes that the exit doors shown by the applicant are not far enough apart to meet code. The applicant should be advised that he will be required to meet all requirements of the Building Code.

Signage. The applicant has not shown signs on the plans. He should be advised that all signs for the restaurant must comply with the requirements of the Addison Sign Ordinance.

RECOMMENDATION:

Staff recommends approval of the Special Use Permit for a restaurant subject to no conditions.

Respectfully submitted,

Carmen Moran  
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on April 26, 2007, voted to recommend approval of the request on application from Rise and Dine Restaurant, subject to no conditions.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Ley, Wood

Voting Nay: None

Absent: None

April 30, 2007

Mr. Joseph Spates  
671 Table Rick Drive  
Prosper, TX 75078

RE: Case 1539-SUP/Rise and Dine Restaurant

Dear Mr. Spates:

Please be advised that the Addison Planning and Zoning Commission, meeting in regular session on April 26, 2007, voted to recommend approval of your request subject to no conditions.

Your request has been scheduled for City Council action on:

**TUESDAY, MAY 8, 2007**  
**7:30 P.M.**  
**COUNCIL CHAMBERS**  
**ADDISON TOWN HALL**  
**5300 BELT LINE ROAD**

The agenda for this meeting is available on our web site at [www.ci.addison.tx.us](http://www.ci.addison.tx.us) at least 72 hours prior to the meeting. You or your representative should attend this meeting. Please contact me at 450-7018 if you need additional information.

Sincerely,

Carmen Moran  
Director of Development Services



**Council Agenda Item:#R7**

**There are no attachments for this item.**

**Council Agenda Item:#ES1**

**There are no attachments for this item.**

**Council Agenda Item: #ES2**

**There are no attachments for this item.**

**Council Agenda Item: #ES3**

**There are no attachments for this item.**

**Council Agenda Item:#R8**

**There are no attachments for this item.**

**Council Agenda Item:#R9**

**There are no attachments for this item.**

**Council Agenda Item: #R10**

**There are no attachments for this item.**