



**CITY OF THE COLONY  
CITY COUNCIL MEETING AGENDA  
TUESDAY, FEBRUARY 2, 2016  
6:30 PM**

**TO ALL INTERESTED PERSONS:**

Notice is hereby given of a **REGULAR SESSION** of the **CITY COUNCIL** of the City of The Colony, Texas to be held at **6:30 PM** on **Tuesday, February 2, 2016** at **CITY HALL, 6800 MAIN STREET, THE COLONY, TEXAS**, at which time the following items will be addressed:

**1.0. ROUTINE ANNOUNCEMENTS, RECOGNITIONS AND PROCLAMATIONS**

- 1.1. Call to Order
- 1.2. Invocation
- 1.3. Pledge of Allegiance to the United States Flag
- 1.4. Salute to the Texas Flag
- 1.5. Items of Community Interest
- 1.5.1. Presentation from the Library Director regarding current and upcoming programs, events, and service improvements (Library, Sveinsson)

**2.0. WORK SESSION** - The Work Session is for the purpose of exchanging information regarding public business or policy. No action is taken on Work Session items. Citizen input will not be heard during this portion of the agenda.

- 2.1. Discuss aspects of a possible future ordinance implementing restrictions city-wide for cell phone use while driving other than hands-free and provide direction to staff (Terre, McCourry)
- 2.2. Discuss current status of the city's designated newspaper and options for publishing legal notices and provide direction to staff (City Secretary, Wilson)
- 2.3. Discuss temporary contractor signs and provide direction to staff (General Admin, Perez)
- 2.4. Discuss and provide an update on Water's Edge Easement (Development Services, Joyce)
- 2.5. Discuss 2016 Liberty By The Lake location and other logistics (PARD, Nelson)
- 2.6. Council to provide direction to staff regarding future agenda items (Council)

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<sup>1</sup> These items are strictly public service announcements. Expressions of thanks, congratulations or condolences; information regarding holiday schedules; honorary recognition of city officials, employees or other citizens; reminders about upcoming events sponsored by the City or other entity that are scheduled to be attended by a city official or city employee. No action will be taken and no direction will be given regarding these items.

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**3.0. CITIZEN INPUT**

3. CITIZEN INPUT - This portion of the meeting is to allow up to five (5) minutes per speaker with a maximum of thirty (30) minutes for items not posted on the current agenda. The council may not discuss these items, but may respond with factual data or policy information, or place the item on a future agenda. Those wishing to speak shall submit a Request Form to the City Secretary.

- 4.0. CONSENT AGENDA** - The Consent Agenda contains items which are routine in nature and will be acted upon in one motion. Items may be removed from this agenda for separate discussion by a Council member.

- 4.1. Consider approving meeting minutes for city council meeting held January 19, 2016 (City Secretary, Wilson)
- 4.2. Consider approving a resolution authorizing the revision to the Hazard Mitigation Action Plan (Fire, Thompson)
- 4.3. Consider approving a resolution authorizing the city manager to execute a Professional Services Agreement with Dunkin Sims Stoffels, Inc. for the design development, bid specifications and construction observation for the design and construction of a section of Park Loop Trail from Squires Street to North Colony Boulevard with funding provided by the Community Development Corporation (PARD, Morgan)
- 4.4. Consider approving a resolution authorizing the city manager to execute a Professional Services Agreement with Halff Associates, Inc. for the development of a Citywide Hike and Bike Trails Master Plan with funding provided by the Community Development Corporation (PARD, Morgan)
- 4.5. Consider authorizing a migration of the City's internal email system to Microsoft's Cloud services platform, O365 (General Admin, Shallenburger)

**5.0. REGULAR AGENDA ITEMS**

- 5.1. Conduct a public hearing, discuss and consider an ordinance approving text amendments to "Exhibit "B," Permitted Land Uses by Category, to add certain land uses to the Austin Ranch Planned Development Design Standards (Development Services, Joyce)
- 5.2. Conduct a public hearing, discuss and consider approving an ordinance amending the Code of Ordinances, Appendix A, "Zoning", Section 10A, "Gateway Overlay District Regulations," to add retail/commercial/office areas at South Colony Boulevard and Paige Road and the southwest corner of Kisor Drive and Paige Road into the Gateway Overlay District (Development Services, Joyce)

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- 5.3. Conduct a public hearing, discuss and consider approving an ordinance amending the Code of Ordinances, Appendix A, "Zoning", Section 17, Site Plan Approvals and Special Development Standards regarding Exterior Building Materials allowed in the Single Family (Section 17-106), Multiple Family and Non-Residential Zoning Districts (Section 17-106.1) (Development Services, Joyce)
  - 5.4. Conduct a public hearing, discuss and consider an ordinance amending the Code of Ordinances, Appendix A, "Zoning", Section 10-2207, to revise the distance requirements between bar, lounge or tavern, or beverage stores (Development Services, Joyce)
  - 5.5. Conduct a public hearing, discuss and consider an ordinance approving a request for a Specific Use Permit (SUP) to allow The Thirsty Growler, a brew pub, for on and off-site consumption of alcoholic beverages located at 5733 SH 121, Suite 230, in Planned Development 16 (PD-16) zoning district and consider approving an ordinance revoking the SUP Ordinance No. 99-1135 for Star Liquor located at 5749 SH 121 (Development Services, Joyce)
  - 5.6. Conduct a public hearing, discuss and consider an ordinance approving a Specific Use Permit (SUP) application for an Auto Repair Garage (inside) use, for Quality Car Care located at 5204 South Colony Boulevard within the Shopping Center (SC) zoning district (Development Services, Joyce)
  - 5.7. Conduct a public hearing, discuss and consider approving an ordinance readopting Chapter 13, Article III, Sections 13-31 through 13-37 of the Code of Ordinances regarding Curfew Hours for Minors (Police, Coulon)
  - 5.8. Discuss and consider a request to waive the 2016 lease fees for Stewart Peninsula Golf Course to allow for reinvestment of those funds in flood and infrastructure repairs at the facility (PARD, Nelson)
  - 5.9. Discuss and consider approving an ordinance amending the Code of Ordinance, Chapter 6, Article III, entitled "Minimum Housing and Building Standards Code", by amending section 6-89(A) of the code of ordinances, entitled "Proceedings," by establishing the quorum requirement for the Building and Standards Commission (General Admin, Perez)

#### **6.0. EXECUTIVE SESSION**

- 6.1.
  - A. Council shall convene into a closed executive session pursuant to Section 551.071 of the TEXAS GOVERNMENT CODE to consult with the city attorney regarding magistration of prisoners, setting of bonds, and personal recognizance bond issues.
  - B. Council shall convene into a closed executive session pursuant to Section 551.071 of the TEXAS GOVERNMENT CODE to seek legal advice from the city attorney regarding a contract with Atlantic Hotels.

C. Council shall convene into a closed executive session pursuant to Section 551.071 of the TEXAS GOVERNMENT CODE to see legal advice from the city attorney regarding a Hawaiian Falls Waterpark Ground Lease Operating Agreement and related documents.

D. Council shall convene into a closed executive session pursuant to Sections 551.071 and 551.087 of the TEXAS GOVERNMENT CODE to seek legal advice from the city attorney, and to deliberate commercial or financial information the City has received from a business prospect, and to deliberate the offer of a financial or other incentive to a business prospect – Grandscape and The Colony Public Improvement District No. 1 matter.

E. Any action as a result of executive session.

Pursuant to the Texas Open Meeting Act, Government Code Chapter 551 one or more of the above items may be considered in executive session closed to the public, including but not limited to consultation with attorney pursuant to Texas Government Code Section 551.071 arising out of the attorney's ethical duty to advise the city concerning legal issues arising from an agenda item. Any decision held on such matter will be taken or conducted in open session following the conclusion of the executive session.

### ***ADJOURNMENT***

Persons with disabilities who plan to attend this meeting who may need auxiliary aids such as interpreters for persons who are deaf or hearing impaired, readers or, large print are requested to contact the City Secretary's Office, at 972-624-3105 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.

### **CERTIFICATION**

I hereby certify that above notice of meeting was posted outside the front door of City Hall by 5:00 p.m. on the 28<sup>th</sup> day of January, 2016.



*Christie Wilson*  
Christie Wilson, TRMC, City Secretary

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Presentation from the Library Director regarding current and upcoming programs, events, and service improvements (Library, Sveinsson)

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**Background:**

**Purpose:**

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Discuss aspects of a possible future ordinance implementing restrictions city-wide for cell phone use while driving other than hands-free and provide direction to staff (Terre, McCourry)

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**Background:**

**Purpose:**

During the January 19, 2016 city council meeting Councilmember Terre requested a future work session discussion item regarding restricting hands-on cell phone use while driving.

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

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**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Discuss current status of the city's designated newspaper and options for publishing legal notices and provide direction to staff (City Secretary, Wilson)

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**Background:**

The city's designated newspaper is the Lewisville/Flower Mound Neighbors Go that has been published by the Denton Record Chronicle and inserted in the Friday editions of the Dallas Morning News in our area. On January 15, 2016 we were notified that the Dallas Morning News is reorganizing and has eliminated the Neighbors Go publications.

**Purpose:**

To inform city council of recent changes to our designated newspaper.

**Issues:**

**Alternatives:**

1. The city's resolution designating the Neighbors Go as our primary means of publicizing legal notices includes a back-up plan to advertise in the Denton Record Chronicle. Therefore we can use the Denton Record Chronicle which will satisfy the state requirements.
2. In addition, set up a Legal Notices page on our city web-site as a means of further notifying our citizens.
3. As staff deems appropriate, we can duplicate our advertising in the Colony Courier-Leader (along with Denton Record Chronicle) as a means to assure distribution of information to our residents. Duplicating all notices would be quite expensive.
4. Many of our legal notices are already posted on the city hall bulletin board and we can implement that for all if desired.

**Recommendations:**

**Attachments:**

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Discuss temporary contractor signs and provide direction to staff (General Admin, Perez)

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**Background:**

**Purpose:**

Staff has seen an increase in the number of temporary residential contractor signs e.g. tree removal, roof repair, etc. being placed in resident's yards after a job has been completed with the signs remaining well after the job has been completed. There are currently no provisions within the sign ordinance regulating this type of signage and staff is seeking direction on whether council would prefer to see some type of time limitation the signs could be displayed.

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Discuss and provide an update on Water's Edge Easement (Development Services, Joyce)

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**Background:**

**Purpose:**

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

Water Edge Easement Info

**Agenda Item 2.4**  
**Update on The Water's Edge Road and Utility Easement**  
**February 2, 2016**

During the annexation process in 2012-2013, the Blue Water's Edge Subdivision Homeowners Association (WEHOA) was made aware that the U.S. Army Corps of Engineers (Corps) easement for Waters Edge Drive had expired in 2007. Water's Edge Drive provides the primary access road, as well as, the primary emergency access to the subdivision. Also located within the Corp Easement and City right-of-way are City of The Colony potable water, sanitary sewer and storm sewer lines which serve the subdivision.

The portion of the street that is within the Corps easement is depicted in the attachment as Segment A. This segment is required to be maintained by the WEHOA since it is not in the City Limits. Road Segments B and C are on property and right-of-way under the control of the City of The Colony.

In speaking with the Corps in 2015, they are not opposed to granting a new easement for this road and utilities. The Corps indicated that the easement area will need to be resurveyed by a Texas registered surveyor with a new legal description and drawing being created. As was accomplished with the previous easement, the Corps of Engineers must work with the governmental entity who has jurisdiction over the land located within the easement, which is Denton County. City staff has been in contact with the Denton County Commissioner's office, which continues to support the issuance a new Corps easement for the Water's Edge subdivision.

The road is to remain open to the public, the Corps indicated there will be a "cost" associated with granting the new easement. All costs will be covers by the Blue Water's Edge Homeowners Association (WEHOA). Additionally, a License Agreement between the City of The Colony and the WEHOA outlining the WEHOA's responsibility for the maintenance of landscaping, entry gate and gate entry podium, irrigation system, signage and entry features be executed for roadway Segments A, B also must occur.

On January 21, 2016, the City staff held a meeting with representatives of the Blue Water's Edge Subdivision Homeowners Association at City Hall. At this meeting, the WEHOA committed to contacting a surveyor to prepare a new survey for use by the Corps of Engineers to issue a new road and utility easement through Denton County for the benefit of the WEHOA. in order to begin the process of acquiring a new road and utility easements through the Corps of Engineers. On January 25, 2016, the Planning staff forwarded the previous road easement information to representatives of the WEHOA for their use.



Roadway Detail

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Discuss 2016 Liberty By The Lake location and other logistics (PARD, Nelson)

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**Background:**

**Purpose:**

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Council to provide direction to staff regarding future agenda items (Council)

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**Background:**

**Purpose:**

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Consider approving meeting minutes for city council meeting held January 19, 2016 (City Secretary, Wilson)

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**Background:**

**Purpose:**

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**  
Meeting Minutes

**MINUTES OF COUNCIL REGULAR SESSION  
HELD ON  
JANUARY 19, 2016**

**The Regular Session of the City Council of the City of The Colony, Texas, was called to order at 6:32 p.m. on the 19th day of January, 2016, at City Hall, 6800 Main Street, The Colony, Texas, with the following roll call:**

Joe McCourry	Mayor	Present
Kirk Mikulec	Mayor Pro-Tem	Present
Richard Boyer	Councilmember	Present
Brian R. Wade	Councilmember	Present (6:55 p.m.)
David Terre	Councilmember	Present
Perry Schrag	Councilmember	Present
Joel Marks	Councilmember	Present (6:36 p.m.)

And with five council members present a quorum was established and the following items were addressed:

**1.0. ROUTINE ANNOUNCEMENTS, RECOGNITIONS AND PROCLAMATIONS**

- 1.1. Call to Order – 6:32 p.m.
- 1.2. Invocation – First United Methodist Church
- 1.3. Pledge of Allegiance to the United States Flag
- 1.4. Salute to the Texas Flag
- 1.5. Recognize The Colony High School National Art Honor Society Students for their work on a mural at The Colony Recreation Center (PARD, Swain) *David Swain recognized work performed at The Colony Recreation Center by the students of The Colony High School National Art Honor Society. Mayor McCourry presented certificates to the students.*

(Councilmember Marks arrived at 6:36 p.m.)

- 1.6. Items of Community Interest
  - 1.6.1. Receive presentation from Parks and Recreation regarding upcoming events and activities (PARD, Stansell) *Lindsey Stansell provided current and upcoming events and activities to the council.*

**2.0. WORK SESSION** - The Work Session is for the purpose of exchanging information regarding public business or policy. No action is taken on Work Session items. Citizen input will not be heard during this portion of the agenda.

- 2.1. Receive presentation and discuss Fire Department facilities, personnel and equipment needs (Fire, Thompson)

*Chief Thompson provided an overview of council expectations and fire department needs assessment for 2016. Councilmember Mikulec made a suggestion in regards to testifying before the legislation next session, for City Manager Troy Powell and Councilmember Boyer to meet with Chief Thompson to discuss safety and response times for our first responders. Mr. Powell advised that matters regarding public safety will be discussed in depth at the next city council retreat. Council provided brief discussion on this item and requested staff to report back with information on the following:*

1. *Average cost of mutual aid*
2. *Cost for fire inspection*
3. *System redundancies*
4. *Broadcasting technology (versus outdoor early warning sirens)*

(Councilmember Wade arrived at 6:55 p.m.)

- 2.2. Council to provide direction to staff regarding future agenda items (Council)  
*Councilmember Terre requested a future agenda item for information and discussion on no texting while driving throughout the city of The Colony.*

### **3.0. CITIZEN INPUT**

3. CITIZEN INPUT - This portion of the meeting is to allow up to five (5) minutes per speaker with a maximum of thirty (30) minutes for items not posted on the current agenda. The council may not discuss these items, but may respond with factual data or policy information, or place the item on a future agenda. Those wishing to speak shall submit a Request Form to the City Secretary. **NONE**

- 4.0. CONSENT AGENDA** - The Consent Agenda contains items which are routine in nature and will be acted upon in one motion. Items may be removed from this agenda for separate discussion by a Council member.

- 4.1. Consider approving city council meeting minutes for January 5, 2016 (City Secretary, Wilson)
- 4.2. Consider approving city council expenditures for November 2015 (Council)
- 4.3. Consider approving a resolution authorizing the city manager to execute a contract amendment in the amount of \$71,032.79 with Mario Sinacola & Sons Excavating, Inc. for Construction of Phase 2 of the South Colony Boulevard Grade Separation at the Sam Rayburn Tollway/SH 121 (Engineering, Scruggs)

***Motion to approve- Marks; second by Wade; motion passed with all ayes.***

### **5.0. REGULAR AGENDA ITEMS**

- 5.1. Discuss and consider a request from the Mothers Opposing Bullying organization to receive a portion of the gate fees at Stewart Creek Park to help offset their costs to conduct their event at the park on April 2nd, 2016 (PARD, Nelson)  
*Pam Nelson reviewed the Mothers Opposing Bullying organization request to receive a portion of the gate fees at Stewart Creek Park. Discussion on this item was provided in*

*regards to the entry fee after 5:00 p.m. City Attorney Jeff Moore stated in light of the discussion, he would recommend council establish an agreement which will outline the details. Mayor McCourry asked if vendors or other organizations that utilize park properties provide a percentage back to the city. Pam stated that a flat fee is assessed to the vendors and organizations to attend city events.*

*[Councilmember Schrag stepped out at 7:43 p.m. and returned at 7:45 p.m.]*

*[Councilmember Marks stepped out at 7:53 p.m. and returned at 7:56 p.m.]*

***Motion to deny- Schrag; second by Wade; motion passed with all ayes except for David Terre who abstained.***

- 5.2. Discuss and consider approving an ordinance amending the Code of Ordinances, Chapter 19, by adding Section 19-27, entitled "Use of Wireless Communication Devices in a Construction or Maintenance Work Zone" (General Admin, Shallenburger)  
*Brant Shallenburger presented the proposed ordinance to council. Councilmember Terre asked about adding additional signage in construction zones. Brant stated that TxDOT has provisions in place that regulate the requirements of signage on F.M. 423. After considerable discussion by Council the following motion was made.*

***Motion to approve-- Terre; second by Wade; motion failed with Terre, Wade and McCourry voting aye; Mikulec, Boyer, Schrag and Marks voted no.***

- 5.3. Discuss and consider approving an ordinance amending the Code of Ordinances by repealing in its entirety and replacing Chapter 15, Sections 15-1 to 15-12, entitled "Peddlers and Solicitors" (Police, Coulon)  
*Police Chief David Coulon reviewed the changes included in the proposed ordinance. Definitions of the Canvasser and Local Youth Organizations; 15-5: License Required and Exceptions; 15-10: Prohibited hours of Operation; and 15-11: Solicitation and Handbill Distribution sections.*

*Council discussed this item and the consensus was to amend section 15-10, Prohibited hours of Operations, to change the start time to 7:00 a.m.*

***Motion to approve- Wade; second by Schrag; motion passed with all ayes except for Perry Schrag who voted no.***

- 5.4. Discuss and consider approving a resolution authorizing the city manager to execute a contract amendment with VRX, Inc. for Construction Management Services for Phase 2 of the South Colony Boulevard Grade Separation at the Sam Rayburn Tollway/SH 121 (Engineering, Scruggs)  
*Gordon Scruggs briefed council on the proposed resolution to approve a contract amendment #1 with VRX, Inc. for an additional 22 weeks of services required to close out the project. [The South Colony ramps are scheduled to be open February 2016.] The additional cost of the project is \$251,300.00 and will be 100% funded by Denton County Regional Toll Revenues (RTR) from the tolling of SH 121.*

*Motion to approve- Mikulec; second by Schrag; motion passed with all ayes.*

*Executive session was convened at 8:25 p.m.*

**6.0. EXECUTIVE SESSION**

- 6.1. A. Council shall convene into a closed executive session pursuant to Section 551.071 of the TEXAS GOVERNMENT CODE to seek legal advice from the city attorney regarding a contract with Atlantic Hotels.
- B. Council shall convene into a closed executive session pursuant to Section 551.071 of the TEXAS GOVERNMENT CODE to see legal advice from the city attorney regarding a Hawaiian Falls Waterpark Ground lease Operating Agreement and related documents.
- C. Council shall convene into a closed executive session pursuant to Section 551.074 of the TEXAS GOVERNMENT CODE to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of Municipal Court Alternate Judge(s).

*Open session was reconvened at 9:45 p.m.*

*Item A- Motion to authorize the city attorney to send a letter to prepare documents as discussed in Executive Session t- Marks; second by Boyer; motion passed with all ayes except for Wade who was not present at the time of the vote.*

No action on Item B.

*Item C. Motion to approve appointing Holly Fox as Alternate Municipal Court Judge- Boyer; second by Schrag; motion passed with all ayes except for Wad who was not present at the time of the vote.*

And with no further business to discuss the meeting was adjourned at 9:48 p.m.

APPROVED:

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Joe McCourry, Mayor  
City of The Colony

ATTEST:

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Christie Wilson, TRMC  
City Secretary

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**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Discuss and consider approving a revision to the Hazard Mitigation Action Plan (Fire, Thompson)

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**Background:**

The Colony was one of only five cities to complete the process in 2011. There are twenty two cities that have completed the process for 2016. This plan has been approved by FEMA, and is only a plan, it is not a regulatory document and The Colony is not legally bound by it. Failure to complete this process would limit the amount of federal funds that The Colony would have access to in the event of a disaster.

**Purpose:**

The purpose of the hazard mitigation plan is to identify threats and actions to be taken to reduce long-term risk to people and property. A mitigation plan states the aspirations and specific courses of action that a community intends to follow to reduce vulnerability and exposure to future hazard events.

**Issues:**

**Alternatives:**

None

**Recommendations:**

Staff recommends the approval of this plan for the protection of the citizens of The Colony.

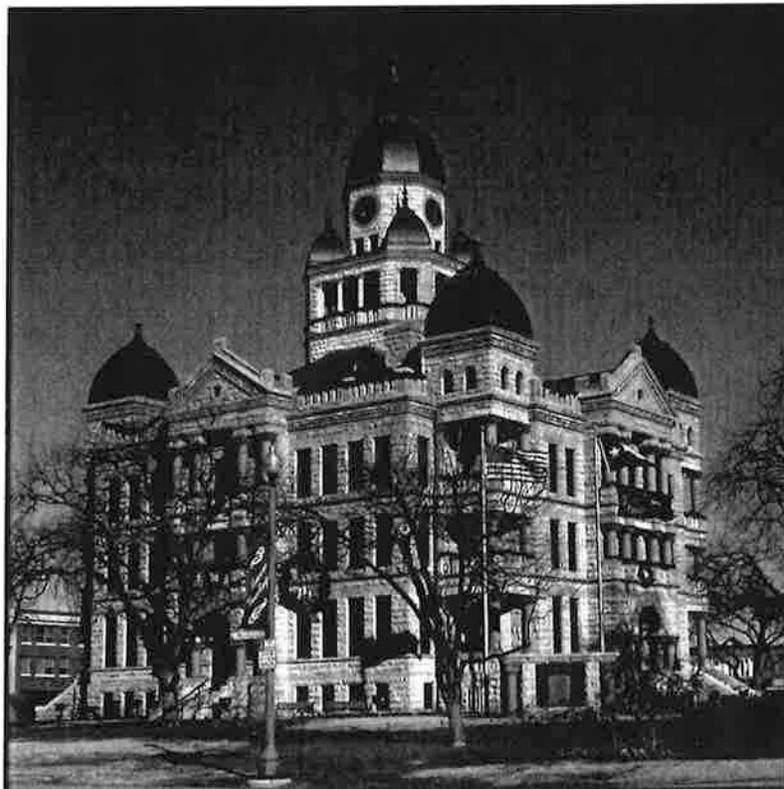
**Attachments:**

Hazard Mitigation Action Plan Revision



# Hazard Mitigation Action Plan

Denton County, Texas



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### Executive Summary

Mitigation is commonly defined as sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. Hazard mitigation focuses attention and resources on community policies and actions that will produce successive benefits over time. A mitigation plan states the aspirations and specific courses of action that a community intends to follow to reduce vulnerability and exposure to future hazard events. These plans are formulated through a systematic process centered on the participation of citizens, businesses, public officials, and other community stakeholders.

The planning area for this plan update is for Denton County, Texas and includes the following jurisdictions:

- Denton County (unincorporated)
- Town of Argyle\*
- City of Aubrey\*
- City of Corinth
- Town of Cross Roads\*
- City of Denton
- Town of Double Oak\*
- Town of Flower Mound\*
- Town of Hickory Creek\*
- City of Highland Village\*
- City of Justin\*
- City of Krugerville\*
- City of Krum\*
- City of Lake Dallas\*
- City of Lewisville
- Town of Little Elm\*
- City of Pilot Point\*
- Town of Ponder\*
- City of Roanoke\*
- City of Sanger\*
- Town of Shady Shores\*
- City of The Colony

*\*New jurisdiction that did not participate in the 2011 HazMAP.*

The contents of this plan update are designed and organized to be as reader-friendly and functional as possible. The structure and format of this plan has significantly changed from the initial Mitigation Plan that was adopted in 2011. However, the content or the base of information has been maintained.

As this plan is an update to the original plan, there have been developments and evolutions to the hazard mitigation strategy of Denton County. The first is the addition of new jurisdictions to the plan. Each jurisdiction's individual mitigation strategy is discussed in their annex. Those jurisdictions that participated in the 2011 HazMAP have their changes in development highlighted in their individual annex.

As the growth of Denton County has expanded since the previous version of the plan, the vulnerability analysis has changed. New hazards have been added, including:

- Expansive Soils
- Lightning

Discussion of these hazards, along with expanded discussion of all previously-included hazards, can be found in chapter 3.

The objectives of this updated plan remain the same as previous. These include:

- To save lives and reduce injuries.
- Minimize damage to buildings and infrastructure (especially critical facilities).
- Minimize economic losses

Further examination of the action items from the 2011 plan, including the status of each previous action item, can be found in Chapter 4 of the main plan. New action items for each jurisdiction are located in the jurisdictional annexes.

During the development phase of this updated planning document, the review team identified a number of changing priorities since the earlier plan. While the scope and intent of the 2011 priorities remain the same, some of the shifting priorities reflect external trends occurring, such as public perceptions and expectations, while others are indicative of new awareness and approaches to community mitigation strategies.

The 2011 Plan prescribed specific actions and assigned priorities, responsibilities, and resources for each. These were the previous priorities for the 2011 Plan:

- 1) Local Plans and Regulations, including: changes to plans and regulations across a variety of community departments and commissions for the purpose of strengthening future documents;
- 2) Structure and Infrastructure Projects, including: structure construction regulations, rights-of-way, land, housing, or utilities for public purposes, and road specifications; implementation of the Tornado Safe Room Rebate Program; development of extreme temperature shelters,
- 3) Natural Systems Protection, including: flood zone regulations, wildland fire planning and prevention, and acquisition of hazard prone land; studies to further identify hazard-prone areas,
- 4) Educations and Awareness Programs, including: systems to alert residents of impending hazard events, and public education programs to promote awareness of natural hazards and mitigation efforts,

The priorities from the 2011 plan remain the same, but have been modified and refined based on external and internal variables. These items highlight the major areas of priority refinement included in this new plan:

- Financial, Legal and Political Realities
  - The Denton County Hazard Mitigation Action Plan (HAZ-MAP) was updated to new standards by way of a regional grant. This provided the necessary financial assistance and the personnel from the North Central Texas Council of Governments (NCTCOG) to help organize the jurisdictions of Denton County as well as compile the data into a cohesive plan. Due to a grant that was provided in cooperation with the NCTCOG for the regional Safe Room Rebate Program, there was initial concern that only jurisdictions that were a part of or had their own HAZ-MAP would be eligible. This caused a concern from locally elected officials as well as this Office of Emergency Services. With the potential for thousands to millions of dollars being available post disaster through FEMA Public Assistance Grants it was prudent that the plan be updated to reflect current legal requirements and political realities.
- Changes in Hazard Focus
  - Denton County has not changed the overall focus on hazards but has updated the likelihood of an occurrence based on new data from past meteorological and archival

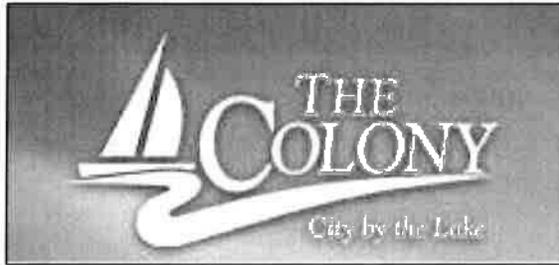
data. With these updates the data has shown we are more likely to experience certain disasters over others, such as; the recent increases in the occurrences of earthquakes, the increased threat of extreme wildfires, and the likelihood we could see continued prolong drought conditions. Through the use of the Priority Risk Index persons interested in the plan will be able to better understand the rank of disasters and why one disaster may be considered at a higher risk than others.

This Mitigation plan is a planning document, not a regulatory document.

This Mitigation Plan meets the Federal Emergency Management Agency (FEMA) planning requirements by addressing hazards, vulnerability and risk. Hazard means the frequency and severity of disaster events. Vulnerability means the value, importance, and fragility of buildings and infrastructure. Risk means the threat to people, buildings and infrastructure, taking into account the probabilities of disaster events. Adoption of a mitigation plan is required for communities to remain eligible for future FEMA Mitigation grant funds.



**Annex V: City of The Colony**



**1. Introduction**

This annex was prepared in 2014 as part of an update to the Denton County Multi-Jurisdictional Hazard Mitigation Action Plan; the City of The Colony participated in the Denton County HazMAP Working Group as a contributor. This annex represents the second hazard mitigation plan to be submitted to FEMA for The Colony. In addition to the

countywide hazards and strategies discussed in the main plan, this annex serves as a complete hazard mitigation-planning tool for the City of The Colony. It contains capability assessment information, a specific vulnerability assessment, and a complete mitigation strategy. The methodology and process for developing this annex is explained throughout the following sections.

**2. Plan Development and Adoption Process**

In order to apply for federal aid for technical assistance and post-disaster funding, local jurisdictions must comply with Part 201.3 of the Disaster Mitigation Act of 2000 implemented in the Federal Code of Regulations 44 CRF Part 201.6. While The Colony has historically implemented measures to reduce their vulnerability to hazards, passage of DMA 2000 helped The Colony officials to recognize the benefits of a long-term approach to hazard mitigation, which achieves a gradual decrease of impacts associated through the implementation of a Hazard Mitigation Plan. Denton County’s Hazard Mitigation Action Plan represents the collective efforts of all participating jurisdictions, the general public, and stakeholders.

**Organizing the Planning Effort**

A comprehensive county approach was taken in developing the plan. An open public involvement process was established for the public, neighboring communities, regional agencies, businesses, academia, etc. to provide opportunities for everyone to become involved in the planning process and to make their views known. The meetings were advertised with notices in public places and the local newspaper.

In accordance with Part 201.6(c)(5) of the Disaster Mitigation Act of 2000 (DMA 2000), Denton County developed this Hazard Mitigation Action Plan. This plan identifies hazards and mechanisms to minimize future damages associated with these hazards, which threaten Denton County and its jurisdictions.

**Existing Data and Plans**

Existing hazard mitigation information and other plans were reviewed during the development of the Hazard Mitigation Action Plan. GIS, statistical and qualitative data were gathered through numerous sources. The table below outlines the sources of data for the plan:

Source	Data
City and County Appraisal Data 2012	Population and demographics
Regional Hazard Assessment Tool	Hazard occurrences
National Climatic Data Center (NCDC)	Hazard occurrences

Source	Data
Texas Forest Service/Texas Wildfire Risk Assessment Summary Report	Wildfire Threat and Urban Interface
National Inventory of Dams	Dam information

**Planning Committee**

This Hazard Mitigation Action Plan was developed by The Colony Hazard Mitigation Planning Team, with support of the North Central Texas Council of Governments. The efforts of the Planning Committee were led by The Colony Emergency Management Coordinator.

The Planning Committee was assembled in July 2014 with representatives from all jurisdictions including mayors, police chiefs, fire chiefs, and the general public. Denton County acted as the plan development consultant providing hazard mitigation planning services. The table below provides a list of the primary entity representative for each jurisdiction on the planning team.

**Hazard Mitigation Team – Primary Representatives**

Representing	Position	Role
Fire Department	Fire Chief/ Emergency Management Coordinator	Fire Chief
Police Department	Deputy Chief of Police	Department Chief
Office Of Emergency	Assistant Emergency Management	Planning Coordinator
Engineering	Flood planner	Technical Assistance
Planning	City Planner	Technical Assistance

Denton County served as the coordinator and lead agency for all jurisdictions, including the unincorporated areas of Denton County, by accomplishing the following activities through the planning process:

1. Assigned the County's Emergency Management Coordinator to provide technical assistance and necessary data to the Planning Committee.
2. Scheduled, coordinated, and facilitated community meetings with the assistance of the Planning Committee.
3. Provided any necessary materials, handouts, etc. for public planning meetings.
4. Worked with the Planning Committee to collect and analyze data and develop goals and implementation strategies.
5. Prepared, based on community input and Planning Committee direction, the first draft of the plan and provided technical writing assistance for review, editing and formatting.
6. Coordinated with the stakeholders within the cities and the unincorporated areas of Denton County during plan development.

Each of the individual jurisdictions participated in accomplishing similar activities associated with development of the plan as follows:

1. Coordinated input from representatives of neighborhood stakeholder groups and provided a representative to the County Planning Committee.
2. Attended regular meetings of the planning team as coordinated by Denton County.
3. Assisted Denton County staff with identifying hazards and estimating potential losses from future hazard events.
4. Assisted Denton County in developing and prioritizing mitigation actions to address the identified risks.
5. Assisted Denton County in coordinating public meetings to develop the plan.
6. Identified the community resources available to support the planning effort.
7. Worked for the support of neighborhood stakeholders for the recommendations resulting from the planning process.
8. Submitted the proposed plan to all appropriate departments for review and comment and worked with Denton County to incorporate the resulting comments into the proposed plan.

External stakeholders emailed and involved in reviewing the Denton County Hazard Mitigation Action Plan:

<b>Representing</b>	<b>Position</b>	<b>Role</b>
Lewisville ISD	Risk Management	Review of plan
Grandscape	Risk Management	Review of plan
Austin Ranch	Risk Management	Review of plan
Durham Transportation Services	Risk Management	Review of plan
Little Elm ISD	Risk Management	Review of plan

Subsequent to the State of Texas and FEMA approval of the plan, each organization above is committed to accomplishing the following activities:

1. Appoint members to a Coordinating Committee to monitor and work toward plan implementation.
2. Publicize the plan to neighborhood interests and ensure that new community members are aware of the plan and its contents.
3. Monitor progress in achieving the plan's goals through regular maintenance and implementation projects.

### Planning Meetings

During the planning process, the Planning Committee met to obtain relevant information from the participating jurisdictions and to discuss the objectives and progress of the plan. The objectives of these meetings were to gather information and to provide guidance for each jurisdiction throughout the planning stages.

The following meetings were held by Denton County and included all jurisdictions' participation:

- The Colony HazMAP Kickoff Meeting – June 25, 2014
- Denton County Workshop Meeting – July 29, 2014
- The Colony HazMAP Hazard Mitigation Team Meeting – July 25, 2014
- The Colony HazMAP Hazard Team Meeting – August 19, 2014
- Denton County Workshop Meeting – September 23, 2014
- The Colony HazMAP HazMAP Discussion/Update – October 21, 2014

**\*\*Please see Appendix A for all planning documentation\*\***

### Public Involvement

Support from the community is vital for any successful hazard mitigation plan. The Planning Committee provided opportunities, announced through public communication means, for public participation and input throughout the planning process prior to this draft and before approval of the finalized plan. Advertisement and sign in sheets for these meetings are located in Appendix A.

- The first public meeting was held on July 24, 2014 and advertised in the Little Elm Journal inviting the public, neighboring communities, local business, academia, agencies, and nonprofits to comment.
- A second public meeting was held on October 8, 2014. An advertisement was posted in the Little Elm Journal inviting the public, neighboring communities, local business, academia, agencies, and nonprofits to view and comment on the HazMAP prior to plan submission.

There were no comments received from the citizens, non-profits, businesses, academia, or interested parties. An additional opportunity for the public to comment on the plan will be held prior to formal plan adoption.

This provided all citizens, stakeholders, neighboring communities, agencies, businesses, academia, non-profit organizations, and all interested parties an opportunity to be involved in the planning process and to take part in the decisions making process that affect the future of the communities that they live in.

### 3. Jurisdictional Hazard Identification and Risk Assessment

The Hazard Mitigation Planning Team (HMPT) for the City of The Colony identified several natural hazards and man-made hazards that could affect the city. The HMPT decided to focus on the natural hazards identified in Section 5 of this update. This was done after reviewing the 2010 HazMAP, the State of Texas Hazard Mitigation Plan, as well as other sources such as federal and state agencies. The hazards were ranked by each jurisdiction using the Priority Risk Index.

#### Priority Risk Index

A Priority Risk Index (PRI) was developed with the purpose of categorizing potential hazards for The Colony and ranks each hazard as high, moderate, low, or negligible to no risk. The hazard classification generated through the use of the PRI allows for the prioritization of those high hazard risks for mitigation planning purposes, and more specifically, the identification of hazard mitigation opportunities for Denton County jurisdictions to consider as part of their proposed mitigation strategy.

The PRI is used to assist all jurisdictions participating in the Denton County HazMAP in determining which hazards pose the most significant threat based on a variety of factors. The PRI is not scientifically based, but is rather meant to be utilized as an objective and systematic planning tool for classifying and prioritizing hazard risks in Denton County based on standardized criteria. The PRI results in numerical values that allow identified hazards to be ranked against one another. The sum of all four categories equals the final PRI value, as shown below:

$$\text{PRI Value} = (\text{Probability} \times .30) + (\text{Life Impact} \times .35) + (\text{Property Impact} \times .25) + (\text{Spatial Extent} \times .10)$$

The higher the PRI value, the greater the hazards risk. These values were obtained by assigning varying degrees of risk to four categories for each hazard: Probability, Life Impact, Property Impact, and Spatial Extent (*Table 3.1*). Each category has been assigned an Index Value (0 to 3) and a Weighing Factor (0 – 100%). These values may be adjusted during future plan updates. In order to evaluate the risk of each hazard, the assigned PRI Value for each category is multiplied by the weighing factor. Then, the PRI for each hazard is calculated by adding the product obtained in each category. According to the weighing scheme applied for Denton County, the highest possible PRI value is 3.0. The PRI calculations are presented in *Table 3.1*. A table breaking down the value of each category is below.

Assigned Weighing Factor	PRI Category	Degree of Risk		
		Level	Criteria	Index Value
30%	Probability	Unlikely	Less than 1% annual probability	0
		Possible	Between 1 and 10% annual probability	1
		Likely	Between 10 and 100% annual probability	2
		Highly Likely	100% annual probability	3
35%	Life Impact	Minor	Very few injuries, if at all none	0
		Limited	Minor Injuries	1
		Critical	Multiple deaths/injuries	2
		Catastrophic	High number of deaths/injuries	3
25%	Property Impact	Minor	Only minor property damage and minimal disruption of life. Temporary shutdown of critical facilities.	0
		Limited	More than 10% of property in affected area damaged/destroyed. Complete shutdown of critical facilities for more than one day.	1
		Critical	More than 25% of property in affected area damaged/destroyed. Complete shutdown of critical facilities for more than one week.	2
		Catastrophic	More than 50% of property in affected area damaged/destroyed. Complete shutdown of critical facilities for 30 days or more.	3
10%	Spatial Extent	Negligible	Less than 1% of area affected	0
		Small	Between 1 and 10% of area affected	1
		Moderate	Between 10 and 50% of area affected	2
		Large	Between 50 and 100% of area affected	3

**Table 3.1 Priority Risk Index for The Colony**

Hazard	Category/Degree of Risk				
	Probability Index Value	Life Impact Index Value	Property Impact Index Value	Spatial Extent Index Value	PRI Value
Dam Failure	0	1	0	1	<b>0.45</b>
Drought	3	0	0	3	<b>1.2</b>
Earthquake	0	0	0	0	<b>0</b>
Expansive Soils	1	0	0	0	<b>0.3</b>
Extreme Heat	3	2	1	3	<b>2.15</b>
Flooding	1	1	1	1	<b>1</b>
Hail	3	1	1	2	<b>1.7</b>
High Winds	3	1	1	3	<b>1.8</b>
Lightning	3	1	0	2	<b>1.45</b>
Tornado	2	2	3	1	<b>2.15</b>
Wildfire	1	0	1	1	<b>0.65</b>
Winter Storms	3	1	1	3	<b>1.8</b>

The conclusions drawn from the hazard profiling process for Denton County jurisdictions, resulted in the classification of risk for each identified hazard according to four categories: High Risk, Moderate Risk, Low Risk, and Negligible to No Risk (Table 3.2). For purposes of these classifications, risk is expressed in relative terms according to the probability of occurrence and estimated impact that a hazard will have on human life and property in Denton County.

**Table 3.2 Hazard Ranking Chart**

<b>High Risk (PRI 2 - 3)</b>	Tornado Extreme Heat
<b>Moderate Risk (PRI 1.05 -1.9)</b>	Drought Winter Storm Hail Lightning High Winds
<b>Low Risk (PRI 0.50 – 1)</b>	Flooding Wildfire
<b>Negligible to No Risk (PRI 0 – 0.49)</b>	Dam Failure Expansive Soil Earthquake

**Changes in Development** (Requirement §201.6(d)(3))

Since the last submission of the Hazard Mitigation Plan the City of The Colony has seen an increase in population growth as well as an increase in single family lots, commercial development, and increased traffic that will undoubtedly impact our City.

The population increase in The Colony along with the addition of “attractions” has increased the vulnerability of the city by having to increase emergency services to respond to emergencies and disasters. Better planning and code enforcement has reduced the effects of flooding and tornados. The city has become more vulnerable to manmade hazards due to an increase in transient population and high profile public venues.

The City of The Colony population increased 16.42% from 2010 to 2015. Single family households increased by 12.70%. The majority of the new residential single family growth is occurring to the far north of the city, with the multi-family growth occurring the far south of the city. Substantial commercial growth has occurred along the 121 Sam Rayburn Tollway. These projects include Top Golf, Grandscape, and nine new hotel projects. This growth as resulted in a substantial increase in traffic throughout the city.

The Colony was a participating jurisdiction in the 2011 Denton County Hazard Mitigation Action Plan. Since then, The Colony has completed a number of their original action items, in an effort to lower vulnerability on populations and property from natural hazards. The following actions, sorted by type of action, have had a direct impact on lowering vulnerability:

- Local Plans and Regulations
  - Continuous review and update to the adopted codes and ordinances to reflect best available data. Implement mitigation measures where feasible in new construction
  - Implement water saving and/or water rationing measures during extreme drought conditions

The development and implementation of each of these projects directly led to lower vulnerability for residents and property located in The Colony.

### **Vulnerability Narratives**

This annex focuses on specific areas of vulnerability The Colony faces with each hazard. Any natural hazards identified that were rated of negligible to no risk are included; therefore all hazards identified earlier in the plan are addressed in this annex.

#### **Dam Failure**

With a distance of 30 miles, Ray Roberts Dam presents the closest risk/threat of dam failure to the City of The Colony and although the City of The Colony would not be directly impacted by the failure, there is potential for indirect impacts to the city and region should the dam fail. Ray Roberts Lake is impounded by Ray Roberts Dam on the Elm Fork of the Trinity River in Denton County, Texas and is used for drinking water, recreation, flood control and hydroelectric power purposes. Construction was completed in 1986. It has a normal surface area of 46 square miles. It is owned by the U.S. Army Corps of Engineers. Ray Roberts Dam, also known as, Ray Roberts Lake is of earthen construction. The core is earth. The foundation is rock, soil. Though originally completed in 1986, the structure was modified in 1990. Its height is 141 feet with a length of 15090 feet. Maximum discharge is 14500 cubic feet per second. Its capacity is 1.9319e+06 acre feet. Normal storage is 799600 acre feet. It drains an area of 692 square miles. At this time a complete inundation study has not been completed for this site.

#### **Drought**

The entire City of The Colony can be impacted by drought with the two main risks being depletion of water supply and wildfires. Because The Colony is an urbanized region, the city is not exposed to a significant risk for wildfires; however, there are surrounding areas that experience wild fires that could potentially effect areas within the city. On the other hand, the city's water supply has the potential to be impacted by drought conditions should they occur. Additionally, recreational business related to Lake Lewisville would be impacted as the water level drops during a drought event.

The City of The Colony's water supply comes from both groundwater and surface water sources. Surface water is supplied by the City of Dallas, and the North Texas Municipal Water District (NTMWD), which supplies clients with water from Lavon Lake, Lake Texoma, Jim Chapman Lake, and Lake Tawakoni. The Colony currently has four well stations within city limits extracting ground water from the Paluxy and Woodbine Aquifers. During periods of drought, the demand for water from all water supply sources increases and as the population of The Colony continues to increase, so too does the demand for water. Water shortages caused by droughts have the potential to negatively impact any community in terms of its economy and in severe cases can pose serious health risks. Although it is difficult to assign a dollar amount to potential losses associated with a drought contingency plans are vital to any community to limit and avoid major loss across sectors within the community. The Colony has a strong drought contingency plan and thus far has not had to initiate mandatory water rationing due to the extreme drought conditions.

#### **Earthquake**

According to the City of The Colony, all populations and properties are have the potential to be affected by earthquakes.

#### **Extreme Heat**

Extreme heat is a regional event that will impact the entire town. Extreme heat occurs throughout the summer season but its severity may differ from one day to the next.

Extreme heat events have an impact on the entire City of The Colony when they occur. In the humid subtropical climate of North Texas, the summer season frequently produces days of extremely high heat index that can be a danger to the community. The greatest health risk associated with these events

presented to citizens of The Colony are illness and/or death. Common illnesses related to extreme heat are heat cramps, heat exhaustion, and heat stroke. Excessive heat is a threat to the entire population. However, a few distinct groups are at an elevated risk of experiencing health problems caused by extreme heat. These groups include those who are elderly, very young, poor, or those who have physical challenges or mental impairments. Sporting, musical, social and other types of outdoor events cause the most exposure to excessive heat during the summer time. The heat can also negatively impact attendance and revenue of these types of events.

Defining a quantitative estimate of potential damages caused by extreme heat is a challenging task due to the nature of the hazard. There is no available record of property damage associated with extreme heat. However, examples of common damage to property include foundational cracks or shifts, destruction of landscape and vegetation, as well as damage to key infrastructure facilities such as water/sewer lines, streets and sidewalks. Damage to the aforementioned examples would come as a result of the expansive soils in the region affected by extreme temperatures. Rolling blackouts are also a risk associated with days of extreme heat.

#### **Expansive Soils**

The Colony is among many jurisdictions in the area subject to the highly expansive soil of the region. However, the overall risks/damages this event presents are primarily experienced by property owners by way of foundation and sub grade shifting. To control for this, The Colony has adopted building and engineering design/construction criteria to minimize the potential for damage often associated with expansive soil.

#### **Flooding**

Flooding can occur in any location that lacks adequate storm water drainage infrastructure. The highest risk of significant flooding in The Colony could occur in areas designated as floodplain throughout the city. Floodplain areas are marked on FEMA's Flood Insurance Rate Maps (FIRMs) to identify areas that are subject to flooding from the 100-year and 500-year flood events. Residential and commercial properties along with roads are considered to be at risk of flooding if they are located within the 100-year or 500-year floodplains.

#### **High Winds**

High winds do not have a specific geographic location in which they are probable to strike and can occur suddenly and without warning. Therefore, it must be assumed that the entire City of The Colony is at risk of being impacted by this hazard. Damage to mobile/pre-manufactured homes is more likely during a high wind event; while above ground electrical utilities are often at risk during a high wind event while trees and other falling debris can lead to fires and access restriction to minor and major thoroughfares.

#### **Hail**

Due to the rapidly changing climate in Texas, large-scale damaging hailstorms are especially prevalent in the area placing property and citizens within the city of The Colony at risk of severe damage in the event of a major hailstorm event. The majority of the homes within The Colony are constructed of brick and wood/vinyl siding. The Eastvalle area having a small amount of mobile homes is at most risk of damage during a large hail storm event due to the light weight material used in their construction.

#### **Lightning**

The entire City of The Colony is vulnerable to thunderstorms and lightning. Overall, lightning is the most constant and widespread threat to people and property during the thunderstorm season.

**Wildland Fire**

Wildland fires in the City of The Colony are a low risk due to urbanization and the well-managed and readily available resources for response. The City of The Colony has several mutual aid agreements with surrounding jurisdictions to assist in responding to fires and other calls for assistance when required.

**Winter Storms**

The Colony is at risk of being impacted by winter storms, which can have a significant impact travel, city services, citizens as well as commerce. In addition, winter storms could impact the first responder response to emergencies. With the potential for freezing precipitation, icing of roadways and bridges are of an utmost concern. They will be given priority for surface cleaning and deicing especially bridges located over designated waterways. Freezing precipitation could have an impact on trees and above ground electrical utilities. The two often damaged by ice accumulation that could lead to fires and restricted access to major and minor thoroughfares.

**Identification of Assets and Vulnerability Assessment**

An inventory of The Colony geo-referenced assets was created in order to identify and characterize property and population potentially at risk to the identified hazards. By understanding the type and number of assets that exist and where they are located in relation to known hazard areas, the relative risk and vulnerability for such assets can be assessed. For this assessment, five categories of assets were evaluated using Geographic Information System and statistical analysis. The five categories of vulnerable assets include:

- **Population:** Includes the number of people residing in the City of The Colony as delineated by U.S. Census 2010 block data provided by NCTCOG.
- **Improved property:** Includes all developed properties according to local parcel data from the Denton County Central Appraisal District. The information has been expressed in terms of the total assessed value of improvements that may be exposed to the identified hazards.
- **Emergency facilities:** Includes fire stations, police stations and hospitals, provided by the Regional Hazard Assessment Tool, Denton County Emergency Management Coordinator, and participating jurisdictions.
- **Critical facilities:** Includes schools and historic places provided by Regional Hazard Assessment Tool, Denton County Emergency Management Coordinator, and participating jurisdictions. These are non-emergency facilities, but still provide critical services and functions for vulnerable sectors of the population.
- **Critical infrastructure:** Includes airports, natural gas facilities, wastewater facilities, potable water treatment facilities, wastewater treatment facilities, dams, and bridges. Data for all critical facilities was obtained from Regional Hazard Assessment Tool, Denton County Emergency Management Coordinator, and participating jurisdictions.

The following tables provide a breakdown by municipal jurisdiction of the geo-referenced assets that were used for the vulnerability assessment.

**Population**

According to the U.S. Census 2010 block data provided by NCTCOG, the total population of Denton County in 2010 was 662,614 people, with 272,418 households. The count breakdown by municipal jurisdiction is provided in *Table 3.3*.

**Table 3.3. The Colony Population Counts**

Jurisdiction	Population			Households		
	Population	% of County Total	Population Density (Sq. Mile)	Household	% of County Total	Household Density (Sq. Mile)
The Colony	37,510	5.37	2,318	13,170	5.28	847

Source: 2013 Census Data

*Table 3.4* summarizes population counts and population change (absolute and percent predications for City of The Colony.

**Table 3.4 Population Predictions**

Jurisdiction	Population 2010 Census	Population 2013 Estimate	Population 2014 Estimate	Absolute Change 2013-2014	Percent (%) Change 2013-2014
The Colony	36,328	37,510	38,730	1,220	3.3

Source: 2010 Census Data

**Property**

There are an estimated twelve thousand parcels in The Colony, with an estimated [Insert Data] in total assessed value of, *Table 3.5* lists the total number and percentage of parcels by jurisdiction.

**Table 3.5 Parcel Counts and Improvements Value**

Jurisdiction	Number of Parcels	% of County Total	Total Assessed Value of Improvements (Buildings) <sup>1</sup>
The Colony	12,466	4.86%	\$2,807,463,035

Source: County Data and Regional Hazard Assessment Tool

**Emergency Facilities**

There are five identified emergency facilities in The Colony, including three fire stations, and one police station, and one hospital. *Table 3.6* presents the distribution of emergency facilities by jurisdiction. Geographic coordinates were used to determine the location of each facility.

**Table 3.6 Emergency Facilities**

Jurisdiction	Fire Stations	Police Stations	Hospitals
The Colony	3	1	1

Source: County Data and Regional Hazard Assessment Tool

**Critical Facilities**

There are ten critical facilities, which are considered non-emergency in The Colony. The critical facilities include nine schools and one historical property site (*Table 3.7*). Geographic coordinates (i.e., latitude and longitude) were used to determine the location of each facility.

**Table 3.7 Critical Facilities**

Jurisdiction	Schools	Historical Property
The Colony	9	1

Source: Local jurisdictions

**Critical Infrastructure**

There are seven identified critical infrastructure facilities in The Colony, including one water treatment facility, one wastewater treatment facilities, and five railway/highway bridges (*Table 3.8*).

**Table 3.8 Critical Infrastructure**

Jurisdiction	Airports	Natural Gas Facilities	Wastewater Treatment Facilities	Potable Water Treatment Facilities	Dams	Railway/ Highway Bridges
The Colony	0	0	1	1	0	5

Source: Local jurisdictions

**Methodology**

Based on the type of information available for analysis, The Colony vulnerability assessment was conducted using two distinct methodologies, a Geographic Information System-based analysis and a statistical risk assessment methodology. Each approach provides estimates for the potential impact of hazards by using a common, systematic framework for evaluation of historical occurrence information provided by National Climatic Data Center, the Texas Forest Service, and NCTCOG Regional Hazard Assessment Tool. The results of the vulnerability assessment are provided by jurisdiction for each hazard analyzed.

Of the 11 hazards evaluated for The Colony, two were analyzed using a Geographic Information System-based analysis, six using a statistical risk assessment methodology, and the remaining three hazards using a qualitative analysis. The qualitative analysis was limited to three of the hazards due to lack of information, the inability to define specific areas of risk, and/or inexistence of historical records. Additional information regarding these events is unattainable at the present time, but will be an objective in the five-year planning cycle update. *Table 3.9* summarizes the methodology used for each hazard.

**Table 3.9 Analysis used for Vulnerability Assessment**

Hazard	Geographic Information System-based Analysis	Statistical Analysis	Qualitative Analysis
Dam Failure			X
Drought	X		
Earthquake			X
Expansive Soils			X
Extreme Heat		X	
Flooding	X		
Hail	X		
High Winds		X	
Lightning		X	
Tornado		X	
Wildfire	X		
Winter Storms		X	

**Summary of Vulnerability Assessment**

A summary of the vulnerability assessment for each hazard using geographic and statistical analysis is presented in the following pages. The detailed assessment is presented in the following sections.

**Summary Table 3.1**

Drought	
<b>Population</b>	According to National Climatic Data Center (NCDC) no recorded injuries or fatalities have been recorded for drought events. There are no personal losses expected from drought events.
<b>Improved Property</b>	According to National Climatic Data Center (NCDC), a loss of \$400 per year can be expected in property loss due to damage from drought. Available historical data indicates that the expected losses from drought correspond to crop losses in the amount of \$18,000per year, mostly experienced in water shortages and crop losses on agricultural lands.
<b>Emergency Facilities</b>	Because of the nature of this hazard, there are no losses or direct impacts expected on emergency facilities due to drought events.
<b>Critical Facilities</b>	Because of the nature of this hazard, there are no losses or direct impacts expected on critical facilities due to drought events.
<b>Critical Infrastructure</b>	Because of the nature of this hazard, there are no losses or direct impacts expected on critical infrastructure due to drought events.

**Summary Table 3.2**

Extreme Heat	
<b>Population</b>	According to National Climatic Data Center (NCDC), there were four injuries or fatalities recorded due to extreme heat. The Colony and its population is exposed to this hazard.
<b>Improved Property</b>	According to National Climatic Data Center (NCDC), there is no impact of extreme heat to developed areas and the improved property in The Colony is not exposed to this hazard.
<b>Emergency Facilities</b>	According to National Climatic Data Center (NCDC), there is no impact of extreme heat to buildings and the emergency facilities in The Colony are not exposed to this hazard.
<b>Critical Facilities</b>	According to National Climatic Data Center (NCDC), there is no impact of extreme heat to buildings, and the critical facilities in The Colony are not exposed to this hazard.
<b>Critical Infrastructure</b>	According to National Climatic Data Center (NCDC there is no impact of extreme heat to critical infrastructure, and exposure to this hazard is considered minimal in The Colony

Summary Table 3.3

Flooding	
<b>Population</b>	Flooding produces an expected annualized count of zero fatalities and injuries per year. 268 or approximately 3.41% of the residential parcels in The Colony are located within the 100-year floodplain.
<b>Improved Property</b>	A loss of \$0 per year can be expected in property loss due to flooding, and 0% of the total assessed value of improvements in The Colony is at risk from the 100-year storm event.
<b>Emergency Facilities</b>	There are no emergency facilities at imminent risk from the 100-year storm event.
<b>Critical Facilities</b>	There is one critical facility located within the 100-year storm event.
<b>Critical Infrastructure</b>	0% of railways/highways and bridges, 0% of dams, 0% of water treatment works, and 0% waste water treatment facilities are at risk from the 100-year storm event. Many of these structures are designed to traverse or be located within the floodplain due to unavoidable circumstances. Additionally, treated wastewater is typically discharged towards streams, which makes portions of wastewater treatment facilities likely to be located within the floodplain.

Summary Table 3.4

Hail	
<b>Population</b>	According to National Climatic Data Center (NCDC), no recorded injuries or fatalities have been recorded for hailstorm events. There are no personal losses expected from hailstorm events.
<b>Improved Property</b>	According to National Climatic Data Center (NCDC), a loss of \$0 per year can be expected in property loss due to hailstorm damage, and all improved property is exposed to this hazard. Although some crops are susceptible to hail hazards, available historical data for The Colony indicates that there are no expected crop losses from this event.
<b>Emergency Facilities</b>	Because of the unpredictability of the geographical location of hailstorms, all emergency facilities in The Colony are exposed to this hazard.
<b>Critical Facilities</b>	Because of the unpredictability of the geographical location of hailstorms, all critical facilities in The Colony are exposed to this hazard.
<b>Critical Infrastructure</b>	Because of the unpredictability of the geographical location of hailstorms, all critical infrastructures in The Colony are exposed to this hazard.

Summary Table 3.5

High Wind	
<b>Population</b>	According to National Climatic Data Center (NCDC), there are no recorded injuries or fatalities from high wind events. All the population of The Colony is exposed to this hazard.
<b>Improved Property</b>	According to National Climatic Data Center (NCDC), an average loss of \$0 per year in property losses is expected from high wind events in The Colony. No crop losses resulted from this hazard in The Colony.
<b>Emergency Facilities</b>	Because of the expected geographical widespread nature of high winds, all emergency facilities in The Colony are exposed to this hazard.
<b>Critical Facilities</b>	Because of the expected geographical widespread nature of high winds, all critical facilities in The Colony are exposed to this hazard.
<b>Critical Infrastructure</b>	Because of the expected geographical widespread nature of high winds, all critical infrastructures in The Colony are exposed to this hazard.

Summary Table 3.6

Lightning	
<b>Population</b>	According to National Climatic Data Center (NCDC), lightning events can be expected to cause no deaths and no injuries in The Colony. All the population of The Colony is exposed to this hazard.
<b>Improved Property</b>	According to National Climatic Data Center (NCDC), there have been no recorded property or crop losses resulting from lightning in The Colony.
<b>Emergency Facilities</b>	Because of the expected geographical widespread nature of lightning, all emergency facilities in The Colony are exposed to this hazard.
<b>Critical Facilities</b>	Because of the expected geographical widespread nature of lightning, all critical facilities in The Colony are exposed to this hazard.
<b>Critical Infrastructure</b>	Because of the expected geographical widespread nature of lightning, all critical infrastructures in The Colony are exposed to this hazard.

Summary Table 3.7

Tornado	
<b>Population</b>	According to National Climatic Data Center (NCDC), there have been no recorded injuries or fatalities from tornado events in The Colony. All the population of Denton County is exposed and vulnerable to this hazard.
<b>Improved Property</b>	According to National Climatic Data Center (NCDC), an average loss of \$0 per year in property losses is expected to result from tornado events. No crop losses are expected from this hazard in The Colony.
<b>Emergency Facilities</b>	Because of the impossibility to predict the geographical area of impact for tornados, all emergency facilities in The Colony are exposed to this hazard.
<b>Critical Facilities</b>	Because of the impossibility to predict the geographical area of impact for tornados, all critical facilities in The Colony are exposed to this hazard.
<b>Critical Infrastructure</b>	Because of the impossibility to predict the geographical area of impact for tornados, all critical infrastructures in The Colony are exposed to this hazard.

Summary Table 3.8

Wildfire	
<b>Population</b>	Based on geographical data, approximately 42% of The Colony is vulnerable to wildfires, with The Colony and the unincorporated areas contributing with the majority of the exposed population.
<b>Improved Property</b>	Based on geographical data, a loss of some improved property per year can be expected in property loss due to wildfires.
<b>Emergency Facilities</b>	Based on geographic information there are no fire stations at risk from wildfire events.
<b>Critical Facilities</b>	Based on geographic information there are no schools at risk from wildfire events.
<b>Critical Infrastructure</b>	Based on geographic information there are some critical infrastructure at risk from wildfire events.

Summary Table 3.9

Winter Storm	
<b>Population</b>	According to National Climatic Data Center (NCDC), there have been no recorded injuries or fatalities from winter storms. All the population of The Colony is exposed to this hazard.
<b>Improved Property</b>	According to National Climatic Data Center (NCDC), an average loss of \$582,000 per year in property losses is expected to result from winter storm events. No crop losses are expected from this hazard in The Colony.
<b>Emergency Facilities</b>	Because of the expected geographical widespread nature of winter storms, all emergency facilities in The Colony are exposed to this hazard.
<b>Critical Facilities</b>	Because of the expected geographical widespread nature of winter storms, all critical facilities in The Colony are exposed to this hazard.
<b>Critical Infrastructure</b>	Because of the expected geographical widespread nature of winter storms, all critical infrastructures in The Colony are exposed to this hazard.

4. Capability Assessment

Table 4.1 Legal and Regulatory Capability Summary

Legal and Regulatory Capabilities															
Jurisdiction	Building Code	Zoning Ordinance	Subdivision Ordinance or regulation	Special purpose ordinances (floodplain management, storm water management, hillside or steep slope ordinances wildfire ordinances, hazard setback	Growth management ordinances (also called "smart Growth" or anti-sprawl programs)	Site Plan review requirements	General or comprehensive plan	A capital improvements plan	An economic development plan	An emergency response plan	A post-disaster recovery plan	A post-disaster recovery ordinance	Real estate disclosure requirements	Other	% Yes per Jurisdiction
<i>The Colony</i>	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N	N		64%
<b>Average % Yes Capabilities -64%</b>															
Y- Yes      N- No															

**Table 4.2 Administrative and Technical Capability Summary**

Administrative and Technical Capabilities											
Jurisdiction	Planner(s) or engineer(s) with knowledge of land development and land management	Engineer(s) or professional(s) trained in construction practices related to buildings and/or infrastructure	Planners or engineer(s) with an understanding of natural and/or human caused hazards	Floodplain manager	Surveyors	Staff with education or expertise to assess the community's vulnerability to hazards	Personnel skilled in GIS	Scientists familiar with the hazards of the community	Emergency manager	Grant writers	% Yes per Jurisdiction
<i>The Colony</i>	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	<b>90%</b>
<b>Average % Yes Capabilities – 90%</b>											
Y- Yes      N- No											

Table 4.3 Fiscal Capability Summary

Fiscal Capabilities											
Jurisdiction	Community Development Block Grants (CDBG)	Capital improvements project funding	Authority to levy taxes for specific purposes	Fees for water, sewer, gas, or electric service	Impact fees for homebuyers or developers for new developments/homes	Incur debt through general obligation bonds	Incur debt through special tax bonds	Incur debt through private activity bonds	Withhold spending in hazard-prone areas	Other	% Yes per Jurisdiction
<i>The Colony</i>	N	Y	Y	Y	Y	Y	Y	Y	N		100%
<b>Average % Yes Capabilities – 100%</b>											
Y- Yes      N- No											

To quantify The Colony’s legal and regulatory capabilities, administrative and technical, and fiscal capabilities, an overall rating system was administered for each category; limited (0-30%), moderate (31-70%), and strong (70-100%). Questionnaire responses indicated that on average, The Colony has 64% of legal and regulatory capabilities, 90% of administrative and technical capabilities of, and 100% fiscal capabilities.

Jurisdiction	Chief Administrative Officer	Ability to Implement Capabilities
The Colony	City Manager	The City council, including the Mayor, Mayor Pro-Tem, and Council members, along with the city manager, address the budget; pass laws, regulations, and codes; hire staff; approve plans; and determine the direction of the city overall. As the governing body, the ability to implement and approve mitigation actions, expand existing mitigation actions, and integrate mitigation into existing policies and programs is a function of this group.

Expansion or improvement of current hazard mitigation vehicles can be best determined through assessment and analysis of current projects and actions. Actions that can expand and improve existing authorities, plans, policies, and resources for mitigation include: budgeting for projects, passing mitigation policies and procedures, adopting and implementing stricter mitigation regulations, approving the hiring and training of staff for mitigation activities, and approving mitigation updates and additions to existing plans as new needs are recognized.

The risk assessment and capabilities assessment serves as the foundation for the development of a meaningful hazard mitigation strategy. During the process of identifying specific mitigation actions to pursue, The Colony considered not only its level of hazard risk but also the existing capability to minimize or eliminate that risk.

## 5. Mitigation Strategies

Based on the results of the risk and capability assessments, The Colony Hazard Mitigation Planning Team developed a mitigation strategy for the Plan update utilizing the results of both assessments as well as reviewing the goals and objectives that were included in the 2009 HazMAP. These strategies were similar to the goals identified in Section 6 by the Denton County Hazard Mitigation Action Plan Working Group.

### **Goal 1 Reduce or eliminate loss of life and property damage resulting from severe weather events.**

**Objective 1-A** Provide adequate warning and communication before, during, and after a hazard event.

**Objective 1-B** Expand and coordinate Early Warning Systems currently in use.

**Objective 1-C** Reduce or eliminate loss of life and property damage from tornados through the construction and use of safe rooms or shelter areas.

### **Goal 2 Protect existing and new properties from the effects of all natural hazards.**

**Objective 2-A** Conduct studies to determine hazard and vulnerability threat assessment for all natural hazards.

**Objective 2-B** Rehabilitate or retrofit identified high hazard critical infrastructure.

**Objective 2-C** Enact and enforce regulatory measures that enforce hazard mitigation measures.

**Objective 2-D** Construct enhancements or additions to current and new facilities which mitigate the effects of natural hazards.

**Objective 2-E** Maintain NFIP compliance, storm water management, and implement drainage projects.

### **Goal 3 Reduce losses and repetitive damages for chronic hazard events while promoting insurance coverage for catastrophic hazards.**

**Objective 3-A** Conduct a hazard/vulnerability assessment of personal properties and structures located in flood zones within The City of The Colony.

**Objective 3-B** Develop and execute new programs which identify and reduce threats from natural hazards.

### **Goal 4 Develop a Mitigation Public Education Campaign to educate the public on what actions they can take to prevent/ mitigate damage to homes and property resulting from all natural hazards.**

**Objective 4-A** Educate the public on risks, threats, and vulnerability from all natural hazards.

**Objective 4-B** Educate the public on actions they can take to prevent or reduce the loss of life or property from all natural hazards.

**Objective 4-C** Develop and implement a community education campaign to heighten public awareness about chronic flooding and options for insurance coverage to protect their personal properties as well as long term benefits from a buyout program.

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**6. Action Items**

Below is a list of the new actions items identified for the HazMAP Update. Each of the actions in this section were prioritized based on FEMA’s STAPLE+E criteria, which includes considering the social, technical, administrative, political, legal, economic and environmental factors necessary for the implementation of each action. As part of the STAPLE+E analysis economic considerations were weighed for each action. The action items that were said to be ongoing or deferred in the previous HazMAP were included as action items in the Updated Plan. The new actions items are as follows:

<b>The Colony Action Item</b>	Promote Mitigation Public Education and Awareness Programs with resources to mitigate the impacts of each identified hazard.
<b>Hazard(s) Addressed</b>	Tornado, Extreme Heat, Drought, Winter Storm, Hail, Lightning, High Winds, Flooding, Wildfires, Earthquake, Dam Failure, Expansive Soils
<b>Goal/Objective</b>	4-A,B
<b>Priority</b>	High
<b>Estimated Cost</b>	\$1500
<b>Potential Funding Sources</b>	Fire Department
<b>Potential Matching Sources</b>	None
<b>Lead Department</b>	Fire Department
<b>Implementation Schedule</b>	9-12 months
<b>Effect on Old Buildings</b>	None
<b>Effect on New Buildings</b>	None
<b>Cost Effectiveness</b>	Public education is extremely effective for low cost.
<b>Discussion</b>	Hazard public education and awareness materials will be distributed through social media and public outreach. This will provide a community awareness campaign concerning the risks and consequences of natural hazards. Educate the public on the hazards, loss of life and property may be mitigated as they take steps to secure their property and respond to warnings.

The Colony Action Item	Develop and implement a strategy to enforce water conservation regulations
Hazard(s) Addressed	Extreme Heat, Drought,
Goal/Objective	2-A
Priority	High
Estimated Cost	None
Potential Funding Sources	None
Potential Matching Sources	None
Lead Department	Public Works
Implementation Schedule	12-18 months
Effect on Old Buildings	None
Effect on New Buildings	None
Cost Effectiveness	Low cost effective means of preserving water.
Discussion	The Colony will develop and implement and enforce a Water Conservation Plan, Drought Contingency, and Water Emergency Response plan. The plan will help develop a method to help mitigate the negative impacts caused by periods of drought.

The Colony Action Item	Enhance Landscaping and Design Measures Ordinance
Hazard(s) Addressed	Drought
Goal/Objective	2-A,D
Priority	High
Estimated Cost	None
Potential Funding Sources	None
Potential Matching Sources	None
Lead Department	Planning, Public Works
Implementation Schedule	9 to 12 months
Effect on Old Buildings	None
Effect on New Buildings	None
Cost Effectiveness	Low cost effective means of preserving water.
Discussion	This action will incentivize drought-tolerant landscape design by incorporating incentives into existing landscaping ordinances for developers who implement water conservation measures such as xeriscaping, permeable driveways and surfaces, and other techniques into developments.

<b>The Colony Action Item</b>	Develop and Implement a City flood protection ordinance.
<b>Hazard(s) Addressed</b>	Flooding
<b>Goal/Objective</b>	2-E, 3-B
<b>Priority</b>	Medium
<b>Estimated Cost</b>	N/A
<b>Potential Funding Sources</b>	N/A
<b>Potential Matching Sources</b>	N/A
<b>Lead Department</b>	Development Services / Engineering Department
<b>Implementation Schedule</b>	9 to 12 months
<b>Effect on Old Buildings</b>	N/A
<b>Effect on New Buildings</b>	N/A
<b>Cost Effectiveness</b>	Overtime this will reduce the flooding cost to the city.
<b>Discussion</b>	The City will develop ordinances that regulate development in the floodplain. The City will factor items into its annual budget as necessary to reduce vulnerability to flooding.

<b>The Colony Action Item</b>	Retrofit existing buildings to meet the requirements of the International Building Code
<b>Hazard(s) Addressed</b>	Tornado, Winter Storms, Flooding, High Winds
<b>Goal/Objective</b>	2-B,C,D
<b>Priority</b>	High
<b>Estimated Cost</b>	Staff time
<b>Potential Funding Sources</b>	General Funds
<b>Potential Matching Sources</b>	Local funds
<b>Lead Department</b>	Planning and zoning
<b>Implementation Schedule</b>	9 to 12 months
<b>Effect on Old Buildings</b>	New building codes would allow existing buildings to be retrofitted to mitigate against structure-impacting hazards.
<b>Effect on New Buildings</b>	None
<b>Cost Effectiveness</b>	Benefits outweigh costs
<b>Discussion</b>	The International Building Code provides the framework for constructing structures that will most effectively withstand the impacts of natural hazards. As the IBC is periodically updated, the city will update and enforce the code to require all structures within the City Limits be built to these standards.

The Colony Action Item	Adopt and Implement International Building Code for New Buildings
Hazard(s) Addressed	Tornado, Winter Storms, Flooding, High Winds
Goal/Objective	2-B,C,D
Priority	High
Estimated Cost	Staff time
Potential Funding Sources	General Funds
Potential Matching Sources	Local funds
Lead Department	Planning and zoning
Implementation Schedule	9 to 12 months
Effect on Old Buildings	None
Effect on New Buildings	New building codes would allow for new buildings to be constructed to mitigate against structure-impacting
Cost Effectiveness	Low- Benefits outweigh costs
Discussion	The International Building Code provides the framework for constructing structures that will most effectively withstand the impacts of natural hazards such as wind and impact resistant doors, windows, and roofing; dry-proofing for public buildings to mitigate flood; higher grade insulation to mitigate winter weather;. As the IBC is periodically updated, the city will update and enforce the code to require all structures within the city limits be built to these standards.

The Colony Action Item	Develop and Implement a Community Wildfire Protection Plan (CWPP)
Hazard(s) Addressed	Wildfires
Goal/Objective	2,-A, 3-C,4-A,B
Priority	Medium
Estimated Cost	\$25,000
Potential Funding Sources	HMPG,PDM, General Fund
Potential Matching Sources	Local funds, donations, in-kind, grants
Lead Department	Fire Department, County Emergency Services
Implementation Schedule	18-36 Months
Effect on Old Buildings	None
Effect on New Buildings	None
Cost Effectiveness	CWPPs show city officials where to double their efforts in preventing wildfire, saving time and money. Also, work to establish urban wildfire interface around lake development properties.
Discussion	Develop ordinances to enhance the city's ability to enforce WUI mitigation plan.

<b>The Colony Action Item</b>	Build a Community Safe Room
<b>Hazard(s) Addressed</b>	Tornados, High Winds
<b>Goal/Objective</b>	1-C
<b>Priority</b>	High
<b>Estimated Cost</b>	?
<b>Potential Funding Sources</b>	HMPG,PDM, General Fund
<b>Potential Matching Sources</b>	Local funds, donations, in-kind, grants
<b>Lead Department</b>	EDC, Planning
<b>Implementation Schedule</b>	18-36 Months
<b>Effect on Old Buildings</b>	None
<b>Effect on New Buildings</b>	None
<b>Cost Effectiveness</b>	Community safe room potentially decrease personal injury and death during severe weather, tornados or high wind events and other hazards.
<b>Discussion</b>	The Colony plans to seek grant funding for the construction of a Safe Room in the city. The City plans to add the Safe Room to the activity center. City officials believe that this structure will provide an additional level of preparedness that will effectively mitigate losses of life that could be caused by tornados.

<b>The Colony Action Item</b>	Build an Emergency Operations Center
<b>Hazard(s) Addressed</b>	Tornados, Extreme Heat, Winter Storms, Lightning, Flooding, Wildfires, High Winds, Hail
<b>Goal/Objective</b>	1-A
<b>Priority</b>	Medium
<b>Estimated Cost</b>	TBD
<b>Potential Funding Sources</b>	HMPG,PDM, General Fund
<b>Potential Matching Sources</b>	Local funds, grants
<b>Lead Department</b>	Fire Department, Develop Services
<b>Implementation Schedule</b>	18-36 Months
<b>Effect on Old Buildings</b>	None
<b>Effect on New Buildings</b>	None
<b>Cost Effectiveness</b>	High
<b>Discussion</b>	The EOC will be the main coordination point for all emergency management efforts and special events. As the city grows, it will require a central location do coordinate emergencies.

<b>The Colony Action Item</b>	Protect citizens from extreme weather by building covered patios in public parks
<b>Hazard(s) Addressed</b>	Extreme Heat, Hail, High Winds, Lightning
<b>Goal/Objective</b>	1C, 2D
<b>Priority</b>	High
<b>Estimated Cost</b>	\$50,000
<b>Potential Funding Sources</b>	PDM, General Budget, State and Federal Grants
<b>Potential Matching Sources</b>	Citizen cost-share, Donations
<b>Lead Department</b>	Public Works/Parks
<b>Implementation Schedule</b>	6-9 Months
<b>Effect on Old Buildings</b>	N/A
<b>Effect on New Buildings</b>	N/A
<b>Cost Effectiveness</b>	Cost is low compared to loss of life from heat illness and debris injuries
<b>Discussion</b>	Covered patios are an effective means of providing temporary relief from severe weather

<b>The Colony Action Item</b>	Hire consultant to complete new inundation studies of all high and moderate hazard dams.
<b>Hazard(s) Addressed</b>	Dam Failure, Flood
<b>Goal/Objective</b>	Protect existing and new properties from the effects of all natural hazards.
<b>Priority</b>	High
<b>Estimated Cost</b>	\$75,000
<b>Potential Funding Sources</b>	HMPG, Water Shed Authorities, Dam Sponsors
<b>Potential Matching Sources</b>	Local Sponsors, In-Kind
<b>Lead Department</b>	Planning and Zoning/ NRCS
<b>Implementation Schedule</b>	12-18 Months
<b>Effect on Old Buildings</b>	None
<b>Effect on New Buildings</b>	None
<b>Cost Effectiveness</b>	Low
<b>Discussion</b>	Dam Failure data deficiency identified in Chapter 3. Identify all structures and infrastructures that would be impacted by a potential dam failure.

<b>The Colony Action Item</b>	Conduct earthquake assessment study to determine potential for earthquakes to affect public facilities and utilities.
<b>Hazard(s) Addressed</b>	4-B
<b>Goal/Objective</b>	Earthquake
<b>Priority</b>	Low
<b>Estimated Cost</b>	\$20,000
<b>Potential Funding Sources</b>	HMGP
<b>Potential Matching Sources</b>	Local Funds
<b>Lead Department</b>	Public Works
<b>Implementation Schedule</b>	6 months – 18 months
<b>Effect on Old Buildings</b>	n/a
<b>Effect on New Buildings</b>	n/a
<b>Cost Effectiveness</b>	Low
<b>Discussion</b>	Data deficiency identified in Chapter 3. Project outputs will guide development of future earthquake mitigation projects.

<b>The Colony Action Item</b>	Conduct a soil analysis to determine the scope, impact, and extent of expansive soils
<b>Hazard(s) Addressed</b>	Expansive Soils
<b>Goal/Objective</b>	4-A
<b>Priority</b>	Low
<b>Estimated Cost</b>	TBD
<b>Potential Funding Sources</b>	Federal grants, state grants
<b>Potential Matching Sources</b>	Local funds
<b>Lead Department</b>	Emergency management, Public works
<b>Implementation Schedule</b>	12-18 months
<b>Effect on Old Buildings</b>	Study would identify existing construction most at risk for expansive soil damage.
<b>Effect on New Buildings</b>	Study would be used to identify undeveloped areas at risk for expansive soil damage for real estate disclosure.
<b>Cost Effectiveness</b>	High. This study would lead to targeted mitigation projects to lower vulnerability to expansive soils.
<b>Discussion</b>	Expansive soil data deficiency identified in Chapter 3. Study would be used to identify scope, impact, and extent of expansive soils throughout jurisdiction.

<b>The Colony Action Item</b>	Drainage improvements to mitigate future flash and lake flooding problems reducing the loss of life and property.
<b>Hazard(s) Addressed</b>	Flooding
<b>Goal/Objective</b>	1-C, 2-A,B,D,E 3-A,C
<b>Priority</b>	High
<b>Estimated Cost</b>	\$1 million
<b>Potential Funding Sources</b>	HMPG, General Fund
<b>Potential Matching Sources</b>	Local funds, donations, in-kind, grants
<b>Lead Department</b>	Public Works, EDC, Floodplain Manager
<b>Implementation Schedule</b>	18-36 Months
<b>Effect on Old Buildings</b>	None
<b>Effect on New Buildings</b>	None
<b>Cost Effectiveness</b>	High
<b>Discussion</b>	Areas within the city such as culverts, roads, creek/ streams, and parks have developed drainage problems due to flash flooding from severe weather and saturation from lake flooding. Installing these controls will reduce drainage problems, and reduce the loss of life and property.

**National Flood Insurance Program (NFIP) Compliance**

The Colony is participating in the National Flood Insurance Program and has identified their respective areas as vulnerable to flooding. This is incorporated into all current and future planning for dealing with repetitive loss vulnerabilities.

CID	Community Name	County	Initial FHBM Identified	Initial FIRM Identified	Curr Eff Map Date	Reg-Emer Date	Tribal
481581#	THE COLONY, CITY OF (Includes Town of Eastvale)	DENTON COUNTY	8/16/1984	9/29/1986	4/18/2011	9/29/1986	No

Source: <http://www.fema.gov/cis/TX.html>

**Jurisdiction Compliance**

Once the community applies for the NFIP, FEMA arranges for a study of the community to determine base flood elevations and flood risk zones. Consultation with the community occurs at the start of and during the study, and those communities with minimal flood risk are converted to the Regular Program without a study.

FEMA provides the studied community with a Flood Insurance Rate Map delineating base flood elevations and flood risk zones. The community is then given 6 months to adopt base flood elevations in its local zoning and building code ordinances. Once the community adopts more stringent ordinances, FEMA converts the community to the NFIP's Regular Program. FEMA then authorizes the sale of additional flood insurance in the community up to the Regular Program limits. The community must implement and enforce the adopted floodplain management measures. FEMA provides periodic community assistance visits with local officials to provide technical assistance regarding complying with NFIP floodplain management requirements.

The purchase of flood insurance is mandatory as a condition of receipt of federal or federally-related financial assistance for acquisition and/or construction of buildings in SFHAs of any participating community. Those communities notified as flood-prone which do not apply for participation in the NFIP within 1 year of notification are ineligible for federal or federally-related financial assistance for acquisition, construction, or reconstruction of insurable buildings in the SFHA.

**Jurisdiction Activities**

In order to maintain eligibility with NFIP, jurisdictions are required to maintain their list of properties that hold a policy with NFIP, along with up-to-date maps of the floodplains in the jurisdictions. Each jurisdiction participating in the Hunt County Hazard Mitigation Action Plan completes this basic requirement and has the information on file with the jurisdiction's designated floodplain manager. Using this plan, participating jurisdictions will be able to continue their compliance with NFIP by implementing damage control measures and take action to minimize the effects of flooding in their respective jurisdictions.

Jurisdiction	Community Floodplain Administrator	NFIP Activity	Activity Description	Enforcement
The Colony	Engineering/ Development Services Director	Floodplain Mapping, Open Space Preservation, Higher Regulatory Standards	Completing and maintaining City Drainage and Flood Control ordinance No. 2011-1892 in compliance with FEMA FIRM mitigation strategies. Any land development within a developed floodplain has specific requirements for certification and prohibits land development within undeveloped floodplains.  FIRM maintained by GIS	NFIP compliance is implemented and enforced through a process of floodplain identification using FEMA floodplain maps, permit issuance, building requirements, and compliance inspections pending approval. Failure to comply with City's flood damage prevention order shall result in fines.
		Flood Data Management	Maintenance of Storm Water Management Program in compliance with City ordinance	
		Storm Water Management	Storm Water Program Evaluation and Funding Report evaluated through a third party consultant via Public Works	
		Outreach Projects	Emergency Alert Notification system	
		Hazard Disclosure	Provide flood protection information resources from library and Social Media Outreach Initiatives as well as The Cities website	
		Flood Protection Information	Provide open accessibility of FEMA news release disseminating information promoting flood plain insurance via GIS on City website	
		Promotion of Flood Insurance, Flood Protection Assistance	Provide open accessibility of FEMA news release disseminating information promoting flood plain insurance via GIS on City website	
		Floodplain Mgmt Planning	Completing and maintaining FEMA elevation certificates for pre-FIRM and or post-FIRM buildings. Permits are issued through Land use Department. Maintenance and Permits are issued through the Public Works Department.	
		Acquisition and Relocation, Flood Protection, Drainage System Maintenance	Geomorphic Stream Assessment through Public Works	
Flood Warning and Response	Create and maintain coordination of flood warning and response activities with operators of critical facilities  Sustain public information outreach by disseminating flood warnings to public			

In order to maintain eligibility with NFIP, jurisdictions are required to maintain their list of properties that hold a policy with NFIP, along with up-to-date maps of the floodplains in the jurisdictions. Each jurisdiction participating in the Denton County Hazard Mitigation Action Plan completes this basic requirement and has the information on file with the jurisdiction's designated floodplain manager.

The City of The Colony developed (Ord. No. 2011-1892) March 3<sup>rd</sup> 2011) to deal with flooding issues in the city. The ordinance imposes stands it is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is in a flood area.

In order to accomplish its purposes, this chapter uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

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**7. Plan Maintenance**

**Monitoring, Evaluating and Updating the Plan**

In Compliance with requirement § 201.6(c)(4)(i), The Colony has developed a plan maintenance process which is described in the following paragraphs. The Colony, along with participating jurisdictions are responsible for monitoring implementation of the plan, executing a yearly evaluation of its effectiveness, and updating the plan within a 5-year cycle.

Following formal adoption by Denton County Commissioners Court, and formal adoption of the plan by City Council by each participating jurisdiction, the actions outlined in the Denton County Hazard Mitigation Plan would be implemented by the county and participating jurisdictions as described throughout this document.

The Denton County Emergency Management Coordinator will be responsible for ensuring the mitigation action items and implementation are monitored, evaluated, and reviewed biannually by emailing all the participating jurisdictions for updates on their individual action items. The progress of the action items will be tracked electronically as "in progress", "deferred" or "completed". This implementation will be included in the Mitigation Strategies for the 5 year update of the plan.

The Denton County Emergency Management Coordinator, working in conjunction with the respective jurisdictions, will be responsible for ensuring the mitigation plan is monitored, evaluated, and reviewed on an annual basis. This will be accomplished by calling an annual meeting of the planning committee, whose members will provide assistance and expertise for plan review, evaluating, updating, and monitoring. This meeting will be open to the public and public notices will encourage community participation. During this annual meeting, The Colony will provide information on the implementation status of each action included in the plan. As part of the evaluation, the planning committee will assess whether goals and objectives address current and expected conditions, whether the nature and/or magnitude of the risks have changed, if current resources are appropriate for implementing the plan, whether outcomes have occurred as expected, and if agencies and other partners participated as originally proposed. These activities will take place according to the timetable presented below:

Personnel	Activity	Update Schedule
Assistant Emergency Management Coordinator	<b>Monitoring Plan:</b> Track implementation and action items, changes to risk assessment, changes to planning team members, changes to capabilities, plan integrations	Biannually
	<b>Evaluate Plan:</b> Assess effectiveness by evaluating completed actions, implementation processes, responsible personnel and lessons learned.	Annually
	Update Plan	Once every 5 years

At least once every five years the multi-jurisdictional plan will undergo a major update. During this process, all sections of the plan will be updated with current information, and analyses and new and/or modified mitigation action plans will be developed. The revised plan will be submitted for state and federal review and approval, and presented for approval to the Denton County Commissioner's Court and the respective councils of incorporated cities included in the Denton County plan. Likewise, each participating jurisdiction will undergo the same process for reviewing, revising and updating their

respective plans and submitting same for approval by the state, FEMA and each local jurisdiction's governing body. The plan will be updated every five years in accordance with federal requirements.

**Plan Incorporation into Existing Planning Mechanisms (In compliance with 201.6(c)(4)(ii))**

Based on the requirements set forth in § 201.6(c)(4)(ii), the State of Texas Mitigation Plan, the vulnerability and capabilities assessment for each jurisdiction was carefully reviewed and considered when developing the mitigation actions for this plan. The HMPT will establish a process in which the mitigation strategy, goals, objectives and actions outlined in this plan will be incorporated into the existing regional and local planning strategies.

Local and regional planning committees currently use comprehensive land use planning, capital improvements planning, and building code ordinances to guide development. The mitigation strategy, goals, objectives and actions outlined in this plan will be integrated into these existing mechanisms as applicable. Those mechanisms include the following:

Jurisdiction	Responsible Personnel	Jurisdictional Plans	Integration Schedule	Integration Plan
The Colony	City Manager	Budget Meetings	Annually	Integration of mitigation projects identified in HazMAP, grants, and other fiscal allowances for mitigation actions and related costs
	Deputy Fire Chief	Emergency Action Plan updates	Annually	EAP Mitigation annex updates based on HazMAP HIRA; update preparedness, response and recovery actions related to identified hazards
	City Manager	Floodplain ordinances	As needed	Enhance mitigation of flood hazards using HazMAP flood data for floodplain management and community development.
	City Manager	Capital improvement plans	Annually	Strengthen critical infrastructure and key resources based on HazMAP hazard analysis, incorporate vulnerability data and action items.
		Comprehensive Long Range Plan		
		Strategic Plan		
	Public Works Director	Drought Contingency plans	As needed	Integrate drought actions such as xeriscaping, water restrictions, and public education
Natural Resource Conservation Plan		Annually	Integrate conservation measures by directing development away from hazard-prone areas identified in HazMAP.	

Although it is recognized there are many possible benefits to integrating components of this HazMAP into other planning mechanisms, The Colony Hazard Mitigation Planning Team considers this HazMAP, including development and maintenance, to be the primary vehicles to ensure implementation of local hazard mitigation actions.

**Continued Public Involvement (In compliance with 201.6(c)(4)(iii))**

As stated in requirement § 201.6(c)(4)(iii) The plan maintenance process shall include a discussion on how the community will continue public participation in the plan maintenance process.

To address this requirement, ongoing public participation will be encouraged throughout the entire planning and implementation process. A copy of the plan will be provided on the Denton County website. The planning committee will continue meeting on a regular basis to ensure the successful implementation of the plan and to discuss any additional issues regarding the emergency management of Denton County. The annual meetings for monitoring, evaluating, and updating the plan will be open to the public and public notices will encourage community participation.

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**CITY OF THE COLONY, TEXAS**

**RESOLUTION NO. 2016-\_\_\_\_\_**

**A RESOLUTION OF THE CITY OF THE COLONY, TEXAS, AUTHORIZING THE CITY MANAGER TO APPROVE THE REVISION TO THE HAZARD MITIGATION PLAN; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of The Colony, with the assistance from the North Central Texas Council of Governments (NCTCOG) has gathered information and prepared the revision to the Denton County Hazard Mitigation Plan; and

**WHEREAS**, the Denton County Local Mitigation Strategy has been prepared in accordance with FEMA requirements at 44C.F.R. 201.6; and

**WHEREAS**, the City of The Colony is a local unit of government that has afforded the citizens an opportunity to comment and provide input in the Plan and the action of the Plan; and

**WHEREAS**, the City Council of the City of The Colony has reviewed the Plan and affirms that the Plan will be updated in accordance to the plan maintenance process described;

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

**Section 1.** That the City of The Colony approves the revision to the Denton County Hazard Mitigation Plan as this jurisdiction's Multi-Natural Hazard Mitigation Plan and resolves to execute the actions in the Plan subject to available funding.

**Section 2.** That this resolution shall take effect immediately from and after its passage.

**PASSED AND APPROVED** by the City Council of the City of The Colony, Texas, this 2<sup>nd</sup> day of February, 2016.

\_\_\_\_\_  
Joe McCourry, Mayor

**ATTEST:**

\_\_\_\_\_  
Christie Wilson, TRMC, City Secretary

**APPROVED AS TO FORM:**

---

Jeff Moore, City Attorney

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Consider approving a resolution authorizing the city manager to execute a Professional Services Agreement with Dunkin Sims Stoffels, Inc. for the design development, bid specifications and construction observation for the design and construction of a section of Park Loop Trail from Squires Street to North Colony Boulevard with funding provided by the Community Development Corporation(PARD, Morgan)

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**Background:**

The Park Loop Trail was delineated in the 2004 Trail System Master Plan. The City Council has identified the Squires Drive to North Colony Blvd. corridor of the Park Loop Trail as a high priority to ensure that children in the neighborhood have a safe route to BB Owen Elementary School. This project was included on the CIP project list approved by Council on December 1, 2015. The budget for this project is \$550,000 which includes construction.

**Purpose:**

Families in the neighborhood south and west of BB Owen Elementary School have various challenges when traveling to the school by alternative transportation. Where there are existing sidewalks, the width of the sidewalks are narrow, and many do not meet current codes. The drainage corridor that bisects the neighborhood creates an obstacle that is not easily traversed.

This section Park Loop Trail will utilize a trail in the drainage corridor beginning at Squires Drive to connect with Vaden Street where it becomes an on-street route. It will then connect with a trail that begins at Squires Street, across from BB Owen School, and travel along Taylor Street until it crosses the stream via a pedestrian bridge and meanders to N. Colony Blvd. on the west side of Fire Station #2.

**Issues:**

**Alternatives:**

**Recommendations:**

Staff recommends approval of a resolution authorizing the City Manager to execute a design services agreement for the development of the Park Loop Trail Connection from Squires Drive to North Colony Blvd, with funding provided by the CDC in the amount of \$46,880.00.

**Attachments:**

Scope of Service

Resolution

Professional Services Agreement

January 12, 2016

Eve Morgan  
Parks Development Manager  
The Colony Parks and Recreation Department  
5151 North Colony Blvd.  
The Colony, Texas 75056

Dear Ms. Morgan:

We appreciate the opportunity to submit this Scope of Services for design and construction plans for the northern portion of the Park Loop Trail, running from Squires Drive to North Colony Blvd. within the Atmos Energy easement and the westward extension along Vaden Street.

The following Scope of Services outlines the professional services to be performed by Dunkin Sims Stoffels, Inc. (DSS) in association with the design and construction documentation of the lengths of the Park Loop Trail delineated above.

## **SCOPE OF SERVICES**

### **Existing Conditions/Base Map**

On-site surveys of the aforementioned trail segments will be prepared by a Registered Public Land Surveyor, as a subsidiary service within this project scope. These surveys will delineate the elevational and spatial position of the existing conditions and topographic contours. Upon receipt of the above outlined information DSS will prepare a base map for use in the development of the design and construction documents for the previously delineated portions of the Park Loop Trail.

### **Schematic Design**

DSS will prepare a schematic plan(s) illustrating the alignment of the sections of the Northern Park Loop Trail as discussed with the Client. The schematic design for the Northern Park Loop Trail will illustrate alignment alternatives within the Atmos Energy right-of-way and the western connection to Squires Drive via Vaden Street. The schematic design(s) will be presented to the Client for review and comment.

## **Final Design**

DSS will incorporate Client comments and further develop the schematic design or combination of designs. The resulting final Northern Park Loop Trail design and opinion of probable cost will be presented to the Client for review and comments. The final design will be refined and Client comments will be incorporated as feasible within the professional standard of practice.

## **Design Development Phase**

DSS will begin preparation of the construction documents by further analyzing the Northern Park Loop Trail alignment and proposing refined design recommendations and solutions for additional review and comment by the Client. The detailed opinion of probable cost will be revised to reflect design development modifications.

## **Construction Documents and Specifications**

Construction documents and specifications will be prepared for the construction of the Northern Park Loop Trail. The construction plans and specifications shall be submitted for review. Following review, the construction documents shall be refined to address any comments and concerns noted by the Client. A final opinion of probable cost will be prepared for submission with the construction documents.

## **Bidding Phase**

DSS will perform the following services relative to project bidding:

- Distribute the plans and specifications to potential bidders answering bidders' questions and interpreting the drawings during the bid phase.
- Prepare addenda, as necessary, to interpret and clarify the bidding documents.
- Issue addenda to all plan holders of record.
- Assist the Client in receiving bids.
- Tabulation of the bids and make recommendations to the Client regarding the bids and bidders.

## **Construction Observation**

The Consultant will perform the following professional services during construction of the facilities:

- Consult and provide advice.
- Preparation of elementary and supplementary sketches required to resolve field conditions.
- Approval of submittals and shop drawings submitted by the Contractor for conformance with the design concept.
- The Consultant shall make periodic site visits (bi-weekly, minimum) to determine if the project is proceeding in accordance with the contract documents. This shall not involve exhaustive or continuous on-site inspections to check the quality or quantity of work or materials. DSS shall not be responsible or liable for the

Contractor's failure to perform the construction work in accordance with the contract documents. DSS has included twelve (12) site visits within our project scope; based upon an anticipated construction length of 5 to 6 months.

- Review all certificates for payment submitted by the Contractor and make appropriate recommendations for approval of pay requests.
- Consult with the Client regarding change order items.
- Provide punch list of incomplete and incorrect items for the Contractor to complete the project.

### **Compensation to Consultant**

The Consultant's fee for the services within the various design phases, preparation of construction documents and project bidding phases of the project is \$27,130.00.

DSS's professional fees for the services outlined within the separate phases of work delineated above are as follows:

Existing Conditions / Base Map	\$ 890.00
Schematic Design	\$ 1,700.00
Final Design	\$ 1,070.00
Design Development	\$ 1,370.00
Construction Documents & Specifications	\$12,880.00
Bidding	\$ 2,170.00
Construction Observation	<u>\$ 7,050.00</u>
TOTAL:	\$27,130.00

### **Subsidiary Services:**

The Consultant will provide the following services to develop/provide information which supplements the Consultants basic scope of services.

1. Site Topography Survey – A one-foot interval in-situ topographic map and site survey will be prepared for the Northern Park Loop Trail site. Location and spot elevations for existing site features will be established, e.g. substantial trees, sanitary sewer manholes, existing pavement limits and grades, storm sewer inlets, etc. This information will be supplemented by the incorporation of all known easements and utilities. This does not include a Boundary Survey of the existing property lines. The professional fee for the Northern Park Loop Trail survey is \$12,500.00.
2. Geotechnical Report – A geotechnical investigation of the soil and sub-surface conditions will be conducted in the vicinity of the pedestrian bridge crossing and at the northern, southern and western extents of the hike and bike trail. The investigation will ascertain the soil types, depth to bedrock and analysis of the soils to determine bearing capacities, potential vertical movement/uplift and other pertinent information that the consultant requires to design the bridge abutments and trail pavement. The professional fee for the Northern Park Loop Trail Geotechnical Report is \$3,000.00.

## Reimbursable Expenses

Reimbursable expenses include, but are not limited to, the following:

Printing/reproduction and photocopying charges, delivery/courier, mailing expenses and Texas Accessibility Standards Registration, Review and Inspection Fees. DSS will invoice reimbursable expenses to the Client at the incurred cost. Based on past projects of a similar scope, DSS recommends that the City budget \$4,250.00 for reimbursable expenses.

## Additional Design Services

DSS will provide design services not identified in this Scope of Services upon receipt of authorization from the Client. We propose that additional services be provided on an hourly rate basis with a mutually agreed "not to exceed" total. For additional services the following hourly rates shall be used:

Principal	\$150.00 per hour
Landscape Architect	\$110.00 per hour
CADD Technician	\$ 90.00 per hour
Technical Support	\$ 60.00 per hour
Clerical Support	\$ 45.00 per hour
Structural Engineer	\$140.00 per hour
Civil Engineer	\$130.00 per hour
Engineer Principal	\$175.00 per hour
Ground-based LiDAR Scanning Crew	\$250.00 per hour
Survey Field Crew (3 man)	\$140.00 per hour
Survey Field Crew (2 man)	\$120.00 per hour
GPS Field Crew (1 man)	\$100.00 per hour
Surveyor (RPLS)	\$110.00 per hour
Surveyor (RPLS) as an expert witness	\$220.00 per hour
Surveyor in Training (SIT)	\$ 85.00 per hour
Survey Technician	\$ 75.00 per hour
Clerical	\$ 35.00 per hour

Such additional services might include the following:

- Design  
Additional design services beyond those identified within this Scope of Services. Any design changes following the initiation of construction document preparation will be considered an additional service and DSS will bill the Client for the resultant changes to the construction documents and for increased services at the hourly rates outlined above.
- Change Orders  
Preparation of Change Orders which expand the original Scope of Services.

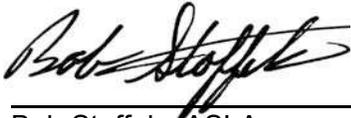
**Insurance Coverage**

DSS will furnish a certificate(s) of insurance indicating the coverage maintained. The certificate(s) for each insurance policy will be signed by a person authorized by that insurer to bind coverage on its behalf. Certificate of Insurance shall be in a format similar to the ACCORD form.

We appreciate the opportunity to provide you with this proposal, and we look forward to working with the City of The Colony on this project. If you would like to discuss the content of this proposal or if I can be of further assistance, please do not hesitate to contact me.

Sincerely,

DUNKIN SIMS STOFFELS, INC



---

Bob Stoffels, ASLA  
Principal

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Date

**ATTACHMENT 'A'**

**PROFESSIONAL FEE SCHEDULE  
Northern Park Loop Trail  
The Colony, Texas**

**PROFESSIONAL DESIGN SERVICES**

Existing Conditions / Base Map	\$ 890.00
Schematic Design	\$ 1,700.00
Final Design	\$ 1,070.00
Design Development	\$ 1,370.00
Construction Documents & Specifications	\$ 12,880.00
Bidding Phase	\$ 2,170.00
<u>Construction Observation</u>	<u>\$ 7,050.00</u>
Professional Services Total:	\$27,130.00

**REIMBURSABLE EXPENSES**

Budgetary Amount	\$ 4,250.00
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**SUBSIDIARY SERVICES**

Northern Park Loop Trail Survey	\$ 12,500.00
<u>Geotechnical Report</u>	<u>\$ 3,000.00</u>
Subsidiary Services Total:	<u>\$15,500.00</u>
TOTAL:	\$46,880.00

**CITY OF THE COLONY, TEXAS**

**RESOLUTION NO. 2016-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, APPROVING A PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN THE CITY OF THE COLONY AND DUNKIN SIMS STOFFELS, INC. FOR A PROFESSIONAL SERVICES CONTRACT FOR THE DESIGN AND CONSTRUCTION DOCUMENTS FOR DEVELOPMENT OF THE NORTHERN PARK LOOP TRAIL, WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT "A"; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City and Consultant have entered into an agreement such that the Consultant is to provide Professional Services Agreement for the design and construction documents for development of the Northern Park Loop Trail; and

**WHEREAS**, the City has determined that it is in the best interest of the City to enter into the agreement with Dunkin Sims and Stoffels, Inc., which is attached hereto and incorporated herein by reference as Exhibit "A," under the terms and conditions provided therein; and

**WHEREAS**, with this agreement the City of The Colony is agreeing to pay a sum not to exceed \$27,130.00 for a Professional Services Contract with Dunkin Sims and Stoffels, Inc., with funding provided by the Community Development Corporation.

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

Section 1. The agreement, which is attached and incorporated hereto as Exhibit "A", having been reviewed by the City Council of the City of The Colony, Texas, and found to be acceptable and in the best interest of the City and its citizens, be, and the same is hereby, in all things approved for a total amount not to exceed \$27,130.00, which includes \$4,250.00 reimbursable expenses, and the City Manager is hereby authorized to execute the agreement on behalf of the City of The Colony, Texas.

Section 2. That this Resolution shall take effect immediately from and after its adoption and it is so resolved.

**PASSED AND APPROVED** by the City Council of the City of The Colony, Texas, this 2<sup>nd</sup> day of February, 2016.

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Joe McCourry, Mayor  
City of The Colony, Texas

**ATTEST:**

---

Christie Wilson, City Secretary

**APPROVED AS TO FORM:**

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Jeff Moore, City Attorney

**STATE OF TEXAS** § **CITY OF THE COLONY, TEXAS**  
§ **AGREEMENT FOR PROFESSIONAL SERVICES**  
**COUNTY OF DENTON** §

This Agreement for Professional Services (“Agreement”) is made by and between the City of The Colony, Texas, a municipal corporation located in Denton County, Texas (“City”), and DUNKIN SIMS STOFFELS, INC (“Professional”) (individually, each a “Party” and collectively, “Parties”), acting by and through the Parties’ authorized representatives.

**Recitals:**

**WHEREAS**, City desires to engage the services of Professional as an independent contractor and not as an employee in accordance with the terms and conditions set forth in this Agreement; and

**WHEREAS**, Professional desires to render professional services for City for THE PARK LOOP TRAIL CONNECTION FROM SQUIRES DRIVE TO NORTH COLONY BLVD (“Project”) in accordance with the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in exchange for the mutual covenants set forth herein and other valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties agree as follows:

**Article I**  
**Employment of Professional**

Professional will perform as an independent contractor all services under this Agreement to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of Professional’s profession, both public and private, currently practicing in the same locality under similar conditions including but not limited to the exercise of reasonable, informed judgments and prompt, timely action. If Professional is representing this it has special expertise in one or more areas to be utilized in the performance of this Agreement, then Professional agrees to perform those special expertise services to the appropriate local, regional and national professional standards.

**Article II**  
**Term**

2.1 The term of this Agreement shall begin on the last date of execution hereof by all parties hereto (the “Effective Date”) and shall continue until completion of the services provided by Professional to City under this Agreement.

2.2 Professional may terminate this Agreement by giving thirty (30) days prior written notice to City. In the event of such termination by Professional, Professional shall be entitled to compensation for services satisfactorily completed in accordance with this Agreement prior to the date of such termination.

2.3 City may terminate this Agreement by giving ten (10) days prior written notice to Professional. In the event of such termination by City, Professional shall be entitled to compensation for services satisfactorily completed in accordance with this Agreement prior to the date of such termination. Upon receipt of such notice from City, Professional shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Agreement and shall proceed to promptly cancel all existing contracts insofar as they are related to this Agreement.

### **Article III** **Scope of Services**

3.1 Professional shall perform the services specifically set forth in Exhibit A, attached hereto and incorporated herein by reference, entitled "Scope of Services". In case of conflict with the language of Exhibit A and the provisions of this Agreement, the provisions of this Agreement shall control.

3.2 The Parties acknowledge and agree that any and all opinions provided by Professional represent the best judgment of Professional.

3.3 Schematic Design Documents, Design Development Documents, Contract Documents, Drawings, Plans, Specifications and other documents, including those in electronic form, prepared by Professional and its consultants, agents, representatives, and/or employees in connection with the Project ("Project Documents") are intended for the use and benefit of City. Professional and its consultants, agents, representatives, and/or employees shall be deemed the authors of their respective part of said Project Documents. Notwithstanding the foregoing, City shall own, have, keep and retain all rights, title and interest in and to all Project Documents, including all ownership, common law, statutory, and other reserved rights, including copyrights, in and to all such Project Documents, whether in draft form or final form, which are produced at City's request and in furtherance of this Agreement or for the Project. City shall have full authority to authorize contractor(s), subcontractors, sub-subcontractors, City consultants, and material or equipment suppliers to reproduce applicable portions of the Project Documents to and for use in their execution of the work or for any other purpose. All materials and reports prepared by Professional in connection with this Agreement are "works for hire" and shall be the property of City. Professional shall, upon completion of the services provided under this Agreement, or upon earlier termination of this Agreement, provide City with reproductions of all materials, reports, and exhibits prepared by Professional pursuant to this Agreement, and shall provide same in electronic format if requested by City. Any re-use of the Project Documents by the City on any other project not contemplated or included under this Agreement shall be at the City's sole risk, without liability to Professional.

### **Article IV** **Schedule of Work**

4.1 Professional agrees to commence services upon written direction from City and to complete the tasks set forth in Exhibit A, Scope of Services, in accordance with a work schedule established by City (the "Work Schedule"), which is attached hereto and incorporated as Exhibit B.

4.2 In the event Professional's performance of this Agreement is delayed or interfered with by acts of City or others, Professional may request an extension of time for the performance of same as hereinafter provided, and City shall determine whether to authorize any increase in fee or price, or to authorize damages or additional compensation as a consequence of such delays, within a reasonable time after receipt of Professional's request.

4.3 No allowance of any extension of time, for any cause whatsoever, shall be claimed or made by Professional, unless Professional shall have made written request upon City for such extension not later than five (5) business days after the occurrence of the cause serving as the basis for such extension request, and unless City and Professional have agreed in writing upon the allowance of such additional time.

## **Article V** **Compensation and Method of Payment**

5.1 City shall pay Professional for the services specifically as set forth in Exhibit "A" by payment of a fee not to exceed **\$46,880.00**.

5.2 Each month Professional shall submit to City an invoice supporting the amount for which payment is sought. Each invoice shall also state the percentage of work completed on the Project through the end of the then submitted billing period, the total of the current invoice amount, and a running total balance for the Project to date.

5.3 Within thirty (30) days of receipt of each such monthly invoice, City shall make monthly payments in the amount shown by Professional's approved monthly invoice and other documentation submitted.

5.4 Professional shall be solely responsible for the payment of all costs and expenses related to the services provided pursuant to this Agreement including, but not limited to, travel, copying and facsimile charges, reproduction charges, and telephone, internet, e-mail, and postage charges, except as set forth in Exhibit A.

5.5 Nothing contained in this Agreement shall require City to pay for any services that is unsatisfactory as determined by City or which is not performed in compliance with the terms of this Agreement, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which City may have if Professional is in default, including the right to bring legal action for damages or for specific performance of this Agreement. Waiver of any default under this Agreement shall not be deemed a waiver of any subsequent default.

## **Article VI** **Devotion of Time, Personnel, and Equipment**

6.1 Professional shall devote such time as reasonably necessary for the satisfactory performance of the services under this Agreement. City reserves the right to revise or expand the scope of services after due approval by City as City may deem necessary, but in such event City

shall pay Professional compensation for such services at mutually agreed upon charges or rates, and within the time schedule prescribed by City, and without decreasing the effectiveness of the performance of services required under this Agreement. In any event, when Professional is directed to revise or expand the scope of services under this Agreement, Professional shall provide City a written proposal for the entire costs involved in performing such additional services. Prior to Professional undertaking any revised or expanded services as directed by City under this Agreement, City must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

6.2 It is expressly understood and agreed to by Professional that any compensation not specified in this Agreement may require approval by the City Council of the City of The Colony and may be subject to current budget year limitations.

6.3 To the extent reasonably necessary for Professional to perform the services under this Agreement, Professional shall be authorized to engage the services of any agents, assistants, persons, or corporations that Professional may deem proper to aid or assist in the performance of the services under this Agreement. The cost of such personnel and assistance shall be borne exclusively by Professional.

6.4 Professional shall furnish the facilities, equipment, telephones, facsimile machines, email facilities, and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.

## **Article VII** **Relationship of Parties**

7.1 It is understood and agreed by and between the Parties that in satisfying the conditions and requirements of this Agreement, Professional is acting as an independent contractor, and City assumes no responsibility or liability to any third party in connection with the services provided by Professional under this Agreement. All services to be performed by Professional pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent, servant, representative, or employee of City. Professional shall supervise the performance of its services and shall be entitled to control the manner, means and methods by which Professional's services are to be performed, subject to the terms of this Agreement. As such, City shall not train Professional, require Professional to complete regular oral or written reports, require Professional to devote his full-time services to City, or dictate Professional's sequence of work or location at which Professional performs Professional's work, except as may be set forth in Exhibit A.

7.2 Professional shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, plans, and other services furnished by Professional under this Agreement. Professional shall, without additional compensation, correct or revise any errors or deficiencies in the Project Documents and other services provided under this Agreement. Neither City's review, approval, nor acceptance of, nor payment for any of, the services provided under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement, and Professional shall be and remain liable to City in accordance with

applicable law for all damages to City caused by Professional's negligent performance of any of the services furnished under this Agreement.

**Article VIII**  
**Insurance**

8.1 Before commencing work, Professional shall, at its own expense, procure, pay for and maintain during the term of this Agreement the following insurance written by companies approved by the state of Texas and acceptable to City. Professional shall furnish to the City Manager certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be addressed as follows:

City of The Colony, Texas  
Attention: City Manager  
6800 Main Street  
The Colony, Texas 75056

A. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000 per occurrence, \$1,000,000 Products/Completed Operations Aggregate, and \$1,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.

B. Workers' Compensation insurance with statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: 1) by accident, \$100,000 each accident, and 2) by disease, \$100,000 per employee with a per policy aggregate of \$500,000.

C. Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000 per occurrence.

D. Professional Liability Insurance to provide coverage against any claim which the Professional and all professionals engaged or employed by the Professional become legally obligated to pay as damages arising out of the performance of professional services caused by error, omission or negligent act with minimum limits of \$2,000,000 per claim, \$2,000,000 annual aggregate.

NOTE: If the insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of this Agreement and acceptance by City.

8.2 With reference to the foregoing required insurance, Professional shall endorse applicable insurance policies as follows:

A. A waiver of subrogation in favor of City, its officials, employees, and officers shall be contained in the Workers' Compensation insurance policy.

B. The City, its officials, employees and officers shall be named as additional insureds on the Commercial General Liability policy, by using endorsement CG2026 or broader .

C. All insurance policies shall be endorsed to the effect that City will receive at least thirty (30) days notice prior to cancellation, non-renewal, termination, or material change of the policies.

8.3 All insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

### **Article IX** **Right to Inspect Records**

9.1 Professional agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of Professional involving transactions relating to this Agreement. Professional agrees that City shall have access during normal working hours to all necessary Professional facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City shall give Professional reasonable advance notice of intended audits.

9.2 Professional further agrees to include in subcontract(s), if any, a provision that any subcontractor agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of such subcontractor involving transactions related to the subcontract, and further, that City shall have access during normal working hours to all such subcontractor facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section. City shall give any such subcontractor reasonable advance notice of intended audits.

### **Article X** **Miscellaneous**

10.1 Entire Agreement. This Agreement and any and all Exhibits attached hereto constitutes the sole and only agreement between the Parties and supersedes any prior or contemporaneous understandings, written agreements or oral agreements between the Parties with respect to the subject matter of this Agreement.

10.2 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations granted and assumed under this Agreement.

10.3 Assignment. Professional may not assign this Agreement in whole or in part without the prior written consent of City. In the event of an assignment by Professional to which

the City has consented, the assignee shall agree in writing with the City to personally assume, perform, and be bound by all the covenants and obligations contained in this Agreement.

10.4 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

10.5 Governing Law and Exclusive Venue. The laws of the State of Texas shall govern this Agreement, and exclusive venue for any legal action concerning this Agreement shall be in a District Court with appropriate jurisdiction in Denton County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

10.6 Amendments. This Agreement may be amended only by the mutual written agreement of the Parties.

10.7 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision in this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

10.8 Survival of Covenants and Terms. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination, including, but not limited to, Section 3.3, Article X, and, in particular, Sections 10.13 and 10.14.

10.9 Recitals. The recitals to this Agreement are incorporated herein.

10.10 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other Party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City:

Troy C. Powell  
City Manager  
City of The Colony  
6800 Main Street  
The Colony, Texas 75056

With Copy to:

Pam Nelson  
Community Services Director  
City of The Colony  
5151 N. Colony  
The Colony, Texas 75056

If intended for Professional:

Bob Stoffels, RLA  
Dunkin Sims Stoffels, Inc.  
622 West State Street  
Garland, Texas 75040

10.11 Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of, the Parties hereto.

10.12 Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

10.13 Professional's Liability. Acceptance of the Project Documents by City shall not constitute nor be deemed a release of the responsibility and liability of Professional, its employees, associates, agents or subcontractors for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by City for any defect in the Project Documents or other documents and work prepared by Professional, its employees, associates, agents or sub-consultants.

10.14 Indemnification. **PROFESSIONAL AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEY'S FEES AND COSTS OF INVESTIGATION) AND ACTIONS BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY PROFESSIONAL'S PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF PROFESSIONAL, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE SOLE NEGLIGENCE OF THE CITY). IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST CITY IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, THE PROFESSIONAL, ON NOTICE FROM CITY, SHALL DEFEND SUCH ACTION OR PROCEEDINGS AT PROFESSIONAL'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO CITY. PROFESSIONAL'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY PROFESSIONAL UNDER THIS AGREEMENT. IF THIS AGREEMENT IS A CONTRACT FOR ENGINEERING OR ARCHITECTURAL SERVICES, THEN THIS SECTION IS LIMITED BY, AND TO BE READ AS BEING IN COMPLIANCE WITH, THE INDEMNITY SPECIFIED IN § 271.904 OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED. THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT**

10.15 Conflicts of Interests. Professional represents that no official or employee of City has any direct or indirect pecuniary interest in this Agreement. Any misrepresentation by Professional under this section shall be grounds for termination of this Agreement and shall be grounds for recovery of any loss, cost, expense or damage incurred by City as a result of such misrepresentation.

10.16 Default. If at any time during the term of this Agreement, Professional shall fail to commence the services in accordance with the provisions of this Agreement or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Agreement or fail to use an adequate number or quality of personnel to complete the services or fail to perform any of Professional's obligations under this Agreement, then City shall have the right, if Professional shall not cure any such default after thirty (30) days written notice thereof, to terminate this Agreement. Any such act by City shall not be deemed a waiver of any other right or remedy of City. If after exercising any such remedy due to Professional's nonperformance under this Agreement, the cost to City to complete the services to be performed under this Agreement is in excess of that part of the contract sum which as not theretofore been paid to Professional hereunder, Professional shall be liable for and shall reimburse City for such excess costs.

10.17 Confidential Information. Professional hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of Professional's obligations in accordance with this Agreement, which is of a confidential, non-public or proprietary nature. Professional shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for Professional's own use or the use of any third party at any time during or subsequent to this Agreement. As used herein, "Confidential Information" means all oral and written information concerning the City, its affiliates and subsidiaries, and all oral and written information concerning City or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilations, studies or other documents, whether prepared by Professional or others, which contain or otherwise reflect such information. The term "Confidential Information" shall not include such information that is or becomes generally available to the public other than as a result of disclosure to Professional, or is required to be disclosed by a governmental authority under applicable law.

10.18 Remedies. No right or remedy granted or reserved to the Parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each right or remedy shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Agreement may be waived without written consent of the Parties. Forbearance or indulgence by either Party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Agreement.

10.19 No Third Party Beneficiary. For purposes of this Agreement, including the intended operation and effect of this Agreement, the Parties specifically agree and contract that: (1) this Agreement only affects matters between the Parties to this Agreement, and is in no way intended by the Parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with City or Professional or both; and (2) the terms of this Agreement are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Professional.

**EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**City of The Colony, Texas**

By: \_\_\_\_\_  
City Manager

Attest:  
\_\_\_\_\_  
City Secretary

**EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Professional**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:  
\_\_\_\_\_  
Corporate Secretary

**Exhibit 'A'**  
**SCOPE OF SERVICES**

**Park Loop Trail Connection – Squires Drive to North Colony Blvd.**  
The Colony, Texas

**Existing Conditions/Base Map**

On-site surveys of the aforementioned trail segments will be prepared by a Registered Public Land Surveyor, as a subsidiary service within this project scope. These surveys will delineate the elevational and spatial position of the existing conditions and topographic contours. Upon receipt of the above outlined information DSS will prepare a base map for use in the development of the design and construction documents for the previously delineated portions of the Park Loop Trail.

**Schematic Design**

DSS will prepare a schematic plan(s) illustrating the alignment of the sections of the Northern Park Loop Trail as discussed with the Client. The schematic design for the Northern Park Loop Trail will illustrate alignment alternatives within the Atmos Energy right-of-way and the western connection to Squires Drive via Vaden Street. The schematic design(s) will be presented to the Client for review and comment.

**Final Design**

DSS will incorporate Client comments and further develop the schematic design or combination of designs. The resulting final Northern Park Loop Trail design and opinion of probable cost will be presented to the Client for review and comments. The final design will be refined and Client comments will be incorporated as feasible within the professional standard of practice.

**Design Development Phase**

DSS will begin preparation of the construction documents by further analyzing the Northern Park Loop Trail alignment and proposing refined design recommendations and solutions for additional review and comment by the Client. The detailed opinion of probable cost will be revised to reflect design development modifications.

**Construction Documents and Specifications**

Construction documents and specifications will be prepared for the construction of the Northern Park Loop Trail. The construction plans and specifications shall be submitted for review. Following review, the construction documents shall be refined to address any comments and concerns noted by the Client. A final opinion of probable cost will be prepared for submission with the construction documents.

**Bidding Phase**

DSS will perform the following services relative to project bidding:

- Distribute the plans and specifications to potential bidders answering bidders' questions and interpreting the drawings during the bid phase.
- Prepare addenda, as necessary, to interpret and clarify the bidding documents.
- Issue addenda to all plan holders of record.

- Assist the Client in receiving bids.
- Tabulation of the bids and make recommendations to the Client regarding the bids and bidders.

### **Construction Observation**

The Consultant will perform the following professional services during construction of the facilities:

- Consult and provide advice.
- Preparation of elementary and supplementary sketches required to resolve field conditions.
- Approval of submittals and shop drawings submitted by the Contractor for conformance with the design concept.
- The Consultant shall make periodic site visits (bi-weekly, minimum) to determine if the project is proceeding in accordance with the contract documents. This shall not involve exhaustive or continuous on-site inspections to check the quality or quantity of work or materials. DSS shall not be responsible or liable for the Contractor's failure to perform the construction work in accordance with the contract documents. DSS has included twelve (12) site visits within our project scope; based upon an anticipated construction length of 5 to 6 months.
- Review all certificates for payment submitted by the Contractor and make appropriate recommendations for approval of pay requests.
- Consult with the Client regarding change order items.
- Provide punch list of incomplete and incorrect items for the Contractor to complete the project.

**Exhibit 'B'**  
**Basis of Compensation**

**Park Loop Trail Connection – Squires Drive to North Colony Blvd.**  
The Colony, Texas

**I. Compensation**

**Professional Design Services**

Existing Conditions / Base Map	\$ 890.00
Schematic Design	\$ 1,700.00
Final Design	\$ 1,070.00
Design Development	\$ 1,370.00
Construction Documents & Specifications	\$12,880.00
Bidding	\$ 2,170.00
Construction Observation	<u>\$ 7,050.00</u>
<b>Professional Services Total:</b>	<b>\$27,130.00</b>

**Reimbursable Expenses**

Budgetary Amount	<b>\$ 4,250.00</b>
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**Subsidiary Services**

Site Topography Survey	\$12,500.00
Geotechnical Report	<u>\$ 3,000.00</u>
<b>Subsidiary Services Total:</b>	<b><u>\$15,500.00</u></b>

**GRAND TOTAL – Professional Design Services, Reimbursable Expenses and Subsidiary Services:**

**NOT TO EXCEED** **\$46,880.00**

## II. Timeline / Schedule

### General Time Line

These time frames do include some time for City review.

Topographic Survey	-	4 to 6 weeks * <sup>1</sup>
Geotechnical Study	-	3 to 4 weeks * <sup>1</sup>
Existing Conditions/Base Map	-	1 to 2 weeks
Schematic Design	-	2 to 3 weeks
Final Design	-	1 to 2 weeks
Design Development	-	2 to 3 weeks
Construction Documents & Specifications	-	5 to 6 weeks
Meetings with CDC & City Council	-	2 to 3 weeks
Bidding Phase	-	5 to 6 weeks * <sup>2</sup>
Construction Observation (Construction)	-	21 to 27 weeks

\*<sup>1</sup> Run Concurrently

\*<sup>2</sup> Includes Council Approval of Contract

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Consider approving a resolution authorizing the city manager to execute a Professional Services Agreement with Half Associates, Inc. for the development of a Citywide Hike and Bike Trails Master Plan with funding provided by the Community Development Corporation (PARD, Morgan)

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**Background:**

In 2004, a city wide trail master plan was developed to provide a guide for future trails for alternative transportation opportunities in The Colony. Over the past 12 years many trails indicated in the master plan have been constructed. On December 1, 2016, Council approved the CDC Capital Improvement Projects list which included updating the Trail Master Plan. The CDC has budgeted \$50,000 for this project.

**Purpose:**

A new master plan will reflect the trails that have been constructed, analyze proposed trails to ensure that those routes are viable, prioritize routes for construction, make connections to surrounding communities and the regional trail networks and provide estimates of probable cost for proposed trails.

The Trail Master plan will be integrated with the City's Thoroughfare plan to ensure that consideration is given to alternative transportation options as the City continues to grow and develop.

**Issues:**

**Alternatives:**

**Recommendations:**

Staff recommends approval of a resolution authorizing the City Manager to execute a design services agreement for the development of a Citywide Trails Master Plan, with funding provided by the CDC in the amount of \$39,500.

**Attachments:**

Professional Services Agreement  
Resolution

**CITY OF THE COLONY, TEXAS**

**RESOLUTION NO. 2016-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, APPROVING A PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN THE CITY OF THE COLONY AND HALFF ASSOCIATES, INC. FOR THE DEVELOPMENT OF A CITYWIDE HIKE AND BIKE TRAILS MASTER PLAN AS PART OF THE CITY'S PARK AND RECREATION FACILITIES AS DESCRIBED AND ATTACHED HERETO AS EXHIBIT "A"; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, That the City Council of the City of The Colony, Texas, hereby approves the Professional Services Agreement made by and between the City of The Colony, Texas and Halff Associates, Inc., for the development of a citywide hike and bike trails master plan.

WHEREAS, the City has determined that the professional shall perform the services specifically set forth in "Exhibit A". In case of conflict with the language of "Exhibit A", and the provisions of this agreement, the provisions of this agreement shall control; and

WHEREAS, the City has determined that the professional agrees to commence services upon written direction from the City and to complete the tasks set forth in "Exhibit A", Scope of Services, in accordance with a work schedule established by City, which is attached hereto and incorporated as "Exhibit B"; and

WHEREAS, the City shall pay the professional for services specifically set forth in "Exhibit A" by payment of a not to exceed fee of \$39,500.00.

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

Section 1. That all provisions of any resolution of the City Council of the City of The Colony in conflict with the provisions of this resolution be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this resolution shall remain in full force and effect.

Section 2. That this Resolution shall take effect immediately from and after its adoption and it is so resolved.

**PASSED, APPROVED and EFFECTIVE this 2<sup>nd</sup> day of February, 2016.**

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Joe McCourry, Mayor

City of The Colony, Texas

ATTEST:

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Christie Wilson, City Secretary,

APPROVED AS TO FORM:

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Jeff Moore, City Attorney

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Consider authorizing a migration of the City's internal email system to Microsoft's Cloud services platform, O365 (General Admin, Shallenburger)

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**Background:**

The City has managed an internal e-mail system for the past several years. This system currently comprises four devices, which consists of two servers, one spam/virus filter, and one load balancer. Although this system is backed up on a regular basis, it would take several days to restore services should a critical outage occur. Migrating email services to Microsoft would eliminate hardware capital purchases for email, ensure email services are reliable and reduce time spent by IT managing the system. Consider approval to proceed with migration of the City's internal email system to Microsoft's Cloud services platform, O365

**Purpose:**

The primary purpose of this request is to provide a more reliable email service to staff and other individuals who utilize the City's email system. In addition, this migration will allow IT staff to focus their attention on other systems. Implementation costs for this migration will be approximately \$12,500 with an annual subscription cost of \$10,000. Year 1 cost will be \$22,500, years 2-3 will be \$10,000 each. Item is not budgeted; however, funds are available for IT upgrades using the following accounts: Software and Licensing: 895-631-6552 in the amount of \$18,500 and Professional Services: 895-631-6210 in the amount of \$4,000.

**Issues:**

During this migration there will be minimal impact on email services with a goal to have this project completed within 90 days.

**Alternatives:**

Continue operating as normal.

**Recommendations:**

Approve migration of the City's internal email system to Microsoft's Cloud service platform, O365.

**Attachments:**

Cost estimates to keep mail services in-house  
O365 mailbox migration and annual costs

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Conduct a public hearing, discuss and consider an ordinance approving text amendments to "Exhibit "B," Permitted Land Uses by Category, to add certain land uses to the Austin Ranch Planned Development Design Standards (Development Services, Joyce)

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**Background:**

**Purpose:**

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

Council Staff Report  
Location Map  
Proposed Ordinance  
Minutes of January 12, 2016 P&Z meeting

## CITY COUNCIL REPORT

**AGENDA DATE:** February 2, 2016

**DEPARTMENT:** Engineering/Development Services Department

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**SUBJECT** *PDA15-0005 PD-22, Austin Ranch Planned Development Design Standards Text Amendment*

Conduct a public hearing, discuss and consider text amendments to “Exhibit ”B,” Permitted Land Uses by Category, to add certain land uses to the Austin Ranch Planned Development Design Standards.

**OWNER/ENGINEER**

Owner/Developer: Billingsley Company Dallas, Texas

**EXISTING CONDITION OF PROPERTY**

Planned Development 22, aka the Austin Ranch PD, is partially developed with residential multiple-family, single-family, office, commercial developments and mixed uses. If approved, the proposed text amendment will apply to all the land area within PD-22.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

January 12, 2016 – The Planning and Zoning Commission voted (5-0) to recommend approval of the text amendments to “Exhibit B,” Permitted Land Uses by Category, to add certain land uses to the Austin Ranch Planned Development Design Standards.

**DEVELOPMENT REVIEW COMMITTEE (DRC) REVEIW**

The Development Review Committee (DRC) recommends approval of the proposed amendment.

**OPTIONS**

1. Approve as submitted.
2. Approve with conditions.
3. Postpone consideration.
4. Table item.

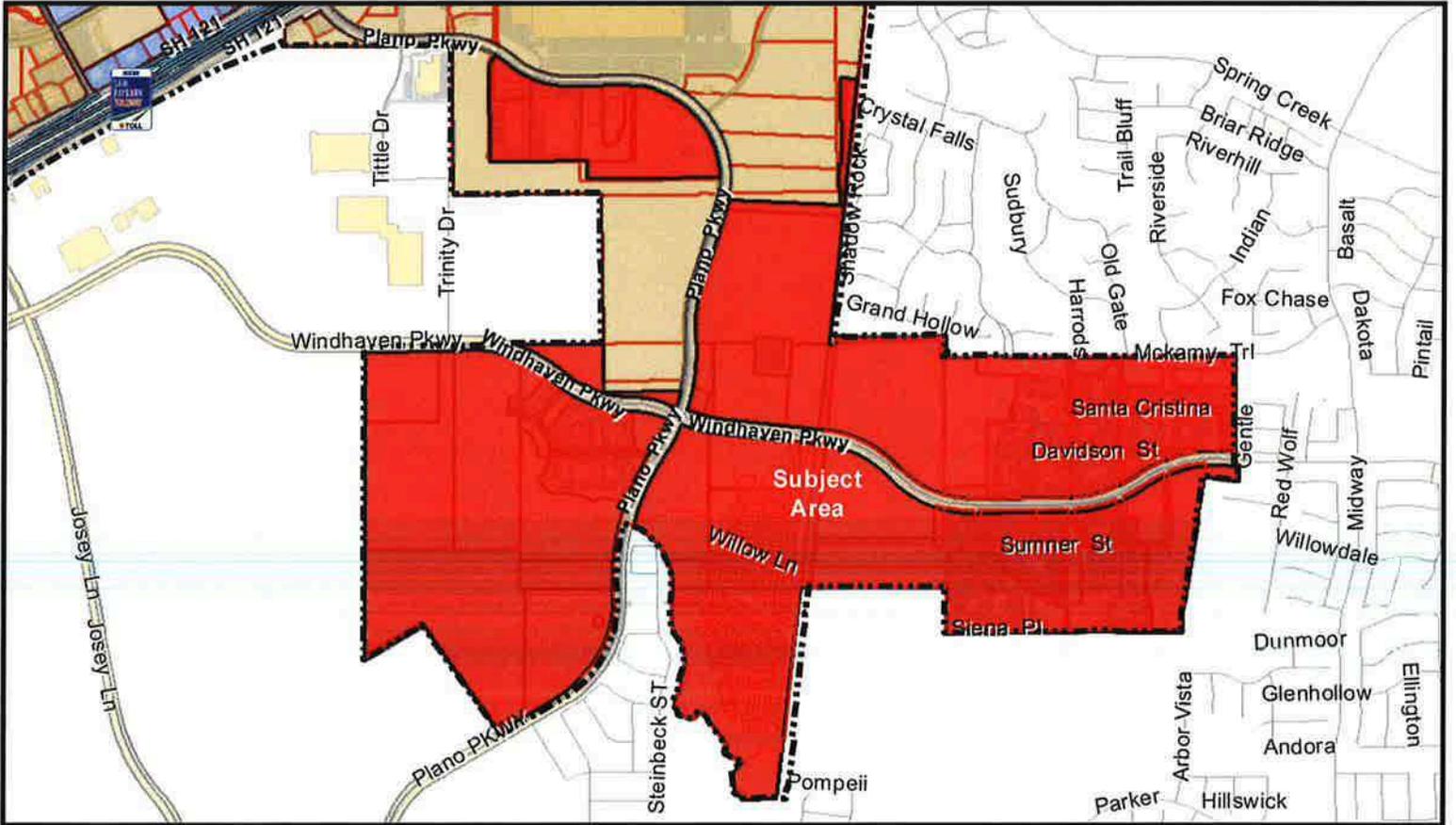
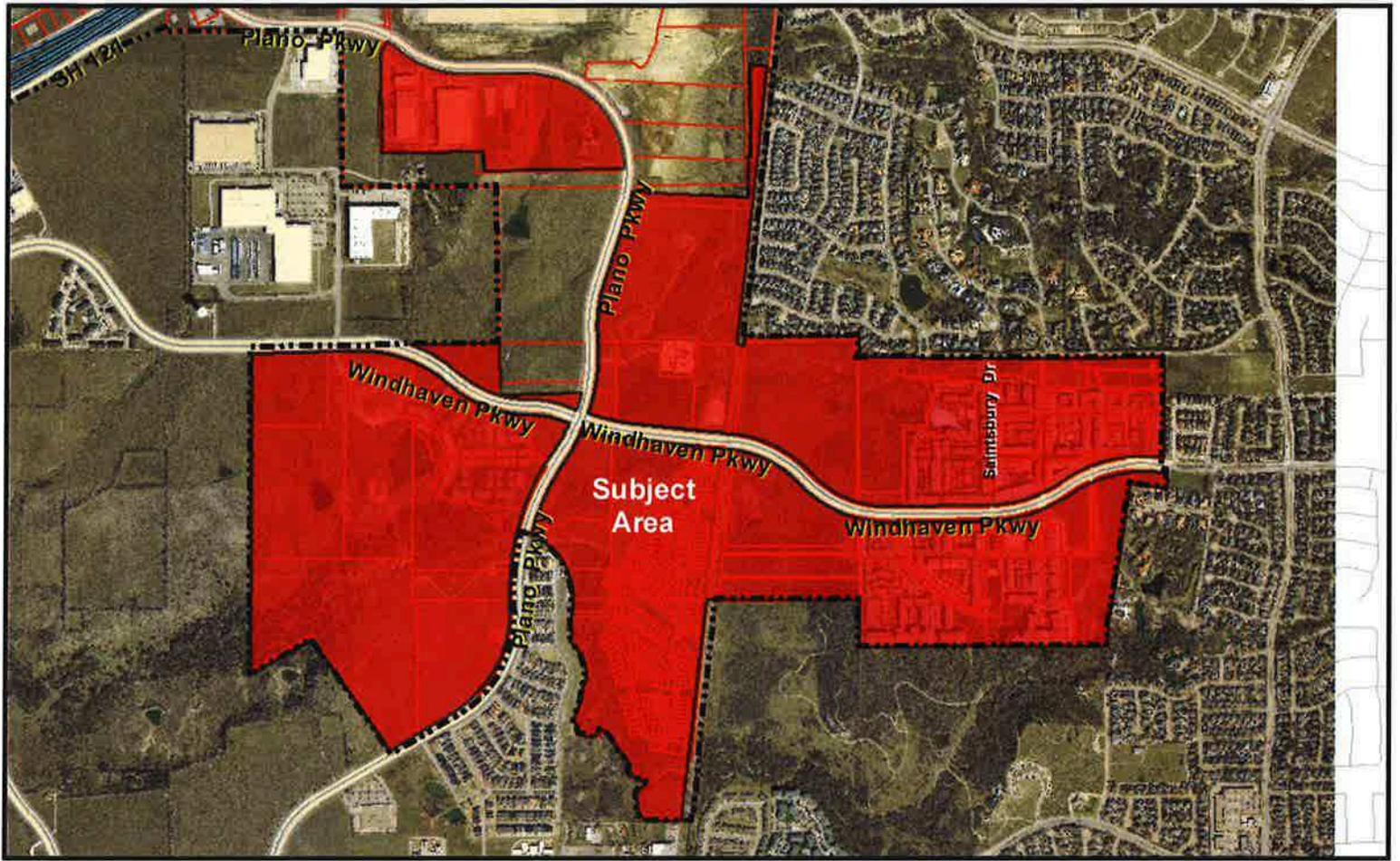
**PROPOSED REQUEST**

The applicant is proposing to add the following land uses to the Permitted Land Use category of Austin Ranch Planned Development (PD-22). These land uses are being added in anticipation of possible tenants in the commercial buildings (current and future).

- Health Studio – To Business Park and Mixed Use
- Photography Studio – To Mixed Use
- Recreation Club or Area, Private – To Mixed Use
- Studio Art or Dance – To Business Park and Mixed Use
- Dog Park – To Business Park and Mixed Use

**ATTACHMENTS**

1. Location Map
2. Proposed Ordinance
3. Minutes of January 12, 2016 Planning and Zoning Commission meeting

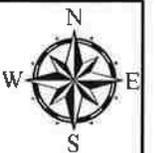


**Project No. PDA15-0005- Project Name: PD22 Amendment**



- |                |                          |                  |                       |                        |                     |
|----------------|--------------------------|------------------|-----------------------|------------------------|---------------------|
| PD22 Amendment | Business Park/Industrial | Heavy Commercial | Mobile Home           | Planned Development    | Building Footprints |
| Agricultural   | Duplex Dwelling          | Industrial       | Neighborhood Services | Shopping Center        |                     |
| Business Park  | General Retail           | Light Commercial | Office District 1     | Single Family Dwelling |                     |

This map was generated by GIS data provided by The Colony GIS Department. The City of The Colony does not guarantee the correctness or accuracy of any features on this map. These digital products are for illustration purposes only and are not suitable for site-specific decision making.



**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING PLANNED DEVELOPMENT 22 OR AUSTIN RANCH PLANNED DEVELOPMENT ORDINANCE, ORDINANCE NO. 08-1772, BY AMENDING EXHIBIT B, "PERMITTED LAND USES BY CATEGORY" BY ADDING CERTAIN LAND USES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 211.006(a) of the Texas Local Government Code requires the City of The Colony, Texas, to publish notice of a public hearing concerning a zoning amendment before the 15<sup>th</sup> day before the date of the public hearing; and

**WHEREAS**, Appendix A, Section 24-101(d) of the Code of Ordinances of the City of The Colony, Texas, provides the following, "A public hearing shall be held by city council before adopting any proposed amendment, supplement or change. Notice of such hearing shall be given per the publication policy of the city, stating the time and place of such hearing, and shall be published a minimum of 15 days prior to the date of the public hearing;" and

**WHEREAS**, the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of The Colony, Texas, is of the opinion and finds that said changes should be granted, and that the Code of Ordinances should be amended.

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

**SECTION 1.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That Exhibit B, of Planned Development 22 or Austin Ranch Planned Development, Ordinance No. 08-1772, is hereby amended by adding certain land uses, which shall read as follows:

**EXHIBIT "B"**  
**PERMITTED LAND USES BY CATEGORY**  
**P = PERMITTED, N= NOT PERMITTED**

Item	Type of Use	Multifamily	Business Park	Mixed-Use
89	Health Studio	N	P	P
94	Photography Studio	N	N	P
130	Recreation Club or Area , Private	N	N	P
65	Studio Art or Dance	N	P	P
	Dog Park	N	P	P

**SECTION 3.** If any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons or circumstances 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 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.** That all provisions of the Ordinances of the City of The Colony, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 5.** Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of The Colony, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense. Every day a violation occurs shall constitute a separate offense.

**SECTION 6.** This Ordinance shall become effective from and after its date of passage in accordance with law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 2<sup>nd</sup> day of February, 2016.**

\_\_\_\_\_  
 Joe McCourry, Mayor

**ATTEST:**

\_\_\_\_\_  
 Christie Wilson, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
 Jeff Moore, City Attorney

**MINUTES  
CITY OF THE COLONY  
PLANNING AND ZONING COMMISSION  
JANUARY 12, 2016**

After determining that a quorum was present, the Planning and Zoning Commission of the City of The Colony, Texas convened into Regular Session which was held on Tuesday, January 12, 2016 at 6:30 PM in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

**Board Members Present:** Karen Hames, Chairman, Detrick DeBurr, Vice Chairman, Shawn Rockenbaugh, Janece Pool, and Shannon Hebb.

**Board Members Absent:** Cesar Molina Jr. and Brian Buffington

**Staff Present:** Mike Joyce, AICP, Planning Director, Gordon Scruggs, P.E., Director of Engineering and Development Services, Surupa Sen, AICP, Senior Planner, Brian McNulty, Engineering Technician, and Ed Voss, City Attorney.

<b>1.0</b>	<b>CALL REGULAR SESSION TO ORDER</b>
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Chairman Hames called the meeting to order at 6:30 p.m.

<b>1.1</b>	<b>CITIZEN INPUT</b>
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No citizens came forward during Citizen Input.

<b>2.0</b>	<b>CONSENT AGENDA</b>
<b>2.1</b>	Consider approval of the minutes of the December 8, 2015 Regular Session.

Chairman Hames read the Consent Agenda item into the record.

**Commissioner Hebb moved to approve Item 2.1, Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.0</b>	<b>PUBLIC HEARING ITEMS</b>
<b>3.1</b>	<b><i>PDA15-0005 PD-22, Austin Ranch Planned Development Design Standards Text Amendment</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council regarding text amendments to “Exhibit ”B,” Permitted Land Uses by Category, to add certain land uses to the Austin Ranch Planned Development (PD 22) Design Standards.

Chairman Hames read the public hearing item 3.1 into record.

Ms. Sen presented the staff report.

Chairman Hames opened and closed the public hearing at 6:32 p.m. with no one wishing to speak on the item.

**Commissioner Pool moved to approve Item 3.1 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.2</b>	<b><i>SI15-0016 Revisions to the Gateway Overlay District Ordinance</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on proposed revisions to Section 10A, "Gateway Overlay District Regulations," of Appendix A, "Zoning" of the Code of Ordinances in order to add retail/commercial/office areas at South Colony Boulevard and Paige Boulevard and the southwest corner of Kisor Drive and Paige Boulevard into the Gateway Overlay District.
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Chairman Hames read the public hearing item 3.2 into record.

Ms. Sen presented the staff report.

Chairman Hames opened and closed the public hearing at 6:35 p.m. with no one wishing to speak on the item.

**Commissioner DeBurr moved to approve Item 3.2 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.3</b>	<b><i>SI15-0017 Revisions To Section 17, Site Plan Approvals and Special Development Standards of Appendix A, "Zoning" of the Code of Ordinances</i></b> Conduct a public hearing, discuss and make a recommendation to City Council regarding proposed revisions to Section 17, Site Plan Approvals and Special Development Standards of Appendix A, "Zoning" of the Code of Ordinances regarding Exterior Building Materials allowed in the Single Family (Section 17-106), Multiple Family and Non-Residential Zoning Districts (Section 17-106.1).
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Chairman Hames read the public hearing item 3.3 into record.

Ms. Sen presented the staff report.

Chairman Hames asked if there is a definition for manufactured stone or is it same as cultured stone.

Ms. Sen stated that they are both same.

Chairman Hames asked if cultured stone should be allowed and if they are of equal strength and quality as natural stone.

Mr. Joyce responded that manufactured stone is a high quality material and one can barely tell apart a manufactured stone from natural stone, the product has been enhanced so much over the period of time. It is a veneer and is easier to install versus thicker natural stones. It can be used on tilt up concrete. Staff has researched cities of Lewisville, Allen, Frisco, Carrollton and all the cities allow manufactured stone.

Commissioner Pool asked if there has been lot of requests from applicants regarding this and if that is the reason we are looking into this.

Mr. Joyce answered affirmative and also stated that the Zoning Ordinance was adopted in 1983 and the list of materials hasn't been looked at since.

Chairman Hames opened and closed the public hearing at 6:45 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to approve Item 3.3 Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.4</b>	<b><i>SI15-0019 Revisions to Zoning Ordinance Regarding Bar, Lounge, Tavern or Beverage Store Distance Requirements</i></b> Conduct a public hearing, discuss and make a recommendation to City Council regarding proposed revisions to Section 10-2007, Appendix A, "Zoning" of the Code of Ordinances in order to revise the distance requirements between a beverage store, bar, lounge, or tavern, or private club with a another bar, lounge or tavern or beverage stores.
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Chairman Hames read the public hearing item 3.4 into record.

Ms. Sen presented the staff report.

Chairman Hames asked if staff could estimate how many of the current businesses within the City qualify as beverage store, bar or lounge where more than 75% of the sales are generated by alcohol sales.

Mr. Joyce answered that staff could not answer that without doing some research. But estimated there are not that many within the City.

Commissioner Pool enquired if this reduced distance is approved what would happen to a store that might be closer than 300 feet.

Ms. Sen clarified that currently the Ordinance requires these stores to be 1000 feet apart. So ideally there should not be a store within 300 feet of another as they have to be minimum 1000 feet apart.

Chairman Hames opened and closed the public hearing at 6:55 p.m. with no one wishing to speak on the item.

**Commissioner Rockenbaugh moved to approve Item 3.4 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.5</b>	<b><i>SUP15-0011 The Thirsty Growler Specific Use Permit</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on a request for a Specific Use Permit (SUP) to allow The Thirsty Growler, a brew pub, for on and off-site consumption of alcoholic beverages located at 5733 SH 121, Suite 230, in Planned Development 16 (PD-16) zoning district and revoking the SUP Ordinance No. 99-1135 for Star Liquor located at 5749 SH 121.
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Chairman Hames read the public hearing item 3.5 into record.

Ms. Sen presented the staff report.

Commissioner Hebb asked can the City any time chose to revoke a SUP on a property.

Ms. Sen replied that staff has discussed this with the City Attorney, Jeff Moore and the main reason behind suggesting to revoke the Star Liquor SUP is because the store has been closed since 2012. It is unlikely that the City will revoke a SUP for a store that is currently in business.

Commissioner Hebb asked about the growlers that will be sold at this new place as those are screw tops that can be easily taken off, what would prevent someone from buying one and taking the lid off and drinking while driving home.

Mr. Voss stated that the law is same in this case just like when someone buys a six pack beer. If they take the lid off and start drinking they are violating the law and the Police Officers should be able to address that.

Mike Gillum, applicant addressed the Commission and stated that there will be an additional heat sealed cap on the growlers.

Commissioner Hebb asked if there will be food served at this location.

Mr. Gillum said it is "bring your own food" type store, so no food will be served at the store.

Chairman Hames opened and closed the public hearing at 7:05 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to approve Item 3.5 Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.6</b>	<b><i>SUP15-0012 Quality Car Care Specific Use Permit</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council regarding a Specific Use Permit (SUP) application for Auto Repair Garage (inside) use, Quality Car Care located at 5204 South Colony Boulevard within Shopping Center (SC) zoning district.
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Chairman Hames read the public hearing item 3.6 into record.

Ms. Sen presented the staff report.

Commissioner Rockenbaugh asked if the auto care company was leasing the space and do not own that portion of the strip center.

Ms. Sen answered affirmative.

Commissioner DeBurr asked if the store was operating with a SUP before the fire occurred in February.

Ms. Sen answered they did not have an SUP as this center was built before the Zoning Ordinance was adopted and did not require as SUP as a result.

Commissioner Hebb asked if this SUP is denied what the owners plan to do with this portion of their strip center.

Ms. Sen responded that currently the owners are attempting to bring back the auto repair, garage use. If this SUP is not approved, they haven't provided any indication to staff on what else might be locating in that space or if there are other prospects.

Commissioner Hebb asked to bring back this use the applicant will have to build it to current code which is pretty significant, for example fire sprinkler system, fire rated wall etc.

Ms. Sen added that they have no storage space for vehicles as well and they will not be able to store outside on the parking lot as that is not allowed under Shopping Center (SC) zoning.

Commissioner DeBurr mentioned that this business has been in operation as a legally non-conforming business. Were they informed when the rules were changed?

Mr. Voss responded that during the public notification process of the Ordinance adoption they should have been notified.

Chairman Hames opened and closed the public hearing at 7:15 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to deny Item 3.6 Commissioner DeBurr seconded the motion. Motion carried (5-0).**

<b>4.0</b>	<b>DISCUSSION ITEMS</b>
<b>4.1</b>	<b><i>November and December 2015 Director's Report</i></b>

Chairman Hames read the discussion item 4.1 into record.

Ms. Joyce presented the Director's Report.

There being no further business to come before the Commission, Chairman Hames adjourned the Regular Session of the Planning and Zoning Commission at 7: 21 p.m.

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Karen Hames, Chairman

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Surupa Sen, AICP, Senior Planner

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Conduct a public hearing, discuss and consider approving an ordinance amending the Code of Ordinances, Appendix A, "Zoning", Section 10A, "Gateway Overlay District Regulations," to add retail/commercial/office areas at South Colony Boulevard and Paige Road and the southwest corner of Kisor Drive and Paige Road into the Gateway Overlay District (Development Services, Joyce)

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**Background:**

**Purpose:**

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

CC Staff Report  
Gateway Overlay District Revised Map  
Proposed Ordinance  
Minutes of January 12, 2016 P&Z meeting

## CITY COUNCIL REPORT

**AGENDA DATE:** February 2, 2016

**DEPARTMENT:** Engineering/Development Services Department

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**SUBJECT: *SI15-0016 Revisions to the Gateway Overlay District Ordinance***

Conduct a public hearing, discuss and consider proposed revisions to Section 10A, "Gateway Overlay District Regulations," of Appendix A, "Zoning" of the Code of Ordinances in order to add retail/commercial/office areas at South Colony Boulevard and Paige Road and the southwest corner of Kisor Drive and Paige Road into the Gateway Overlay District.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

January 12, 2016 – Planning and Zoning Commission voted (5-0) to recommend approval of proposed revisions to Section 10A, "Gateway Overlay District Regulations," of Appendix A, "Zoning" of the Code of Ordinances in order to add retail/commercial/office areas at South Colony Boulevard and Paige Boulevard and the southwest corner of Kisor Drive and Paige Boulevard into the Gateway Overlay District.

**OPTIONS**

1. Approve as submitted.
2. Approve with conditions.
3. Postpone consideration.
4. Table item.

**BACKGROUND**

The City of The Colony recognizes the potential of the areas at the entrances to the city, as well as other retail, commercial and office areas within the City of The Colony. During the past few years, the City Council has adopted several ordinances to recognize the economic engine that was possible in these areas, to protect this valuable municipal asset and to ensure that high-quality development would occur in these critical areas.

The first of these ordinances was the S.H. 121 Corridor Master Plan (Ord. No. 05-1610), adopted by City Council on September 6, 2005. Commissioned by City Council, the plan was created by the Springbrook Planning Group. The area designated in the S.H. 121 Corridor Master Plan was termed "The Gateway." This plan analyzed existing conditions, set out goals and suggested strategies for achieving the goals of the Plan. The Plan, however, carried no weight in terms of zoning regulations.

The Gateway Overlay District Ordinance (Ord. No. 06-1684) was adopted by City Council on August 21, 2006 and incorporated the Main Street corridor into the area designated by the S.H. 121 Corridor Master Plan to become the overall "Gateway District." It established two distinct sub-districts: the Main Street Corridor and the S.H. 121 Corridor. No other changes were made at that time.

Ordinance No. 06-1694, adopted by City Council on November 6, 2006, added a single address, 4800 South Colony Boulevard, located on the southeast corner of Main Street and South Colony Boulevard, to the Gateway Overlay District.

Ordinance No. 06-1698, adopted by City Council on December 4, 2006, created the Gateway Overlay District Regulations. The document includes eight (8) principles upon which the regulations are based and the proposed ordinance uses these same principles. The organization of the proposed ordinance is revised and the “special exception” application, procedure and approval process are replaced with specific use permit language.

Ordinance 2013-2002 adopted by City Council on May 13, 2013 which the regulations were rewritten in a more logical order in which a developer might approach the design and/or redesign of a potential site and building or area:

- Site design;
- Landscaping;
- Building design;
- Public areas;
- Pedestrian & bike standards;
- Fences; and
- Service areas.

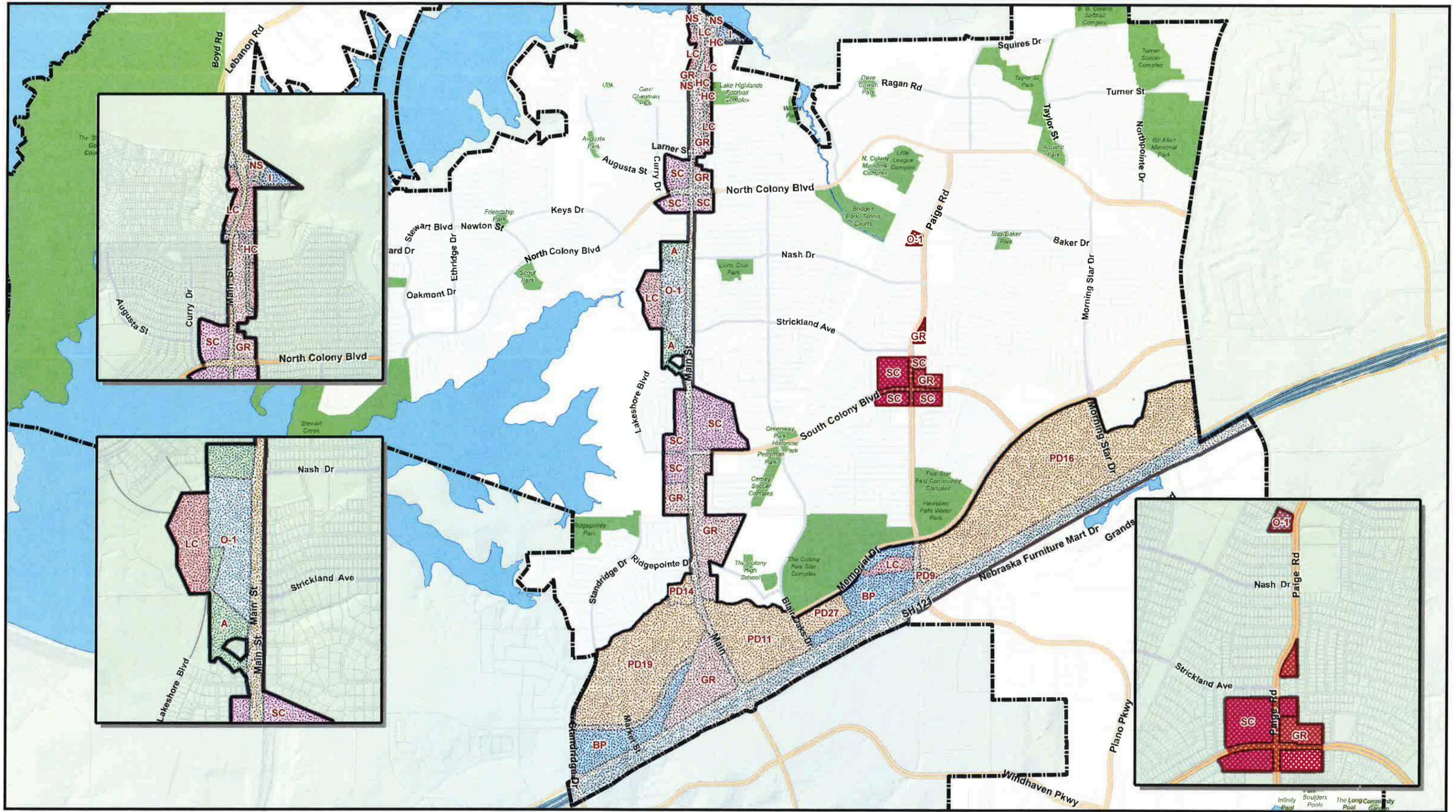
This puts the developer and the City on the same page in terms of what is expected.

### **PROPOSED REVISION**

The primary goal of this revision is to add the retail/commercial/office areas at South Colony Boulevard and Paige Boulevard and the southwest corner of Kisor Drive and Paige Boulevard into the Gateway Overlay District as requested by the City Council. The addition of these retail/commercial/office areas located within the South Colony Boulevard/Paige Boulevard area will allow this area develop/redevelop using the enhanced development standards which other retail/commercial/office areas have been using for the last several years.

### **ATTACHMENTS**

1. Proposed Gateway Overlay District Map with revisions
2. Proposed Ordinance
3. Minutes of January 12, 2016 Planning and Zoning Commission meeting



### City of The Colony - Proposed Gateway Overlay District Expansion



- City Limits
- Business Park
- Industrial
- Office District
- Toll
- Proposed
- General Retail
- Light Commercial
- Planner Development
- Major
- Existing
- Heavy Commercial
- Neighborhood Service
- Shopping Center
- Collector
- Agricultural
- Local Road

0 1,000 2,000 4,000 Feet

Date Saved: 11/16/2015 11:20:17 AM  
Name: OverlayDistricts\_RevA\_11x17

**DISCLAIMER:**  
This map was generated by GIS data provided by The Colony GIS Department. The City of The Colony does not guarantee the correctness or accuracy of any features on this map. These map products are for illustration purposes only and are not suitable for site-specific decision making. GIS data is subject to constant changes, and may not be complete, accurate or current.



**MINUTES  
CITY OF THE COLONY  
PLANNING AND ZONING COMMISSION  
JANUARY 12, 2016**

After determining that a quorum was present, the Planning and Zoning Commission of the City of The Colony, Texas convened into Regular Session which was held on Tuesday, January 12, 2016 at 6:30 PM in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

**Board Members Present:** Karen Hames, Chairman, Detrick DeBurr, Vice Chairman, Shawn Rockenbaugh, Janece Pool, and Shannon Hebb.

**Board Members Absent:** Cesar Molina Jr. and Brian Buffington

**Staff Present:** Mike Joyce, AICP, Planning Director, Gordon Scruggs, P.E., Director of Engineering and Development Services, Surupa Sen, AICP, Senior Planner, Brian McNulty, Engineering Technician, and Ed Voss, City Attorney.

<b>1.0</b>	<b>CALL REGULAR SESSION TO ORDER</b>
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Chairman Hames called the meeting to order at 6:30 p.m.

<b>1.1</b>	<b>CITIZEN INPUT</b>
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No citizens came forward during Citizen Input.

<b>2.0</b>	<b>CONSENT AGENDA</b>
<b>2.1</b>	Consider approval of the minutes of the December 8, 2015 Regular Session.

Chairman Hames read the Consent Agenda item into the record.

**Commissioner Hebb moved to approve Item 2.1, Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.0</b>	<b>PUBLIC HEARING ITEMS</b>
<b>3.1</b>	<i>PDA15-0005 PD-22, Austin Ranch Planned Development Design Standards Text Amendment</i> Conduct a public hearing, discuss and consider making a recommendation to City Council regarding text amendments to “Exhibit ”B,” Permitted Land Uses by Category, to add certain land uses to the Austin Ranch Planned Development (PD 22) Design Standards.

Chairman Hames read the public hearing item 3.1 into record.

Ms. Sen presented the staff report.

Chairman Hames opened and closed the public hearing at 6:32 p.m. with no one wishing to speak on the item.

**Commissioner Pool moved to approve Item 3.1 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.2</b>	<b><i>SI15-0016 Revisions to the Gateway Overlay District Ordinance</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on proposed revisions to Section 10A, "Gateway Overlay District Regulations," of Appendix A, "Zoning" of the Code of Ordinances in order to add retail/commercial/office areas at South Colony Boulevard and Paige Boulevard and the southwest corner of Kisor Drive and Paige Boulevard into the Gateway Overlay District.
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Chairman Hames read the public hearing item 3.2 into record.

Ms. Sen presented the staff report.

Chairman Hames opened and closed the public hearing at 6:35 p.m. with no one wishing to speak on the item.

**Commissioner DeBurr moved to approve Item 3.2 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.3</b>	<b><i>SI15-0017 Revisions To Section 17, Site Plan Approvals and Special Development Standards of Appendix A, "Zoning" of the Code of Ordinances</i></b> Conduct a public hearing, discuss and make a recommendation to City Council regarding proposed revisions to Section 17, Site Plan Approvals and Special Development Standards of Appendix A, "Zoning" of the Code of Ordinances regarding Exterior Building Materials allowed in the Single Family (Section 17-106), Multiple Family and Non-Residential Zoning Districts (Section 17-106.1).
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Chairman Hames read the public hearing item 3.3 into record.

Ms. Sen presented the staff report.

Chairman Hames asked if there is a definition for manufactured stone or is it same as cultured stone.

Ms. Sen stated that they are both same.

Chairman Hames asked if cultured stone should be allowed and if they are of equal strength and quality as natural stone.

Mr. Joyce responded that manufactured stone is a high quality material and one can barely tell apart a manufactured stone from natural stone, the product has been enhanced so much over the period of time. It is a veneer and is easier to install versus thicker natural stones. It can be used on tilt up concrete. Staff has researched cities of Lewisville, Allen, Frisco, Carrollton and all the cities allow manufactured stone.

Commissioner Pool asked if there has been lot of requests from applicants regarding this and if that is the reason we are looking into this.

Mr. Joyce answered affirmative and also stated that the Zoning Ordinance was adopted in 1983 and the list of materials hasn't been looked at since.

Chairman Hames opened and closed the public hearing at 6:45 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to approve Item 3.3 Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.4</b>	<b><i>SI15-0019 Revisions to Zoning Ordinance Regarding Bar, Lounge, Tavern or Beverage Store Distance Requirements</i></b> Conduct a public hearing, discuss and make a recommendation to City Council regarding proposed revisions to Section 10-2007, Appendix A, "Zoning" of the Code of Ordinances in order to revise the distance requirements between a beverage store, bar, lounge, or tavern, or private club with a another bar, lounge or tavern or beverage stores.
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Chairman Hames read the public hearing item 3.4 into record.

Ms. Sen presented the staff report.

Chairman Hames asked if staff could estimate how many of the current businesses within the City qualify as beverage store, bar or lounge where more than 75% of the sales are generated by alcohol sales.

Mr. Joyce answered that staff could not answer that without doing some research. But estimated there are not that many within the City.

Commissioner Pool enquired if this reduced distance is approved what would happen to a store that might be closer than 300 feet.

Ms. Sen clarified that currently the Ordinance requires these stores to be 1000 feet apart. So ideally there should not be a store within 300 feet of another as they have to be minimum 1000 feet apart.

Chairman Hames opened and closed the public hearing at 6:55 p.m. with no one wishing to speak on the item.

**Commissioner Rockenbaugh moved to approve Item 3.4 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.5</b>	<b><i>SUP15-0011 The Thirsty Growler Specific Use Permit</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on a request for a Specific Use Permit (SUP) to allow The Thirsty Growler, a brew pub, for on and off-site consumption of alcoholic beverages located at 5733 SH 121, Suite 230, in Planned Development 16 (PD-16) zoning district and revoking the SUP Ordinance No. 99-1135 for Star Liquor located at 5749 SH 121.
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Chairman Hames read the public hearing item 3.5 into record.

Ms. Sen presented the staff report.

Commissioner Hebb asked can the City any time chose to revoke a SUP on a property.

Ms. Sen replied that staff has discussed this with the City Attorney, Jeff Moore and the main reason behind suggesting to revoke the Star Liquor SUP is because the store has been closed since 2012. It is unlikely that the City will revoke a SUP for a store that is currently in business.

Commissioner Hebb asked about the growlers that will be sold at this new place as those are screw tops that can be easily taken off, what would prevent someone from buying one and taking the lid off and drinking while driving home.

Mr. Voss stated that the law is same in this case just like when someone buys a six pack beer. If they take the lid off and start drinking they are violating the law and the Police Officers should be able to address that.

Mike Gillum, applicant addressed the Commission and stated that there will be an additional heat sealed cap on the growlers.

Commissioner Hebb asked if there will be food served at this location.

Mr. Gillum said it is "bring your own food" type store, so no food will be served at the store.

Chairman Hames opened and closed the public hearing at 7:05 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to approve Item 3.5 Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.6</b>	<b><i>SUP15-0012 Quality Car Care Specific Use Permit</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council regarding a Specific Use Permit (SUP) application for Auto Repair Garage (inside) use, Quality Car Care located at 5204 South Colony Boulevard within Shopping Center (SC) zoning district.
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Chairman Hames read the public hearing item 3.6 into record.

Ms. Sen presented the staff report.

Commissioner Rockenbaugh asked if the auto care company was leasing the space and do not own that portion of the strip center.

Ms. Sen answered affirmative.

Commissioner DeBurr asked if the store was operating with a SUP before the fire occurred in February.

Ms. Sen answered they did not have an SUP as this center was built before the Zoning Ordinance was adopted and did not require as SUP as a result.

Commissioner Hebb asked if this SUP is denied what the owners plan to do with this portion of their strip center.

Ms. Sen responded that currently the owners are attempting to bring back the auto repair, garage use. If this SUP is not approved, they haven't provided any indication to staff on what else might be locating in that space or if there are other prospects.

Commissioner Hebb asked to bring back this use the applicant will have to build it to current code which is pretty significant, for example fire sprinkler system, fire rated wall etc.

Ms. Sen added that they have no storage space for vehicles as well and they will not be able to store outside on the parking lot as that is not allowed under Shopping Center (SC) zoning.

Commissioner DeBurr mentioned that this business has been in operation as a legally non-conforming business. Were they informed when the rules were changed?

Mr. Voss responded that during the public notification process of the Ordinance adoption they should have been notified.

Chairman Hames opened and closed the public hearing at 7:15 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to deny Item 3.6 Commissioner DeBurr seconded the motion. Motion carried (5-0).**

<b>4.0</b>	<b>DISCUSSION ITEMS</b>
<b>4.1</b>	<b><i>November and December 2015 Director's Report</i></b>

Chairman Hames read the discussion item 4.1 into record.

Ms. Joyce presented the Director's Report.

There being no further business to come before the Commission, Chairman Hames adjourned the Regular Session of the Planning and Zoning Commission at 7:21 p.m.

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Karen Hames, Chairman

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Surupa Sen, AICP, Senior Planner

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Conduct a public hearing, discuss and consider approving an ordinance amending the Code of Ordinances, Appendix A, "Zoning", Section 17, Site Plan Approvals and Special Development Standards regarding Exterior Building Materials allowed in the Single Family (Section 17-106), Multiple Family and Non-Residential Zoning Districts (Section 17-106.1) (Development Services, Joyce)

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**Background:**

**Purpose:**

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

Council Staff Report

Proposed Ordinance

Minutes of January 12, 2016 P&Z meeting

## CITY COUNCIL REPORT

**AGENDA DATE:** February 2, 2016

**DEPARTMENT:** Engineering/Development Services Department

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**SUBJECT:** *SI15-0017 Revisions To Section 17, Site Plan Approvals and Special Development Standards of Appendix A, “Zoning” of the Code of Ordinances*

Conduct a public hearing, discuss and consider proposed revisions to Section 17, Site Plan Approvals and Special Development Standards of Appendix A, “Zoning” of the Code of Ordinances regarding Exterior Building Materials allowed in the Single Family (Section 17-106), Multiple Family and Non-Residential Zoning Districts (Section 17-106.1).

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

January 12, 2016 – Planning and Zoning Commission voted (5-0) to recommend approval of proposed revisions to Section 17, Site Plan Approvals and Special Development Standards of Appendix A, “Zoning” of the Code of Ordinances regarding Exterior Building Materials allowed in the Single Family (Section 17-106), Multiple Family and Non-Residential Zoning Districts (Section 17-106.1).

**OPTIONS**

1. Approve as submitted.
2. Approve with conditions.
3. Postpone consideration.
4. Table item.

**PROPOSED REQUEST**

Since the Zoning Ordinance was first adopted in 1983, available exterior building materials have increased tremendously in the past thirty years. While the exterior building materials have been improved and expanded, the Zoning Ordinance has not kept pace with the new building material coming onto the market.

Section 17-106 of Appendix A, Zoning Ordinance reads as follows (emphasis added):

- “(17-106) With respect to residential subdivision developments in the SF-1, SF-2, SF-3 and SF-4 districts, the city desires that buffer zones, between the residential subdivision and public property be addressed for the purpose of decreasing visual blight and noise to the residential subdivision. No houses in said districts shall have the same front elevations within five (5) houses of each other on the same side of the street. Developments in said districts shall have a minimum seventeen-foot easement with a ten-foot minimum paving width and a maximum of seven hundred twenty (720) feet in length without access. All exterior walls of the main residential structure shall be **a minimum of seventy (70) percent brick, natural stone, or EIFS (exterior insulation and finishing system) construction below the first floor plate line, exclusive of doors and windows.** Brick types may not be the same on any adjacent house located on the same side

of the street. EIFS construction in accordance with this section shall comply with the following requirements:

- (1) The construction shall be in accordance with ICBO (a subsidiary corporation of the International Conference of Building Officials) Evaluation Report and shall incorporate external drainage.
- (2) The builder, contractor or installer shall be certified by the EIFS Manufacturers Association.

(17-106.1)

All exterior walls of primary buildings and structures located in the multi-family and non-residential zoning districts shall be **a minimum of seventy five (75) percent brick, natural stone, or EIFS (exterior insulation and finishing system), exclusive of doors and windows.** Multi-family and non-residential districts shall include, townhouse dwelling, multi-family 1, multi-family 2, multi-family 3, multi-family 4, office 1, office 2, neighborhood service, shopping center, general retail, light commercial, heavy commercial, industrial, business park and planned development districts designated for multi-family and non-residential uses.

EIFS construction in accordance with this section shall comply with the following requirements:

- (1) The construction shall be in accordance with ICBO (A subsidiary corporation of the International Conference of Building Officials) Evaluation Report and shall incorporate external drainage.
- (2) The builder, contractor or installer shall be certified by the EIFS Manufacturers Association.”

The staff surveyed cities in the surrounding area to determine how their exterior building requirements for residential and non-residential construction compared to The Colony. The following table is a synopsis of their requirements:

City	Type of Land Use	Minimum Requirements
The Colony	Residential	All exterior walls of the main residential structure shall be a minimum of 70% brick, natural stone, or EIFS (exterior insulation and finishing system) construction below the first floor plate line, exclusive of doors and windows.
	Multiple Family & Non-Residential	All exterior walls of primary buildings and structures located in the multi-family and non-residential zoning districts shall be a minimum of 75% brick, natural stone, or EIFS (exterior insulation and finishing system), exclusive of doors and windows.
Allen	Residential	No minimum masonry requirements found in the Allen Land Development Code.
	All Commercial Buildings	All main building exterior wall construction materials that are exposed shall be constructed of 100% masonry, including but not limited to stone, brick, tiles, concrete masonry units, cast

		<p>concrete, concrete stucco, etc.          Glazing and framed glazing are considered acceptable alternatives.          Synthetic stucco (such as exterior finish and insulation system (EFIS) may be utilized as an architectural accent material, not to exceed 10% of the exterior surface of any building facade.</p>
<b>Lewisville</b>	<b>Residential</b>	No minimum masonry requirements found for residential properties in the Lewisville Zoning Ordinance except in the Old Town Design Guidelines
<b>Lewisville (Continued)</b>	<b>Commercial</b>	<p><i>Brick veneer gateways.</i> The aggregate total of all exterior wall elevations (excluding doors, windows and glass) of all buildings which are on a lot that is within 200 feet or served by a driveway or mutual access easement that connects to SH 121, SH 121 Business, FM407, FM3040/Hebron Parkway, FM 544, FM 1171, IH-35E, Valley Ridge Boulevard, MacArthur Boulevard and Denton Tap Road shall consist of not less than 80% brick veneer or may utilize the following exceptions for tilt wall and/or pre-cast concrete construction:</p>
	<b>Square Feet</b>	<b>Requirement</b>
	<p>0— 50,000 SF*</p> <p>50,001— 100,000 SF*</p> <p>100,001 SF &amp; greater*</p>	<p>80 % brick veneer</p> <p>50 % brick veneer (front only)            Panel requirement            Color requirement            Require parapets</p> <p>10% brick veneer (based upon the front elevation and can be located anywhere on the building)            All other features listed above</p> <p>*The aggregate total square footage of individual buildings will count toward the tilt-wall or pre-cast construction options listed above if they are included in the same phase/lot on an engineering site plan.</p>
<b>Frisco</b>	<p><b>Residential</b></p> <p><b>Multiple Family</b></p>	<p>No minimum Masonry requirements for single family development.</p> <p><b>Multiple Family Masonry Construction</b>          (A) <u>Primary Materials</u>          Unless otherwise provided for in this Ordinance, exterior construction materials are fired brick, natural and manufactured stone, granite, marble, architectural concrete block, and 3-step stucco process for all structures.</p> <p>All main structures within the MF-15 (Multiple Family-15 du/ac) and MF-19 (Multiple Family-19 du/ac) districts must have a minimum of eighty percent (80%) masonry on the first and second floors and fifty percent (50%) on all other floors.</p>

<b>Frisco (continued)</b>		<p>Fiber cement siding (Hardie board) may be used for areas not considered conducive for masonry, as determined by the Chief Building Official, and architectural features, including but not limited to bay windows, dormers, chimneys not part of an exterior wall, and gables with an area of less than ten (10) square feet.</p> <p>Exterior Insulation and Finish Systems (EIFS) are allowed as an alternative to stucco construction. These construction methods are limited to areas nine (9) feet above the average finish grade and may not exceed ten percent (10%) of the building façade elevation.</p>
	<b>Non-residential</b>	<p><b>Masonry Construction</b></p> <p>(A) <u>Primary Materials</u> Unless otherwise provided for in this Ordinance, exterior construction materials are fired brick, natural and manufactured stone, granite, marble, architectural concrete block, and 3-step stucco process for all structures.</p> <p>(B) <u>Other exterior construction materials</u> for nonresidential structures are tilt wall concrete panels, and sealed and painted concrete block.</p>

Staff is requesting the following revisions to Sections 17-106 and 17-106.1:

(17-106) With respect to residential subdivision developments in the SF-1, SF-2, SF-3 and SF-4 districts, the city desires that buffer zones, between the residential subdivision and public property be addressed for the purpose of decreasing visual blight and noise to the residential subdivision. No houses in said districts shall have the same front elevations within five (5) houses of each other on the same side of the street. Developments in said districts shall have a minimum seventeen-foot easement with a ten-foot minimum paving width and a maximum of seven hundred twenty (720) feet in length without access. All exterior walls of the main residential structure shall be a minimum of seventy (70) percent ~~brick, natural stone, or EIFS (exterior insulation and finishing system)~~ **kiln fired brick, natural and/or manufactured stone, and 3-step stucco process** construction below the first floor plate line, exclusive of doors and windows. ~~Brick~~ **Fired brick, natural and/or manufactured stone, and 3-step stucco process** types may not be the same on any adjacent house located on the same side of the street. ~~EIFS construction in accordance with this section shall comply with the following requirements:~~

- ~~(1) The construction shall be in accordance with ICBO (a subsidiary corporation of the International Conference of Building Officials) Evaluation Report and shall incorporate external drainage.~~
- ~~(2) The builder, contractor or installer shall be certified by the EIFS Manufacturers Association.~~

(17-106.1) All exterior walls of primary buildings and structures located in the multiple family and non-residential zoning districts shall be a minimum of seventy five (75) percent ~~brick,~~

~~natural stone, or EIFS (exterior insulation and finishing system)~~ kiln fired brick, brick veneer, natural and manufactured stone, granite, marble, architectural concrete block, and 3-step stucco process for all structures exclusive of doors and windows. A minimum of two (2) colors must be used on each elevation. Eighty percent (80%) of each elevation must utilize natural and/or earth tone colors. In addition, each elevation may have twenty percent (20%) of another type of color if opted.) Other exterior construction materials for nonresidential structures are tilt wall concrete panels, and sealed and painted concrete block. Synthetic stucco (such as exterior finish and insulation system (EFIS) may be utilized as an architectural accent material, not to exceed ten percent (10%) of the exterior surface of any building facade. Glazing, doors, windows and door frames, roof system trim, mansards, and similar visible exterior architectural treatments shall be made of materials which complement construction material. When rear facades are visible from adjoining properties and/or a public right-of-way, they shall be of a finished quality and consist of colors and materials that blend with the remainder of the building's primary facade(s).

Multiple family and non-residential districts shall include, townhouse dwelling, multi-family 1, multi-family 2, multi-family 3, multi-family 4, office 1, office 2, neighborhood service, shopping center, general retail, light commercial, heavy commercial, industrial, business park and planned development districts designated for multiple family and non-residential uses.

### **RECOMMENDATION**

The Ordinance Review Committee (ORC) recommends approval of the proposed amendment.

### **ATTACHMENTS**

1. Proposed Ordinance
2. Minutes of January 12, 2016 Planning and Zoning Commission meeting

**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. \_\_\_\_\_  
ZONING ORDINANCE AMENDMENT**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, APPENDIX A, SECTION 17, SITE PLAN APPROVALS AND SPECIAL DEVELOPMENT STANDARDS REGARDING EXTERIOR BUILDING MATERIALS ALLOWED IN THE SINGLE FAMILY (SECTION 17-106), MULTIPLE FAMILY AND NON-RESIDENTIAL ZONING DISTRICTS (SECTION 17-106.1); PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 211.006(a) of the Texas Local Government Code requires the City of The Colony, Texas, to publish notice of a public hearing concerning a zoning amendment before the 15th day before the date of the public hearing; and

**WHEREAS**, Appendix A, Section 24-101(4) of the Code of Ordinances of the City of The Colony, Texas, provides the following, “A public hearing shall be held by the governing body before adopting any proposed amendment, supplement or change. Notice of such hearing shall be given by publication in a newspaper of general circulation in the City of The Colony stating the time and place of such hearing which time shall not be earlier than fifteen (15) days from the date of publication;” and

**WHEREAS**, the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of The Colony, Texas, is of the opinion and finds that said changes should be granted, and that the Code of Ordinances should be amended.

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

**SECTION 1.** That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That Appendix A, Section 17, of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, entitled “Site Plan Approvals and Special Development Standards,” is hereby amended by amending Section 17-106 and Section 17-106.1 as follows:

(17-106) With respect to residential subdivision developments in the SF-1, SF-2, SF-3 and SF-4 districts, the city desires that buffer zones, between the residential subdivision and public property be addressed for the purpose of decreasing visual blight and noise to the residential subdivision. No houses in said districts shall have the same front elevations within five (5) houses of each other on the same side of the street. Developments in said districts shall have a minimum seventeen-foot easement with a ten-foot minimum paving width and a maximum of seven hundred twenty (720) feet in length without access. All exterior walls of the main residential structure shall be a minimum of seventy (70) percent kiln fired brick, natural and/or manufactured stone, and 3-step stucco process construction below the first floor plate line, exclusive of doors and windows. ~~Brick~~ Fired brick, natural and/or manufactured stone, and 3-step stucco process types may not be the same on any adjacent house located on the same side of the street.

(17-106.1) All exterior walls of primary buildings and structures located in the multiple family and non-residential zoning districts shall be a minimum of seventy five (75) percent kiln fired brick, brick veneer, natural and manufactured stone, granite, marble, architectural concrete block, and 3-step stucco process for all structures exclusive of doors and windows. A minimum of two (2) colors must be used on each elevation. Eighty percent (80%) of each elevation must utilize natural and/or earth tone colors. In addition, each elevation may have twenty percent (20%) of another type of color if opted.) Other exterior construction materials for nonresidential structures are tilt wall concrete panels, and sealed and painted concrete block. Synthetic stucco (such as exterior finish and insulation system (EFIS) may be utilized as an architectural accent material, not to exceed ten percent (10%) of the exterior surface of any building facade. Glazing, doors, windows and door frames, roof system trim, mansards, and similar visible exterior architectural treatments shall be made of materials which complement construction material. When rear facades are visible from adjoining properties and/or a public right-of-way, they shall be of a finished quality and consist of colors and materials that blend with the remainder of the building's primary facade(s). Multiple family and non-residential districts shall include, townhouse dwelling, multi-family 1, multi-family 2, multi-family 3, multi-family 4, office 1, office 2, neighborhood service, shopping center, general retail, light commercial, heavy commercial, industrial, business park and planned development districts designated for multiple family and non-residential uses.

**SECTION 3.** If any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons or circumstances 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 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.** That all provisions of the ordinances of the City of The Colony, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 5.** That any person, firm or corporation violating a provision of this Ordinance, upon conviction, is guilty of a misdemeanor and shall be subject to a fine in the sum

not to exceed Two Thousand Dollars (\$2,000.00) for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

**SECTION 6.** That this Ordinance shall become effective from and after its date of passage in accordance with law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 2<sup>nd</sup> day of February, 2016.**

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Joe McCourry, Mayor

**ATTEST:**

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Christie Wilson, City Secretary

**APPROVED AS TO FORM:**

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Jeff Moore, City Attorney

**MINUTES  
CITY OF THE COLONY  
PLANNING AND ZONING COMMISSION  
JANUARY 12, 2016**

After determining that a quorum was present, the Planning and Zoning Commission of the City of The Colony, Texas convened into Regular Session which was held on Tuesday, January 12, 2016 at 6:30 PM in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

**Board Members Present:** Karen Hames, Chairman, Detrick DeBurr, Vice Chairman, Shawn Rockenbaugh, Janece Pool, and Shannon Hebb.

**Board Members Absent:** Cesar Molina Jr. and Brian Buffington

**Staff Present:** Mike Joyce, AICP, Planning Director, Gordon Scruggs, P.E., Director of Engineering and Development Services, Surupa Sen, AICP, Senior Planner, Brian McNulty, Engineering Technician, and Ed Voss, City Attorney.

<b>1.0</b>	<b>CALL REGULAR SESSION TO ORDER</b>
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Chairman Hames called the meeting to order at 6:30 p.m.

<b>1.1</b>	<b>CITIZEN INPUT</b>
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No citizens came forward during Citizen Input.

<b>2.0</b>	<b>CONSENT AGENDA</b>
<b>2.1</b>	Consider approval of the minutes of the December 8, 2015 Regular Session.

Chairman Hames read the Consent Agenda item into the record.

**Commissioner Hebb moved to approve Item 2.1, Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.0</b>	<b>PUBLIC HEARING ITEMS</b>
<b>3.1</b>	<i>PDA15-0005 PD-22, Austin Ranch Planned Development Design Standards Text Amendment</i> Conduct a public hearing, discuss and consider making a recommendation to City Council regarding text amendments to "Exhibit "B," Permitted Land Uses by Category, to add certain land uses to the Austin Ranch Planned Development (PD 22) Design Standards.

Chairman Hames read the public hearing item 3.1 into record.

Ms. Sen presented the staff report.

Chairman Hames opened and closed the public hearing at 6:32 p.m. with no one wishing to speak on the item.

**Commissioner Pool moved to approve Item 3.1 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.2</b>	<b><i>SI15-0016 Revisions to the Gateway Overlay District Ordinance</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on proposed revisions to Section 10A, "Gateway Overlay District Regulations," of Appendix A, "Zoning" of the Code of Ordinances in order to add retail/commercial/office areas at South Colony Boulevard and Paige Boulevard and the southwest corner of Kisor Drive and Paige Boulevard into the Gateway Overlay District.
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Chairman Hames read the public hearing item 3.2 into record.

Ms. Sen presented the staff report.

Chairman Hames opened and closed the public hearing at 6:35 p.m. with no one wishing to speak on the item.

**Commissioner DeBurr moved to approve Item 3.2 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.3</b>	<b><i>SI15-0017 Revisions To Section 17, Site Plan Approvals and Special Development Standards of Appendix A, "Zoning" of the Code of Ordinances</i></b> Conduct a public hearing, discuss and make a recommendation to City Council regarding proposed revisions to Section 17, Site Plan Approvals and Special Development Standards of Appendix A, "Zoning" of the Code of Ordinances regarding Exterior Building Materials allowed in the Single Family (Section 17-106), Multiple Family and Non-Residential Zoning Districts (Section 17-106.1).
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Chairman Hames read the public hearing item 3.3 into record.

Ms. Sen presented the staff report.

Chairman Hames asked if there is a definition for manufactured stone or is it same as cultured stone.

Ms. Sen stated that they are both same.

Chairman Hames asked if cultured stone should be allowed and if they are of equal strength and quality as natural stone.

Mr. Joyce responded that manufactured stone is a high quality material and one can barely tell apart a manufactured stone from natural stone, the product has been enhanced so much over the period of time. It is a veneer and is easier to install versus thicker natural stones. It can be used on tilt up concrete. Staff has researched cities of Lewisville, Allen, Frisco, Carrollton and all the cities allow manufactured stone.

Commissioner Pool asked if there has been lot of requests from applicants regarding this and if that is the reason we are looking into this.

Mr. Joyce answered affirmative and also stated that the Zoning Ordinance was adopted in 1983 and the list of materials hasn't been looked at since.

Chairman Hames opened and closed the public hearing at 6:45 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to approve Item 3.3 Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.4</b>	<b><i>SI15-0019 Revisions to Zoning Ordinance Regarding Bar, Lounge, Tavern or Beverage Store Distance Requirements</i></b> Conduct a public hearing, discuss and make a recommendation to City Council regarding proposed revisions to Section 10-2007, Appendix A, "Zoning" of the Code of Ordinances in order to revise the distance requirements between a beverage store, bar, lounge, or tavern, or private club with a another bar, lounge or tavern or beverage stores.
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Chairman Hames read the public hearing item 3.4 into record.

Ms. Sen presented the staff report.

Chairman Hames asked if staff could estimate how many of the current businesses within the City qualify as beverage store, bar or lounge where more than 75% of the sales are generated by alcohol sales.

Mr. Joyce answered that staff could not answer that without doing some research. But estimated there are not that many within the City.

Commissioner Pool enquired if this reduced distance is approved what would happen to a store that might be closer than 300 feet.

Ms. Sen clarified that currently the Ordinance requires these stores to be 1000 feet apart. So ideally there should not be a store within 300 feet of another as they have to be minimum 1000 feet apart.

Chairman Hames opened and closed the public hearing at 6:55 p.m. with no one wishing to speak on the item.

**Commissioner Rockenbaugh moved to approve Item 3.4 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.5</b>	<b><i>SUP15-0011 The Thirsty Growler Specific Use Permit</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on a request for a Specific Use Permit (SUP) to allow The Thirsty Growler, a brew pub, for on and off-site consumption of alcoholic beverages located at 5733 SH 121, Suite 230, in Planned Development 16 (PD-16) zoning district and revoking the SUP Ordinance No. 99-1135 for Star Liquor located at 5749 SH 121.
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Chairman Hames read the public hearing item 3.5 into record.

Ms. Sen presented the staff report.

Commissioner Hebb asked can the City any time chose to revoke a SUP on a property.

Ms. Sen replied that staff has discussed this with the City Attorney, Jeff Moore and the main reason behind suggesting to revoke the Star Liquor SUP is because the store has been closed since 2012. It is unlikely that the City will revoke a SUP for a store that is currently in business.

Commissioner Hebb asked about the growlers that will be sold at this new place as those are screw tops that can be easily taken off, what would prevent someone from buying one and taking the lid off and drinking while driving home.

Mr. Voss stated that the law is same in this case just like when someone buys a six pack beer. If they take the lid off and start drinking they are violating the law and the Police Officers should be able to address that.

Mike Gillum, applicant addressed the Commission and stated that there will be an additional heat sealed cap on the growlers.

Commissioner Hebb asked if there will be food served at this location.

Mr. Gillum said it is "bring your own food" type store, so no food will be served at the store.

Chairman Hames opened and closed the public hearing at 7:05 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to approve Item 3.5 Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.6</b>	<b><i>SUP15-0012 Quality Car Care Specific Use Permit</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council regarding a Specific Use Permit (SUP) application for Auto Repair Garage (inside) use, Quality Car Care located at 5204 South Colony Boulevard within Shopping Center (SC) zoning district.
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Chairman Hames read the public hearing item 3.6 into record.

Ms. Sen presented the staff report.

Commissioner Rockenbaugh asked if the auto care company was leasing the space and do not own that portion of the strip center.

Ms. Sen answered affirmative.

Commissioner DeBurr asked if the store was operating with a SUP before the fire occurred in February.

Ms. Sen answered they did not have an SUP as this center was built before the Zoning Ordinance was adopted and did not require as SUP as a result.

Commissioner Hebb asked if this SUP is denied what the owners plan to do with this portion of their strip center.

Ms. Sen responded that currently the owners are attempting to bring back the auto repair, garage use. If this SUP is not approved, they haven't provided any indication to staff on what else might be locating in that space or if there are other prospects.

Commissioner Hebb asked to bring back this use the applicant will have to build it to current code which is pretty significant, for example fire sprinkler system, fire rated wall etc.

Ms. Sen added that they have no storage space for vehicles as well and they will not be able to store outside on the parking lot as that is not allowed under Shopping Center (SC) zoning.

Commissioner DeBurr mentioned that this business has been in operation as a legally non-conforming business. Were they informed when the rules were changed?

Mr. Voss responded that during the public notification process of the Ordinance adoption they should have been notified.

Chairman Hames opened and closed the public hearing at 7:15 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to deny Item 3.6 Commissioner DeBurr seconded the motion. Motion carried (5-0).**

<b>4.0</b>	<b>DISCUSSION ITEMS</b>
<b>4.1</b>	<b><i>November and December 2015 Director's Report</i></b>

Chairman Hames read the discussion item 4.1 into record.

Ms. Joyce presented the Director's Report.

There being no further business to come before the Commission, Chairman Hames adjourned the Regular Session of the Planning and Zoning Commission at 7:21 p.m.

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Karen Hames, Chairman

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Surupa Sen, AICP, Senior Planner

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Conduct a public hearing, discuss and consider an ordinance amending the Code of Ordinances, Appendix A, "Zoning", Section 10-2207, to revise the distance requirements between bar, lounge or tavern, or beverage stores (Development Services, Joyce)

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**Background:**

**Purpose:**

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

Council staff report  
Proposed Ordinance  
Minutes of January 12, 2016 P&Z meeting

## CITY COUNCIL REPORT

**AGENDA DATE:** February 2, 2016

**DEPARTMENT:** Engineering/Development Services Department

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**SUBJECT *SI15-0019***      ***Revisions to Zoning Ordinance Regarding Bar, Lounge, Tavern or Beverage Store Distance Requirements***

Conduct a public hearing, discuss and consider proposed revisions to Appendix A, "Zoning" of the Code of Ordinances in order to revise the distance requirements for bar, lounge or tavern or beverage stores.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

January 12, 2016 – Planning and Zoning Commission voted (5-0) to recommend approval of proposed revisions to Appendix A, "Zoning" of the Code of Ordinances in order to revise the distance requirements for bar, lounge or tavern or beverage stores.

**OPTIONS**

1. Approve as submitted.
2. Approve with conditions.
3. Postpone consideration.
4. Table item.

**BACKGROUND**

The City of The Colony Zoning Ordinance requires approval of a SUP to operate bar, lounge or tavern or a beverage store within any zoning district. The Zoning Ordinance defines these establishments as follows:

**“Bar, lounge or tavern:** An establishment the primary activity of which is the sale and consumption on the premises of beer, wine or other liquors, and where food service, if any, is secondary to the sale of beer, wine or other liquors. It shall be presumed that an establishment is a bar, lounge or tavern where seventy-five (75) percent or more of the establishment's gross receipts is derived from the on-premises sale of alcoholic beverages.”

**“Beverage store:** Facility for the sale of beer, wine and/or liquor not for on-premises consumption that derives seventy-five (75) percent or more of its gross revenue from the on-premises sale of beer, wine and/or liquor.”

Section 10-2205, 10-2206 and 10-2207 of the Zoning Ordinance also requires the following:

**“(10-2205)** It shall be unlawful for any person who is engaged in the business of selling alcoholic beverages, excluding restaurants to sell alcoholic beverages, within three hundred (300) feet of any church, public school or public hospital.”

“(10-2206) It shall be unlawful for any person who operates a beverage store, bar, lounge or tavern, or private club with bar service to sell alcoholic beverages where the said beverage store, bar, lounge, or tavern, or private club with bar service is within 300 feet of any existing day care center or private school.”

“(10-2207) It shall be unlawful for any beverage store, bar, lounge, or tavern, or private club with bar service to be constructed, erected or placed closer than 1,000 feet to another beverage store, bar, lounge or tavern, or private club with bar service.”

**PROPOSED REVISION**

At the December 1, 2015 City Council meeting, the Council requested that the staff amend Section 10-2207 to where it is unlawful to locate within 300 feet of another bar, lounge, tavern or beverage store in lieu of 1,000 feet. Proposed is the following amendment to Section 10-2207:

“(10-2207) It shall be unlawful for any beverage store, bar, lounge, or tavern, or private club with bar service to be constructed, erected or placed closer than 300 feet to another beverage store, bar, lounge or tavern, or private club with bar service.

The measurement of the distance between said beverage store or bar, lounge or tavern and another such facility shall be in a straight line in all directions from the said beverage store or bar, lounge or tavern to the nearest point of other such facility. The measurement for a structure shall be taken from the nearest point that a structure extends in any direction, including overhanging roofs and all projections or portions of said structures.”

**ATTACHMENTS**

1. Proposed Ordinance
2. Minutes of January 12, 2016 Planning and Zoning Commission meeting

**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. \_\_\_\_\_  
ZONING ORDINANCE AMENDMENT**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, APPENDIX A, SECTION 10-2207, REGARDING MINIMUM DISTANCE REQUIREMENT BETWEEN BEVERAGE STORE, BAR, LOUNGE OR TAVERN, OR PRIVATE CLUB WITH BAR SERVICE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 211.006(a) of the Texas Local Government Code requires the City of The Colony, Texas, to publish notice of a public hearing concerning a zoning amendment before the 15th day before the date of the public hearing; and

**WHEREAS**, Appendix A, Section 24-101(4) of the Code of Ordinances of the City of The Colony, Texas, provides the following, “A public hearing shall be held by the governing body before adopting any proposed amendment, supplement or change. Notice of such hearing shall be given by publication in a newspaper of general circulation in the City of The Colony stating the time and place of such hearing which time shall not be earlier than fifteen (15) days from the date of publication;” and

**WHEREAS**, the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of The Colony, Texas, is of the opinion and finds that said changes should be granted, and that the Code of Ordinances should be amended.

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

**SECTION 1.** That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That Appendix A, Section 10-2207 is hereby amended as follows:

“(10-2207) It shall be unlawful for any beverage store, bar, lounge, or tavern, or private club with bar service to be constructed, erected or placed closer than 300 feet to another beverage store, bar, lounge or tavern, or private club with bar service.

The measurement of the distance between said beverage store or bar, lounge or tavern and another such facility shall be in a straight line in all directions from the said beverage store or bar, lounge or tavern to the nearest point of other such facility. The measurement for a structure shall be taken from the nearest point that a structure extends in any direction, including overhanging roofs and all projections or portions of said structures.”

**SECTION 3.** If any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons or circumstances 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 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.** That all provisions of the ordinances of the City of The Colony, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 5.** That any person, firm or corporation violating a provision of this Ordinance, upon conviction, is guilty of a misdemeanor and shall be subject to a fine in the sum not to exceed Two Thousand Dollars (\$2,000.00) for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

**SECTION 6.** That this Ordinance shall become effective from and after its date of passage in accordance with law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 2<sup>nd</sup> day of February, 2016.**

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Joe McCourry, Mayor

**ATTEST:**

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Christie Wilson, City Secretary

**APPROVED AS TO FORM:**

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Jeff Moore, City Attorney

**MINUTES  
CITY OF THE COLONY  
PLANNING AND ZONING COMMISSION  
JANUARY 12, 2016**

After determining that a quorum was present, the Planning and Zoning Commission of the City of The Colony, Texas convened into Regular Session which was held on Tuesday, January 12, 2016 at 6:30 PM in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

**Board Members Present:** Karen Hames, Chairman, Detrick DeBurr, Vice Chairman, Shawn Rockenbaugh, Janece Pool, and Shannon Hebb.

**Board Members Absent:** Cesar Molina Jr. and Brian Buffington

**Staff Present:** Mike Joyce, AICP, Planning Director, Gordon Scruggs, P.E., Director of Engineering and Development Services, Surupa Sen, AICP, Senior Planner, Brian McNulty, Engineering Technician, and Ed Voss, City Attorney.

<b>1.0</b>	<b>CALL REGULAR SESSION TO ORDER</b>
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Chairman Hames called the meeting to order at 6:30 p.m.

<b>1.1</b>	<b>CITIZEN INPUT</b>
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No citizens came forward during Citizen Input.

<b>2.0</b>	<b>CONSENT AGENDA</b>
<b>2.1</b>	Consider approval of the minutes of the December 8, 2015 Regular Session.

Chairman Hames read the Consent Agenda item into the record.

**Commissioner Hebb moved to approve Item 2.1, Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.0</b>	<b>PUBLIC HEARING ITEMS</b>
<b>3.1</b>	<i><b>PDA15-0005 PD-22, Austin Ranch Planned Development Design Standards Text Amendment</b></i> Conduct a public hearing, discuss and consider making a recommendation to City Council regarding text amendments to “Exhibit ”B,” Permitted Land Uses by Category, to add certain land uses to the Austin Ranch Planned Development (PD 22) Design Standards.

Chairman Hames read the public hearing item 3.1 into record.

Ms. Sen presented the staff report.

Chairman Hames opened and closed the public hearing at 6:32 p.m. with no one wishing to speak on the item.

**Commissioner Pool moved to approve Item 3.1 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.2</b>	<b><i>SI15-0016 Revisions to the Gateway Overlay District Ordinance</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on proposed revisions to Section 10A, "Gateway Overlay District Regulations," of Appendix A, "Zoning" of the Code of Ordinances in order to add retail/commercial/office areas at South Colony Boulevard and Paige Boulevard and the southwest corner of Kisor Drive and Paige Boulevard into the Gateway Overlay District.
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Chairman Hames read the public hearing item 3.2 into record.

Ms. Sen presented the staff report.

Chairman Hames opened and closed the public hearing at 6:35 p.m. with no one wishing to speak on the item.

**Commissioner DeBurr moved to approve Item 3.2 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.3</b>	<b><i>SI15-0017 Revisions To Section 17, Site Plan Approvals and Special Development Standards of Appendix A, "Zoning" of the Code of Ordinances</i></b> Conduct a public hearing, discuss and make a recommendation to City Council regarding proposed revisions to Section 17, Site Plan Approvals and Special Development Standards of Appendix A, "Zoning" of the Code of Ordinances regarding Exterior Building Materials allowed in the Single Family (Section 17-106), Multiple Family and Non-Residential Zoning Districts (Section 17-106.1).
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Chairman Hames read the public hearing item 3.3 into record.

Ms. Sen presented the staff report.

Chairman Hames asked if there is a definition for manufactured stone or is it same as cultured stone.

Ms. Sen stated that they are both same.

Chairman Hames asked if cultured stone should be allowed and if they are of equal strength and quality as natural stone.

Mr. Joyce responded that manufactured stone is a high quality material and one can barely tell apart a manufactured stone from natural stone, the product has been enhanced so much over the period of time. It is a veneer and is easier to install versus thicker natural stones. It can be used on tilt up concrete. Staff has researched cities of Lewisville, Allen, Frisco, Carrollton and all the cities allow manufactured stone.

Commissioner Pool asked if there has been lot of requests from applicants regarding this and if that is the reason we are looking into this.

Mr. Joyce answered affirmative and also stated that the Zoning Ordinance was adopted in 1983 and the list of materials hasn't been looked at since.

Chairman Hames opened and closed the public hearing at 6:45 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to approve Item 3.3 Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.4</b>	<b><i>SI15-0019 Revisions to Zoning Ordinance Regarding Bar, Lounge, Tavern or Beverage Store Distance Requirements</i></b> Conduct a public hearing, discuss and make a recommendation to City Council regarding proposed revisions to Section 10-2007, Appendix A, "Zoning" of the Code of Ordinances in order to revise the distance requirements between a beverage store, bar, lounge, or tavern, or private club with a another bar, lounge or tavern or beverage stores.
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Chairman Hames read the public hearing item 3.4 into record.

Ms. Sen presented the staff report.

Chairman Hames asked if staff could estimate how many of the current businesses within the City qualify as beverage store, bar or lounge where more than 75% of the sales are generated by alcohol sales.

Mr. Joyce answered that staff could not answer that without doing some research. But estimated there are not that many within the City.

Commissioner Pool enquired if this reduced distance is approved what would happen to a store that might be closer than 300 feet.

Ms. Sen clarified that currently the Ordinance requires these stores to be 1000 feet apart. So ideally there should not be a store within 300 feet of another as they have to be minimum 1000 feet apart.

Chairman Hames opened and closed the public hearing at 6:55 p.m. with no one wishing to speak on the item.

**Commissioner Rockenbaugh moved to approve Item 3.4 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.5</b>	<b><i>SUP15-0011 The Thirsty Growler Specific Use Permit</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on a request for a Specific Use Permit (SUP) to allow The Thirsty Growler, a brew pub, for on and off-site consumption of alcoholic beverages located at 5733 SH 121, Suite 230, in Planned Development 16 (PD-16) zoning district and revoking the SUP Ordinance No. 99-1135 for Star Liquor located at 5749 SH 121.
------------	--

Chairman Hames read the public hearing item 3.5 into record.

Ms. Sen presented the staff report.

Commissioner Hebb asked can the City any time chose to revoke a SUP on a property.

Ms. Sen replied that staff has discussed this with the City Attorney, Jeff Moore and the main reason behind suggesting to revoke the Star Liquor SUP is because the store has been closed since 2012. It is unlikely that the City will revoke a SUP for a store that is currently in business.

Commissioner Hebb asked about the growlers that will be sold at this new place as those are screw tops that can be easily taken off, what would prevent someone from buying one and taking the lid off and drinking while driving home.

Mr. Voss stated that the law is same in this case just like when someone buys a six pack beer. If they take the lid off and start drinking they are violating the law and the Police Officers should be able to address that.

Mike Gillum, applicant addressed the Commission and stated that there will be an additional heat sealed cap on the growlers.

Commissioner Hebb asked if there will be food served at this location.

Mr. Gillum said it is "bring your own food" type store, so no food will be served at the store.

Chairman Hames opened and closed the public hearing at 7:05 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to approve Item 3.5 Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.6</b>	<b><i>SUP15-0012 Quality Car Care Specific Use Permit</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council regarding a Specific Use Permit (SUP) application for Auto Repair Garage (inside) use, Quality Car Care located at 5204 South Colony Boulevard within Shopping Center (SC) zoning district.
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Chairman Hames read the public hearing item 3.6 into record.

Ms. Sen presented the staff report.

Commissioner Rockenbaugh asked if the auto care company was leasing the space and do not own that portion of the strip center.

Ms. Sen answered affirmative.

Commissioner DeBurr asked if the store was operating with a SUP before the fire occurred in February.

Ms. Sen answered they did not have an SUP as this center was built before the Zoning Ordinance was adopted and did not require as SUP as a result.

Commissioner Hebb asked if this SUP is denied what the owners plan to do with this portion of their strip center.

Ms. Sen responded that currently the owners are attempting to bring back the auto repair, garage use. If this SUP is not approved, they haven't provided any indication to staff on what else might be locating in that space or if there are other prospects.

Commissioner Hebb asked to bring back this use the applicant will have to build it to current code which is pretty significant, for example fire sprinkler system, fire rated wall etc.

Ms. Sen added that they have no storage space for vehicles as well and they will not be able to store outside on the parking lot as that is not allowed under Shopping Center (SC) zoning.

Commissioner DeBurr mentioned that this business has been in operation as a legally non-conforming business. Were they informed when the rules were changed?

Mr. Voss responded that during the public notification process of the Ordinance adoption they should have been notified.

Chairman Hames opened and closed the public hearing at 7:15 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to deny Item 3.6 Commissioner DeBurr seconded the motion. Motion carried (5-0).**

<b>4.0</b>	<b>DISCUSSION ITEMS</b>
<b>4.1</b>	<b><i>November and December 2015 Director's Report</i></b>

Chairman Hames read the discussion item 4.1 into record.

Ms. Joyce presented the Director's Report.

There being no further business to come before the Commission, Chairman Hames adjourned the Regular Session of the Planning and Zoning Commission at 7:21 p.m.

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Karen Hames, Chairman

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Surupa Sen, AICP, Senior Planner

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Conduct a public hearing, discuss and consider an ordinance approving a request for a Specific Use Permit (SUP) to allow The Thirsty Growler, a brew pub, for on and off-site consumption of alcoholic beverages located at 5733 SH 121, Suite 230, in Planned Development 16 (PD-16) zoning district and consider approving an ordinance revoking the SUP Ordinance No. 99-1135 for Star Liquor located at 5749 SH 121 (Development Services, Joyce)

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**Background:**

**Purpose:**

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

Council Staff Report

Location Map

Proposed Ordinance Thirsty Growler

Revoking Ordinance Star Liquor

Minutes of January 12, 2016 P&Z meeting

## CITY COUNCIL REPORT

**AGENDA DATE:** February 2, 2016

**DEPARTMENT:** Engineering/Development Services Department

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**SUBJECT:** *SUP15-0011 The Thirsty Growler Specific Use Permit*

Conduct a public hearing, discuss and consider a request for a Specific Use Permit (SUP) to allow The Thirsty Growler, a brew pub, for on and off-site consumption of alcoholic beverages located at 5733 SH 121, Suite 230, in Planned Development 16 (PD-16) zoning district and revoking the SUP Ordinance No. 99-1135 for Star Liquor located at 5749 SH 121.

**OWNER/ENGINEER**

Owner/Developer:	TMGN 121 LLC	Dallas, Texas
Applicant:	The Thirsty Growler	Murphy, Texas

**EXISTING CONDITION OF PROPERTY**

The property is currently developed as Village at 121 strip center which is partially occupied with restaurants and retail businesses.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

January 12, 2016 – The Planning and Zoning Commission voted (5-0) to recommend approval for a Specific Use Permit (SUP) to allow The Thirsty Growler, a brew pub, for on and off-site consumption of alcoholic beverages located at 5733 SH 121, Suite 230, in Planned Development 16 (PD-16) zoning district and revoking the SUP Ordinance No. 99-1135 for Star Liquor located at 5749 SH 121.

**DEVELOPMENT REVIEW COMMITTEE (DRC) REVIEW**

The Development Review Committee (DRC) finds the Specific Use Permit (SUP) meets the requirements Section 10-905 of the Zoning Ordinance, as outlined in the Staff Report.

**OPTIONS**

1. Approve as submitted.
2. Approve with conditions.
3. Postpone consideration.
4. Table item.

**ATTACHMENTS**

1. Staff Analysis
2. Location Map
3. Proposed Ordinances
4. Minutes of January 12, 2016 Planning and Zoning Commission meeting

## ATTACHMENT 1

### Staff Analysis

#### Summary of Request

The applicant is proposing a tap room and growler station called The Thirsty Growler within the Village at 121 shopping center, that will sell a variety of craft beer, cider, and kombucha for on-site consumption and in to-go containers (“growlers”). This type of business will require a Wine and Beer Retailer’s (BG) permit from Texas Alcoholic Beverage Commission. No churches, public schools, public hospitals are located within the minimum state-required legal distance (300 feet) from the proposed location.

Star Liquor at 5749 SH 121 is within 1,000 feet of the proposed Thirsty Growler. However, Star Liquor has been closed since 2012. The City has mailed the property owner informing them that the City has initiated a process to revoke the SUP for their site. Staff has not received any contact back from the Star Liquor owner. Staff is recommending rescinding the existing SUP for beverage store for Star Liquor (Ordinance No. 99-1135), as the store has been closed for more than 90 days. This will eliminate the issue of having another beverage store within 1,000 feet of this current SUP applicant.

#### Existing Condition of Property

The property is currently developed as the Village at 121 strip center which is partially occupied with restaurants and retail businesses.

#### Platting Status

The subject property is platted as Lot 5, Block 1, Village at 121 that was approved by Planning and Zoning Commission on May 13, 2014.

#### Adjacent Zoning/Land Use

North - Planned Development District 16 (PD-16) – undeveloped land

South - SH 121

East- Planned Development District 16 (PD-16) – Sleep Expert within Village at 121 Shopping Center

West- Planned Development District 16 (PD-16) – Abuelo’s Mexican Embassy within Village at 121 Shopping Center

#### Land Use Analysis

The Zoning Ordinance requires a Specific Use Permit (SUP) for sale of on or off-premise alcoholic beverages.

#### Infrastructure Improvements

Site specific public infrastructure improvements for the Lot 5, Village at 121 Shopping Center are completed.

#### Site Analysis

The Planning and Zoning Commission and the City Council have reviewed and approved a site plan for Phase 2 or Lot 5, of Village at 121 strip center on May 13, 2014. During this process, building and parking layouts, driveways, landscaping, elevations and other site specific requirements have been reviewed and approved. As a result, this particular application is specific

to the land use requirement for on and off-premise consumption of alcoholic beverage through approval of a SUP. Site development criteria have been met through development of the Village at 121 strip center.

Specific Use Permit (SUP) Criteria

In accordance with Section 10-905 (Special Use Permits - Approval Criteria) of the Zoning Ordinance, the Planning and Zoning Commission and City Council shall review and evaluate a Specific Use Permit application using the following criteria:

**1. Conformance with the City of The Colony's Comprehensive Plan;**

*The Future Land Use Map identifies this area as "State Highway 121 Corridor Development Zone." This area contains a variety of existing and planned land uses including single-family and multi-family residential, commercial, retail, office and industrial. The proposed use is in conformance with the Colony Comprehensive Plan*

**2. Conformance with applicable regulations and standards established by the zoning regulations;**

*With the approval of the SUP, the application will be in conformance with the Zoning Ordinance.*

**3. Compatibility with existing or permitted uses on abutting sites, in terms of building height, build and scale, setbacks on open spaces, landscaping and site development, access and circulation features, architectural compatibility;**

*The surrounding area is contains mostly commercial development. This use is compatible with the surrounding developments in the area.*

**4. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonable and anticipated in the area, existing zoning and land uses in the area;**

*The site plan for the Village at 121 Shopping Center has been reviewed and approved by the City which meets traffic circulation and associated requirements.*

**5. Protection of persons and property from erosion, flood, or water damage, fire, noise, glare, air quality, generation of dust and odors, and similar hazards and impacts;**

*The proposed development is within a strip center that has been designed and developed to address and mitigate such impacts.*

**6. Location, lighting and type of signs; the relation of signs to traffic control and adverse effect of signs on adjacent properties;**

*There is a multi-tenant pylon sign for this property to identify current and future tenants.*

**7. Adequacy and convenience of off-street parking and loading facilities;**

*The site meets the Zoning Ordinance requirements for off-street parking.*

8. **Determination that the proposed use and site development, together with any modifications applicable thereto, will be compatible with existing or permitted uses in the vicinity;**

*The proposed use will be compatible with the surrounding land uses within and around the shopping center.*

9. **Determination that any conditions applicable to approval are the minimum necessary to minimize potentially unfavorable impacts on nearby uses in the same district and surrounding area; and**

*No special conditions are being recommended by staff.*

10. **Determination that the proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety, or welfare of materially injurious to properties or improvements in the vicinity.**

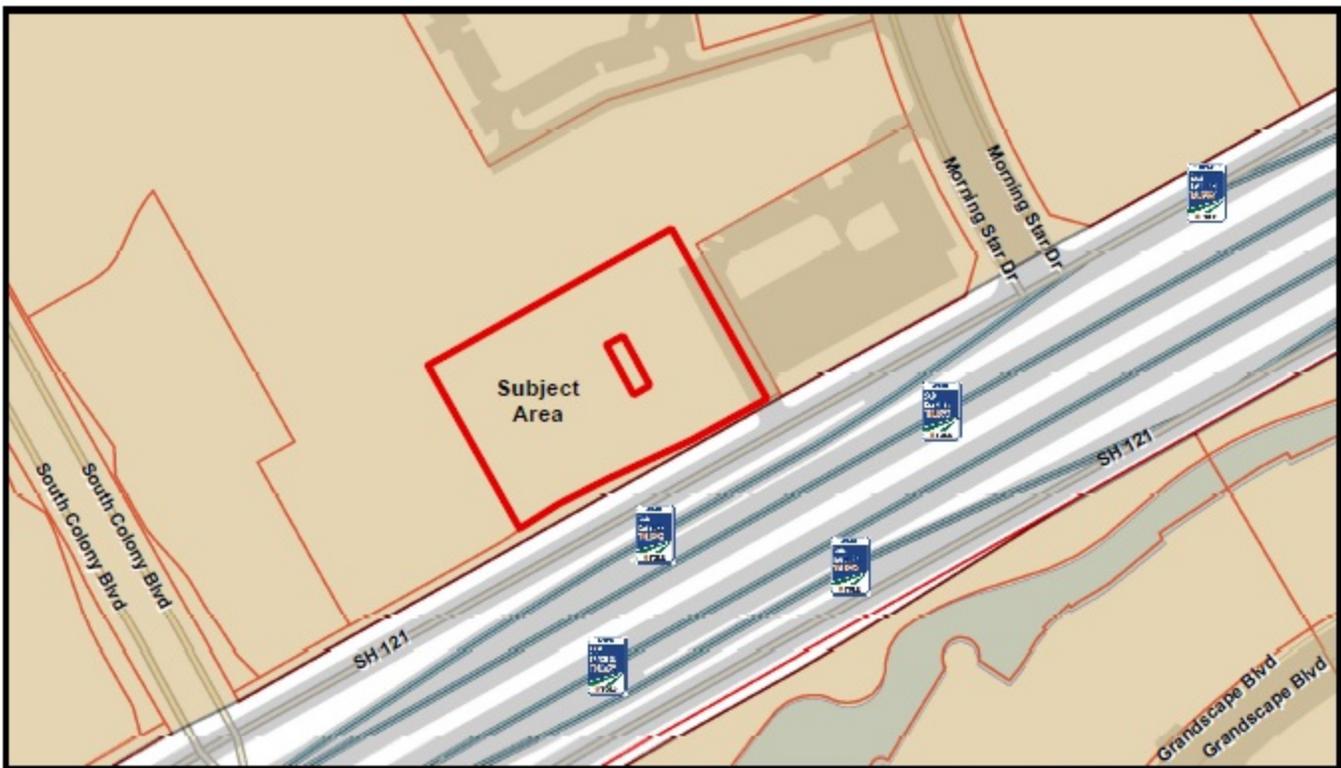
*The proposed use should not be detrimental to the public health, safety, or welfare in the general vicinity.*

#### Notification

The Zoning Ordinance requires newspaper notification a minimum of ten (10) days prior to the Planning and Zoning Commission meeting. Notice for this SUP Public Hearing was published in *The NeighborsGO* on December 4, 2015. In addition, the Zoning Ordinance also requires notification of property owners located within 200 feet of the subject property a minimum of ten (10) days prior to the public hearing. Postcards were mailed on December 29, 2015 to four (4) property owners. No comments either for or against the SUP were received as of the printing of this packet.

#### Development Review Committee Review

The Development Review Committee (DRC) finds that the Specific Use Permit (SUP) meets applicable requirements the Zoning Ordinance, therefore the DRC recommends approval.



**Project No. SUP15-0011 - Project Name: The Thirsty Growler SUP**



The Thirsty Growler	Business Park/Industrial	Heavy Commercial	Mobile Home	Planned Development
Agricultural	Duplex Dwelling	Industrial	Neighborhood Service	Shopping Center
Business Park	General Retail	Light Commercial	Office District 1	Single Family Dwelling

This map was generated by GIS data provided by The Colony GIS Department. The City of The Colony does not guarantee the correctness or accuracy of any features on this map. These digital products are for illustration purposes only and are not suitable for site-specific decision making.



**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. 2016 - \_\_\_\_\_**

**SPECIFIC USE PERMIT**

**The Thirsty Growler**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, APPROVING A SPECIFIC USE PERMIT ALLOWING ALCOHOL SALES FOR ON AND OFF-PREMISE CONSUMPTION AT “THE THIRSTY GROWLER” LOCATED AT 5733 SH 121, SUITE 230, THE COLONY, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, have given any requisite notices by publication and otherwise, and have held due public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and is of the opinion and finds that Specific Use Permit No. SUP15-0011 to allow alcohol sales for on and off-premise consumption at “The Thirsty Growler” located at 5733 SH 121, Suite 230, The Colony, Texas, should be approved.

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

**SECTION 1.** That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That the City Council of the City of The Colony, Texas, does hereby approve the Specific Use Permit.

**SECTION 3.** That it is hereby declared to be the intention of the City Council of the City of The Colony, Texas, that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 4.** That any provision of any prior ordinance of the City whether codified or uncodified, which are in conflict with any provision of this Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**SECTION 5.** That this Ordinance shall become effective immediately upon its passage.

**DULY PASSED by the City Council of the City of The Colony, Texas, this the 2<sup>nd</sup> day of February, 2016.**

\_\_\_\_\_  
JOE McCOURRY, MAYOR

**ATTEST:**

\_\_\_\_\_  
Christie Wilson, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeff Moore, City Attorney

**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. 2016 - \_\_\_\_\_**

**REVOKING SPECIFIC USE PERMIT NO. 99-1135**

**Star Liquor**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, REVOKING A SPECIFIC USE PERMIT NO 99-1135 THAT ALLOWED ALCOHOL SALES FOR OFF-PREMISE CONSUMPTION AT “STAR LIQUOR” LOCATED AT 5749 SH 121, THE COLONY, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, have given any requisite notices by publication and otherwise, and have held due public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and is of the opinion and finds that Specific Use Permit No. SUP99-1135 to allow alcohol sales for off-premise consumption at “Star Liquor” located at 5749 SH 121, The Colony, Texas, should be revoked.

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

**SECTION 1.** That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That the City Council of the City of The Colony, Texas, does hereby revoke the Specific Use Permit.

**SECTION 3.** That it is hereby declared to be the intention of the City Council of the City of The Colony, Texas, that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 4.** That any provision of any prior ordinance of the City whether codified or uncoded, which are in conflict with any provision of this Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncoded, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**SECTION 5.** That this Ordinance shall become effective immediately upon its passage.

**DULY PASSED** by the City Council of the City of The Colony, Texas, this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
JOE McCOURRY, MAYOR

**ATTEST:**

\_\_\_\_\_  
Christie Wilson, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeff Moore, City Attorney

**MINUTES  
CITY OF THE COLONY  
PLANNING AND ZONING COMMISSION  
JANUARY 12, 2016**

After determining that a quorum was present, the Planning and Zoning Commission of the City of The Colony, Texas convened into Regular Session which was held on Tuesday, January 12, 2016 at 6:30 PM in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

**Board Members Present:** Karen Hames, Chairman, Detrick DeBurr, Vice Chairman, Shawn Rockenbaugh, Janece Pool, and Shannon Hebb.

**Board Members Absent:** Cesar Molina Jr. and Brian Buffington

**Staff Present:** Mike Joyce, AICP, Planning Director, Gordon Scruggs, P.E., Director of Engineering and Development Services, Surupa Sen, AICP, Senior Planner, Brian McNulty, Engineering Technician, and Ed Voss, City Attorney.

<b>1.0</b>	<b>CALL REGULAR SESSION TO ORDER</b>
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Chairman Hames called the meeting to order at 6:30 p.m.

<b>1.1</b>	<b>CITIZEN INPUT</b>
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No citizens came forward during Citizen Input.

<b>2.0</b>	<b>CONSENT AGENDA</b>
<b>2.1</b>	Consider approval of the minutes of the December 8, 2015 Regular Session.

Chairman Hames read the Consent Agenda item into the record.

**Commissioner Hebb moved to approve Item 2.1, Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.0</b>	<b>PUBLIC HEARING ITEMS</b>
<b>3.1</b>	<i>PDA15-0005 PD-22, Austin Ranch Planned Development Design Standards Text Amendment</i> Conduct a public hearing, discuss and consider making a recommendation to City Council regarding text amendments to “Exhibit ”B,” Permitted Land Uses by Category, to add certain land uses to the Austin Ranch Planned Development (PD 22) Design Standards.

Chairman Hames read the public hearing item 3.1 into record.

Ms. Sen presented the staff report.

Chairman Hames opened and closed the public hearing at 6:32 p.m. with no one wishing to speak on the item.

**Commissioner Pool moved to approve Item 3.1 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.2</b>	<b><i>SI15-0016 Revisions to the Gateway Overlay District Ordinance</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on proposed revisions to Section 10A, "Gateway Overlay District Regulations," of Appendix A, "Zoning" of the Code of Ordinances in order to add retail/commercial/office areas at South Colony Boulevard and Paige Boulevard and the southwest corner of Kisor Drive and Paige Boulevard into the Gateway Overlay District.
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Chairman Hames read the public hearing item 3.2 into record.

Ms. Sen presented the staff report.

Chairman Hames opened and closed the public hearing at 6:35 p.m. with no one wishing to speak on the item.

**Commissioner DeBurr moved to approve Item 3.2 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.3</b>	<b><i>SI15-0017 Revisions To Section 17, Site Plan Approvals and Special Development Standards of Appendix A, "Zoning" of the Code of Ordinances</i></b> Conduct a public hearing, discuss and make a recommendation to City Council regarding proposed revisions to Section 17, Site Plan Approvals and Special Development Standards of Appendix A, "Zoning" of the Code of Ordinances regarding Exterior Building Materials allowed in the Single Family (Section 17-106), Multiple Family and Non-Residential Zoning Districts (Section 17-106.1).
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Chairman Hames read the public hearing item 3.3 into record.

Ms. Sen presented the staff report.

Chairman Hames asked if there is a definition for manufactured stone or is it same as cultured stone.

Ms. Sen stated that they are both same.

Chairman Hames asked if cultured stone should be allowed and if they are of equal strength and quality as natural stone.

Mr. Joyce responded that manufactured stone is a high quality material and one can barely tell apart a manufactured stone from natural stone, the product has been enhanced so much over the period of time. It is a veneer and is easier to install versus thicker natural stones. It can be used on tilt up concrete. Staff has researched cities of Lewisville, Allen, Frisco, Carrollton and all the cities allow manufactured stone.

Commissioner Pool asked if there has been lot of requests from applicants regarding this and if that is the reason we are looking into this.

Mr. Joyce answered affirmative and also stated that the Zoning Ordinance was adopted in 1983 and the list of materials hasn't been looked at since.

Chairman Hames opened and closed the public hearing at 6:45 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to approve Item 3.3 Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.4</b>	<b><i>SII5-0019 Revisions to Zoning Ordinance Regarding Bar, Lounge, Tavern or Beverage Store Distance Requirements</i></b> Conduct a public hearing, discuss and make a recommendation to City Council regarding proposed revisions to Section 10-2007, Appendix A, "Zoning" of the Code of Ordinances in order to revise the distance requirements between a beverage store, bar, lounge, or tavern, or private club with a another bar, lounge or tavern or beverage stores.
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Ms. Sen presented the staff report.

Chairman Hames asked if staff could estimate how many of the current businesses within the City qualify as beverage store, bar or lounge where more than 75% of the sales are generated by alcohol sales.

Mr. Joyce answered that staff could not answer that without doing some research. But estimated there are not that many within the City.

Commissioner Pool enquired if this reduced distance is approved what would happen to a store that might be closer than 300 feet.

Ms. Sen clarified that currently the Ordinance requires these stores to be 1000 feet apart. So ideally there should not be a store within 300 feet of another as they have to be minimum 1000 feet apart.

Chairman Hames opened and closed the public hearing at 6:55 p.m. with no one wishing to speak on the item.

**Commissioner Rockenbaugh moved to approve Item 3.4 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.5</b>	<b><i>SUP15-0011 The Thirsty Growler Specific Use Permit</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on a request for a Specific Use Permit (SUP) to allow The Thirsty Growler, a brew pub, for on and off-site consumption of alcoholic beverages located at 5733 SH 121, Suite 230, in Planned Development 16 (PD-16) zoning district and revoking the SUP Ordinance No. 99-1135 for Star Liquor located at 5749 SH 121.
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Chairman Hames read the public hearing item 3.5 into record.

Ms. Sen presented the staff report.

Commissioner Hebb asked can the City any time chose to revoke a SUP on a property.

Ms. Sen replied that staff has discussed this with the City Attorney, Jeff Moore and the main reason behind suggesting to revoke the Star Liquor SUP is because the store has been closed since 2012. It is unlikely that the City will revoke a SUP for a store that is currently in business.

Commissioner Hebb asked about the growlers that will be sold at this new place as those are screw tops that can be easily taken off, what would prevent someone from buying one and taking the lid off and drinking while driving home.

Mr. Voss stated that the law is same in this case just like when someone buys a six pack beer. If they take the lid off and start drinking they are violating the law and the Police Officers should be able to address that.

Mike Gillum, applicant addressed the Commission and stated that there will be an additional heat sealed cap on the growlers.

Commissioner Hebb asked if there will be food served at this location.

Mr. Gillum said it is "bring your own food" type store, so no food will be served at the store.

Chairman Hames opened and closed the public hearing at 7:05 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to approve Item 3.5 Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.6</b>	<b><i>SUP15-0012 Quality Car Care Specific Use Permit</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council regarding a Specific Use Permit (SUP) application for Auto Repair Garage (inside) use, Quality Car Care located at 5204 South Colony Boulevard within Shopping Center (SC) zoning district.
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Chairman Hames read the public hearing item 3.6 into record.

Ms. Sen presented the staff report.

Commissioner Rockenbaugh asked if the auto care company was leasing the space and do not own that portion of the strip center.

Ms. Sen answered affirmative.

Commissioner DeBurr asked if the store was operating with a SUP before the fire occurred in February.

Ms. Sen answered they did not have an SUP as this center was built before the Zoning Ordinance was adopted and did not require as SUP as a result.

Commissioner Hebb asked if this SUP is denied what the owners plan to do with this portion of their strip center.

Ms. Sen responded that currently the owners are attempting to bring back the auto repair, garage use. If this SUP is not approved, they haven't provided any indication to staff on what else might be locating in that space or if there are other prospects.

Commissioner Hebb asked to bring back this use the applicant will have to build it to current code which is pretty significant, for example fire sprinkler system, fire rated wall etc.

Ms. Sen added that they have no storage space for vehicles as well and they will not be able to store outside on the parking lot as that is not allowed under Shopping Center (SC) zoning.

Commissioner DeBurr mentioned that this business has been in operation as a legally non-conforming business. Were they informed when the rules were changed?

Mr. Voss responded that during the public notification process of the Ordinance adoption they should have been notified.

Chairman Hames opened and closed the public hearing at 7:15 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to deny Item 3.6 Commissioner DeBurr seconded the motion. Motion carried (5-0).**

<b>4.0</b>	<b>DISCUSSION ITEMS</b>
<b>4.1</b>	<b><i>November and December 2015 Director's Report</i></b>

Chairman Hames read the discussion item 4.1 into record.

Ms. Joyce presented the Director's Report.

There being no further business to come before the Commission, Chairman Hames adjourned the Regular Session of the Planning and Zoning Commission at 7:21 p.m.

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Karen Hames, Chairman

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Surupa Sen, AICP, Senior Planner

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Conduct a public hearing, discuss and consider an ordinance approving a Specific Use Permit (SUP) application for an Auto Repair Garage (inside) use, for Quality Car Care located at 5204 South Colony Boulevard within the Shopping Center (SC) zoning district (Development Services, Joyce)

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**Background:**

**Purpose:**

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

Council Staff Report

Location Map

Proposed Ordinance

Minutes of January 12, 2016 P&Z meeting

## CITY COUNCIL REPORT

**AGENDA DATE:** February 2, 2016

**DEPARTMENT:** Engineering/Development Services Department

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**SUBJECT:** *SUP15-0012 Quality Car Care Specific Use Permit*

Conduct a public hearing, discuss and consider a Specific Use Permit (SUP) application for an Auto Repair Garage (inside) use, for Quality Car Care located at 5204 South Colony Boulevard within the Shopping Center (SC) zoning district.

**OWNER/ENGINEER**

Owner/Developer:	Rankin LLP/Diana Wong	Dallas, Texas
Engineer/Surveyor:	Childress Engineering	Richardson, Texas

**EXISTING CONDITION OF PROPERTY**

The property is currently developed as Peters Colony Shopping Center which is partially occupied with different commercial tenants.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

January 12, 2016 – The Planning and Zoning Commission voted (5-0) to recommend denial for a Specific Use Permit (SUP) application for an Auto Repair Garage (inside) use, for Quality Car Care located at 5204 South Colony Boulevard within the Shopping Center (SC) zoning district.

As this application has been recommended for denial by Planning and Zoning Commission, as per Zoning Ordinance Section 24-201 Procedure, it will require a three-fourths (3/4) vote by the City Council to approve the SUP.

**DEVELOPMENT REVIEW COMMITTEE (DRC) REVIEW**

The Development Review Committee (DRC) finds the Specific Use Permit (SUP) does not meet the requirements Section 10-905 of the Zoning Ordinance, as outlined in the Staff Report.

**OPTIONS**

1. Approve as submitted.
2. Approve with conditions.
3. Postpone consideration.
4. Table item.
5. Deny item.

**ATTACHMENTS**

1. Staff Analysis
2. Location Map
3. Proposed Ordinance
4. Minutes of January 12, 2016 Planning and Zoning Commission meeting

## ATTACHMENT 1

### Staff Analysis

#### Summary of Request

The applicant is proposing to rebuild an auto repair garage use called Quality Car Care within the Peters Colony Shopping Center at 5204 South Colony Boulevard. The lease space is 4,480 square feet. The Peters Colony Shopping Center building caught fire in February 5, 2015. The Quality Car Care lease space (the left most suite) was burned to the ground and the business has not been in operation over 300 days since the fire occurred on February 5, 2015. As the business has been discontinued for more than ninety (90) days, per Section 20-104, of The Colony Zoning Ordinance, this land use must come in compliance with all City regulations to be able to begin operations once again. The Colony Zoning Ordinance requires a SUP for the auto repair garage use within a Shopping Center (SC) zoning district.

#### Existing Condition of Property

The property is currently developed as Peters Colony Shopping Center and is partially occupied with commercial tenants.

#### Platting Status

The subject property is platted as Colony Square Shopping Center, Section B.

#### Adjacent Zoning/Land Use

North - Shopping Center (SC) – Developed commercial center with multiple tenants  
South - Single Family Residential (SF-4) – First United Methodist Church  
East- Shopping Center (SC) – CVS pharmacy across Paige Road  
West- Shopping Center (SC) – U.S. Post Office

#### Land Use Analysis

The Zoning Ordinance requires a Specific Use Permit (SUP) for auto repair garage use (inside).

#### Infrastructure Improvements

There are no infrastructure improvements planned for this area.

#### Site Analysis

This site was developed during or before the early 1980s. As a result, the site does not meet most of the development standards of current The Colony Zoning Ordinance.

#### Specific Use Permit (SUP) Criteria

In accordance with Section 10-905 (Special Use Permits - Approval Criteria) of the Zoning Ordinance, the Planning and Zoning Commission and City Council shall review and evaluate a Specific Use Permit application using the following criteria:

**1. Conformance with the City of The Colony's Comprehensive Plan;**

*The Future Land Use Map identifies this area as "Urban Corridor/ Potential Town Center Redevelopment Zone." A Town Center is designed to achieve human interactivity, with enhanced accessibility for pedestrians and lessen the need for vehicles. These environments can become parts of the city that work well and attract people with interesting buildings, wide sidewalks and trails, landscaping and protection from vehicles*

*to add up to a great pedestrian experience. The proposed use is not in conformance with the Comprehensive Plan vision.*

- 2. Conformance with applicable regulations and standards established by the zoning regulations;**  
*With the approval of the SUP, the application will be in conformance with the Zoning Ordinance.*
- 3. Compatibility with existing or permitted uses on abutting sites, in terms of building height, build and scale, setbacks on open spaces, landscaping and site development, access and circulation features, architectural compatibility;**  
*As this site was developed before the current Zoning Ordinance was adopted, it does not meet required landscaping, parking and other development standards.*
- 4. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonable and anticipated in the area, existing zoning and land uses in the area;**  
*The location of an auto repair/garage land use within a strip center is highly unusual due to its inherent incompatibility with adjoining and neighboring commercial businesses.*
- 5. Protection of persons and property from erosion, flood, or water damage, fire, noise, glare, air quality, generation of dust and odors, and similar hazards and impacts;**  
*There are potential fire, noise, generation of dust and odor and similar hazards associated with this land use. Generally auto repair/garage land uses are stand-alone operations on a property to address such issues more comprehensively in order to not affect neighboring users within a strip center setting. The building was not built with adequate fire rated walls or sprinkler system to mitigate fire hazards created by such a user. Also outside storage is not allowed in SC zoning. For this type of use, temporarily housing vehicles outside the store is a necessary at times. Use of the shopping center parking spaces for storing vehicles will not be allowed.*
- 6. Location, lighting and type of signs; the relation of signs to traffic control and adverse effect of signs on adjacent properties;**  
*There is a multi-tenant sign for this property to identify current tenants and each tenant has wall signs as well.*
- 7. Adequacy and convenience of off-street parking and loading facilities;**  
*The site has to be reviewed with the existing and new uses to determine if it meets zoning ordinance requirements of off-street parking.*
- 8. Determination that the proposed use and site development, together with any modifications applicable thereto, will be compatible with existing or permitted uses in the vicinity;**  
*The proposed auto repair land use will not be compatible with the land uses within and around the shopping center.*
- 9. Determination that any conditions applicable to approval are the minimum necessary to minimize potentially unfavorable impacts on nearby uses in the same district and surrounding area; and**

*No special conditions are being recommended by staff.*

- 10. Determination that the proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety, or welfare of materially injurious to properties or improvements in the vicinity.**

*The proposed use might be detrimental to the public health, safety, or welfare.*

#### Notification

The Zoning Ordinance requires newspaper notification a minimum of ten (10) days prior to the Planning and Zoning Commission meeting. Notice for this SUP Public Hearing was published in *The NeighborsGO* on January 1, 2016. In addition, Zoning Ordinance also requires notification of property owners located within 200 feet of the subject property a minimum of ten (10) days prior to the public hearing. Postcards were mailed on December 29, 2015 to seventeen (17) property owners. No comments either for or against the SUP were received as of the printing of this packet.

#### Development Review Committee Review

The Development Review Committee (DRC) recommends denial for the SUP as it is not the highest and best use for that location and due to its inherent incompatibility with adjoining and neighboring commercial businesses.



**Project No. SUP15-0012 - Project Name: Quality Car Care SUP**

- |   |  |  |  |  |
|---|--|--|--|--|
| <span style="color: red;">■</span> Quality Car Care             | <span style="background-color: #cccccc;">■</span> Business Park/Industrial | <span style="background-color: #cccccc;">■</span> Heavy Commercial | <span style="background-color: #ffffcc;">■</span> Mobile Home          | <span style="background-color: #cccccc;">■</span> Planned Development    |
| <span style="background-color: #90ee90;">■</span> Agricultural  | <span style="background-color: #ffffcc;">■</span> Duplex Dwelling          | <span style="background-color: #cccccc;">■</span> Industrial       | <span style="background-color: #cccccc;">■</span> Neighborhood Service | <span style="background-color: #cccccc;">■</span> Shopping Center        |
| <span style="background-color: #cccccc;">■</span> Business Park | <span style="background-color: #cccccc;">■</span> General Retail           | <span style="background-color: #cccccc;">■</span> Light Commercial | <span style="background-color: #cccccc;">■</span> Office District 1    | <span style="background-color: #cccccc;">■</span> Single Family Dwelling |



This map was generated by GIS data provided by The Colony GIS Department. The City of The Colony does not guarantee the correctness or accuracy of any features on this map. These digital products are for illustration purposes only and are not suitable for site-specific decision making.



**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. 2016 - \_\_\_\_\_**

**SPECIFIC USE PERMIT**

**Quality Car Care**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, APPROVING A SPECIFIC USE PERMIT ALLOWING AUTO REPAIR GARAGE (INSIDE) USE AT 5204 SOUTH COLONY BLVD, THE COLONY, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, have given any requisite notices by publication and otherwise, and have held due public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and is of the opinion and finds that Specific Use Permit No. SUP15-0012 to allow auto repair garage (inside) use, Quality Car Care, at 5204 S Colony Blvd, The Colony, Texas, should be approved.

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

**SECTION 1.** That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That the City Council of the City of The Colony, Texas, does hereby approve the Specific Use Permit.

**SECTION 3.** That it is hereby declared to be the intention of the City Council of the City of The Colony, Texas, that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 4.** That any provision of any prior ordinance of the City whether codified or uncoded, which are in conflict with any provision of this Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncoded, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**SECTION 5.** That this Ordinance shall become effective immediately upon its passage.

**DULY PASSED** by the City Council of the City of The Colony, Texas, this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
JOE McCOURRY, MAYOR

**ATTEST:**

\_\_\_\_\_  
Christie Wilson, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeff Moore, City Attorney

**MINUTES  
CITY OF THE COLONY  
PLANNING AND ZONING COMMISSION  
JANUARY 12, 2016**

After determining that a quorum was present, the Planning and Zoning Commission of the City of The Colony, Texas convened into Regular Session which was held on Tuesday, January 12, 2016 at 6:30 PM in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

**Board Members Present:** Karen Hames, Chairman, Detrick DeBurr, Vice Chairman, Shawn Rockenbaugh, Janece Pool, and Shannon Hebb.

**Board Members Absent:** Cesar Molina Jr. and Brian Buffington

**Staff Present:** Mike Joyce, AICP, Planning Director, Gordon Scruggs, P.E., Director of Engineering and Development Services, Surupa Sen, AICP, Senior Planner, Brian McNulty, Engineering Technician, and Ed Voss, City Attorney.

<b>1.0</b>	<b>CALL REGULAR SESSION TO ORDER</b>
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Chairman Hames called the meeting to order at 6:30 p.m.

<b>1.1</b>	<b>CITIZEN INPUT</b>
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No citizens came forward during Citizen Input.

<b>2.0</b>	<b>CONSENT AGENDA</b>
<b>2.1</b>	Consider approval of the minutes of the December 8, 2015 Regular Session.

Chairman Hames read the Consent Agenda item into the record.

**Commissioner Hebb moved to approve Item 2.1, Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.0</b>	<b>PUBLIC HEARING ITEMS</b>
<b>3.1</b>	<i>PDA15-0005 PD-22, Austin Ranch Planned Development Design Standards Text Amendment</i> Conduct a public hearing, discuss and consider making a recommendation to City Council regarding text amendments to “Exhibit ”B,” Permitted Land Uses by Category, to add certain land uses to the Austin Ranch Planned Development (PD 22) Design Standards.

Chairman Hames read the public hearing item 3.1 into record.

Ms. Sen presented the staff report.

Chairman Hames opened and closed the public hearing at 6:32 p.m. with no one wishing to speak on the item.

**Commissioner Pool moved to approve Item 3.1 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.2</b>	<b><i>SI15-0016 Revisions to the Gateway Overlay District Ordinance</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on proposed revisions to Section 10A, "Gateway Overlay District Regulations," of Appendix A, "Zoning" of the Code of Ordinances in order to add retail/commercial/office areas at South Colony Boulevard and Paige Boulevard and the southwest corner of Kisor Drive and Paige Boulevard into the Gateway Overlay District.
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Chairman Hames read the public hearing item 3.2 into record.

Ms. Sen presented the staff report.

Chairman Hames opened and closed the public hearing at 6:35 p.m. with no one wishing to speak on the item.

**Commissioner DeBurr moved to approve Item 3.2 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.3</b>	<b><i>SI15-0017 Revisions To Section 17, Site Plan Approvals and Special Development Standards of Appendix A, "Zoning" of the Code of Ordinances</i></b> Conduct a public hearing, discuss and make a recommendation to City Council regarding proposed revisions to Section 17, Site Plan Approvals and Special Development Standards of Appendix A, "Zoning" of the Code of Ordinances regarding Exterior Building Materials allowed in the Single Family (Section 17-106), Multiple Family and Non-Residential Zoning Districts (Section 17-106.1).
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Chairman Hames read the public hearing item 3.3 into record.

Ms. Sen presented the staff report.

Chairman Hames asked if there is a definition for manufactured stone or is it same as cultured stone.

Ms. Sen stated that they are both same.

Chairman Hames asked if cultured stone should be allowed and if they are of equal strength and quality as natural stone.

Mr. Joyce responded that manufactured stone is a high quality material and one can barely tell apart a manufactured stone from natural stone, the product has been enhanced so much over the period of time. It is a veneer and is easier to install versus thicker natural stones. It can be used on tilt up concrete. Staff has researched cities of Lewisville, Allen, Frisco, Carrollton and all the cities allow manufactured stone.

Commissioner Pool asked if there has been lot of requests from applicants regarding this and if that is the reason we are looking into this.

Mr. Joyce answered affirmative and also stated that the Zoning Ordinance was adopted in 1983 and the list of materials hasn't been looked at since.

Chairman Hames opened and closed the public hearing at 6:45 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to approve Item 3.3 Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.4</b>	<b><i>SII5-0019 Revisions to Zoning Ordinance Regarding Bar, Lounge, Tavern or Beverage Store Distance Requirements</i></b> Conduct a public hearing, discuss and make a recommendation to City Council regarding proposed revisions to Section 10-2007, Appendix A, "Zoning" of the Code of Ordinances in order to revise the distance requirements between a beverage store, bar, lounge, or tavern, or private club with a another bar, lounge or tavern or beverage stores.
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Chairman Hames read the public hearing item 3.4 into record.

Ms. Sen presented the staff report.

Chairman Hames asked if staff could estimate how many of the current businesses within the City qualify as beverage store, bar or lounge where more than 75% of the sales are generated by alcohol sales.

Mr. Joyce answered that staff could not answer that without doing some research. But estimated there are not that many within the City.

Commissioner Pool enquired if this reduced distance is approved what would happen to a store that might be closer than 300 feet.

Ms. Sen clarified that currently the Ordinance requires these stores to be 1000 feet apart. So ideally there should not be a store within 300 feet of another as they have to be minimum 1000 feet apart.

Chairman Hames opened and closed the public hearing at 6:55 p.m. with no one wishing to speak on the item.

**Commissioner Rockenbaugh moved to approve Item 3.4 Commissioner Hebb seconded the motion. Motion carried (5-0).**

<b>3.5</b>	<b><i>SUP15-0011 The Thirsty Growler Specific Use Permit</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on a request for a Specific Use Permit (SUP) to allow The Thirsty Growler, a brew pub, for on and off-site consumption of alcoholic beverages located at 5733 SH 121, Suite 230, in Planned Development 16 (PD-16) zoning district and revoking the SUP Ordinance No. 99-1135 for Star Liquor located at 5749 SH 121.
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Chairman Hames read the public hearing item 3.5 into record.

Ms. Sen presented the staff report.

Commissioner Hebb asked can the City any time chose to revoke a SUP on a property.

Ms. Sen replied that staff has discussed this with the City Attorney, Jeff Moore and the main reason behind suggesting to revoke the Star Liquor SUP is because the store has been closed since 2012. It is unlikely that the City will revoke a SUP for a store that is currently in business.

Commissioner Hebb asked about the growlers that will be sold at this new place as those are screw tops that can be easily taken off, what would prevent someone from buying one and taking the lid off and drinking while driving home.

Mr. Voss stated that the law is same in this case just like when someone buys a six pack beer. If they take the lid off and start drinking they are violating the law and the Police Officers should be able to address that.

Mike Gillum, applicant addressed the Commission and stated that there will be an additional heat sealed cap on the growlers.

Commissioner Hebb asked if there will be food served at this location.

Mr. Gillum said it is "bring your own food" type store, so no food will be served at the store.

Chairman Hames opened and closed the public hearing at 7:05 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to approve Item 3.5 Commissioner Pool seconded the motion. Motion carried (5-0).**

<b>3.6</b>	<b><i>SUP15-0012 Quality Car Care Specific Use Permit</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council regarding a Specific Use Permit (SUP) application for Auto Repair Garage (inside) use, Quality Car Care located at 5204 South Colony Boulevard within Shopping Center (SC) zoning district.
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Chairman Hames read the public hearing item 3.6 into record.

Ms. Sen presented the staff report.

Commissioner Rockenbaugh asked if the auto care company was leasing the space and do not own that portion of the strip center.

Ms. Sen answered affirmative.

Commissioner DeBurr asked if the store was operating with a SUP before the fire occurred in February.

Ms. Sen answered they did not have an SUP as this center was built before the Zoning Ordinance was adopted and did not require as SUP as a result.

Commissioner Hebb asked if this SUP is denied what the owners plan to do with this portion of their strip center.

Ms. Sen responded that currently the owners are attempting to bring back the auto repair, garage use. If this SUP is not approved, they haven't provided any indication to staff on what else might be locating in that space or if there are other prospects.

Commissioner Hebb asked to bring back this use the applicant will have to build it to current code which is pretty significant, for example fire sprinkler system, fire rated wall etc.

Ms. Sen added that they have no storage space for vehicles as well and they will not be able to store outside on the parking lot as that is not allowed under Shopping Center (SC) zoning.

Commissioner DeBurr mentioned that this business has been in operation as a legally non-conforming business. Were they informed when the rules were changed?

Mr. Voss responded that during the public notification process of the Ordinance adoption they should have been notified.

Chairman Hames opened and closed the public hearing at 7:15 p.m. with no one wishing to speak on the item.

**Commissioner Hebb moved to deny Item 3.6 Commissioner DeBurr seconded the motion. Motion carried (5-0).**

<b>4.0</b>	<b>DISCUSSION ITEMS</b>
<b>4.1</b>	<b><i>November and December 2015 Director's Report</i></b>

Chairman Hames read the discussion item 4.1 into record.

Ms. Joyce presented the Director's Report.

There being no further business to come before the Commission, Chairman Hames adjourned the Regular Session of the Planning and Zoning Commission at 7:21 p.m.

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Karen Hames, Chairman

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Surupa Sen, AICP, Senior Planner

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Conduct a public hearing, discuss and consider approving an ordinance readopting Chapter 13, Article III, Sections 13-31 through 13-37 of the Code of Ordinances regarding Curfew Hours for Minors (Police, Coulon)

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**Background:**

**Purpose:**

Section 370.002 of the TEXAS LOCAL GOVERNMENT CODE, as amended, provides that the City Council shall review the Article and conditions the ordinance was intended to remedy three (3) years from its date of passage and every third year thereafter and conduct public hearings to determine the need to continue, modify or abolish the ordinance.

**Issues:**

**Alternatives:**

**Recommendations:**

Staff recommends adoption of the ordinance

**Attachments:**

Juvenile Curfew Ordinance

**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. 2016-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, READOPTING, RATIFYING, REPUBLISHING AND EXTENDING CHAPTER 13, ARTICLE III, SECTIONS 13-31 THROUGH 13-37 OF THE CODE OF ORDINANCES FOR CURFEW HOURS FOR MINORS IN THE CITY OF THE COLONY, TEXAS, FOR A PERIOD OF THREE (3) YEARS; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council has previously passed and adopted an Ordinance, which provides for “Curfew Hours for Minors” establishing such curfew hours and penalties for violations thereof; and

**WHEREAS**, such Ordinance has been codified in Chapter 13, Article III, Sections 13-31 through 13-37; and

**WHEREAS**, Section 370.002 of the TEXAS LOCAL GOVERNMENT CODE, as amended, provides that the City Council shall review the Article and conditions the ordinance was intended to remedy three (3) years from its date of passage and every third year thereafter and conduct public hearings to determine the need to continue, modify or abolish the ordinance; and

**WHEREAS**, prior to the expiration of such three year period, the Police Department has furnished records and reports indicating the need for such to remain in effect; and

**WHEREAS**, the City desires to continue the provisions of the Code without any modifications, and schedule the same for review in February 2019.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS;**

**SECTION 1.** That Chapter 13, Article III, Sections 13-31 through 13-37 is hereby readopted, ratified, republished and extended from the date of its execution and shall remain in effect through February 2019, unless otherwise terminated under the provisions of the State law.

**SECTION 2.** That all provisions of the Code of Ordinances of the City of The Colony, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 3.** That should any word, phrase, paragraph, section or phrase of this Ordinance or of the Code of Ordinances, as amended hereby, be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be unconstitutional, illegal or invalid, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 4.** That this Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

DULY PASSED AND APPROVED by the City Council of the City of The Colony, Texas, this the 2<sup>nd</sup> day of February, 2016.

**APPROVED:**

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Joe McCourry, Mayor

**ATTEST:**

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Christie Wilson, City Secretary

**APPROVED AS TO FORM:**

---

Jeff Moore, City Attorney

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Discuss and consider a request to waive the 2016 lease fees for Stewart Peninsula Golf Course to allow for reinvestment of those funds in flood and infrastructure repairs at the facility.

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**Background:**

Stewart Peninsula Golf Course is requesting Council to consider waiving their \$10K lease fee to allow reinvestment of those funds back into making repairs and improvements to the infrastructure at the golf course. They sustained significant damage and loss of revenue throughout 2015 due to extended periods of flooding of the lake. They have included information and photos regarding damages they incurred and improvements they plan to make with the help of the lease fee waiver if Council approves their request.

**Purpose:**

**Issues:**

The lease fee is due on February 15<sup>th</sup>, 2015.

**Alternatives:**

1. Approve as requested and provide required receipts/documentation
2. Provide a rebate as projects are completed rather than lease waiver
3. Disapprove and require lease fee to be paid per the contract

**Recommendations:**

If approved, staff recommends a stipulation that the reinvestment of \$10K only be allowed for infrastructure repairs as outlined in the request, and requires receipts and documentation of all work completed prior to the end of 2016.

**Attachments:**

Lease waiver request from SPGC  
Dock repair quote  
Irrigation dock  
Hole #2  
Hole #3  
Hole #3A  
Hole #4

**ANDERSON EXPRESS LANE, INC.  
D/B/A/ STEWART PENINSULA GOLF COURSE  
THE SANTA FE NEIGHBORHOOD GRILL  
100 Cottonwood Springs Circle  
The Colony, Texas 75056  
575-430 7266**

January \_\_, 2016

Pam Nelson  
Community Services Director  
Parks & Recreation Department  
The City of The Colony  
6800 Main Street  
The Colony, Texas 75056

Re: Stewart Peninsula Golf Course ("Golf Course")  
Infrastructure improvements and request for lease payment reduction for  
2016.

Dear Pam:

As you know, the heavy rain storms and flooding that occurred last summer has greatly affected the Golf Course in terms of damage to the greens and fairways of the course. The fairways and tee boxes for Hole#'s, 3, 4 & 9 were under water for several months and the inclement weather greatly reduced the amount of golf rounds played during our summer season. In addition, as a result of the high lake levels of Lake Lewisville, the shore line adjacent to the green on Hole #2 has suffered some erosion and our irrigation system has been affected due to the damage caused to water pump dock on Lake Lewisville.

We were able to make sufficient repairs to the tee boxes and fairways on the course to allow limited play in June, July & the beginning of August 2015, and were able to bring the fairways and greens back to full capacity in late August 2015. This allowed us to host the annual charitable golf tournament and fundraisers for our local American Legion Post and our local Susan G. Komen fundraisers in September & early October 2015. Although we had to postpone a golf tournament and fundraiser for the Knights of Columbus for one week due to the inclement weather, we were able to have a successful tournament the last week of October 2015. However, the severe rain storms in late October and November & December of 2015, have caused additional damage to the Golf Course. The lower tier level of the fairways on Hole# 3 and Hole #4 remain under water. The latest rain storms also severely damaged our water pump dock on Lake Lewisville, which is critical to our irrigation system. The water pump dock, which contains the water pump system, allows us to draw water from Lake Lewisville in order to irrigate the greens and fairways of the course. The gangway and most of the dock are underwater. In addition, the erosion of the shore line adjacent to the Green on Hole #2 requires a retaining barrier to preserve the integrity of the green on Hole #2.

Our plan to improve the parking lot last year was foiled by the bad weather and flooding. The flooding and inclement weather has required us to focus on expending funds on repairing the damages caused by the rain storms and floods. We have incurred substantial expense in labor and material to repair the damage caused to the course, and we have kept our primary commitment to ensure that the golf course is in the very best condition for our members, players and the community. However, we regret that we were unable to host the Fourth of July fireworks for 2015 due to the flood waters.

As set forth above, we have brought the course back to full capacity, except for the damage caused to our irrigation system, the damage to the lower tier of Holes #3 & #4, which remain flooded, and the damage caused by shoreline erosion on the green for Hole # 2. The estimated costs to address these three jobs are as follows:

1. (Irrigation System Repair) Labor & Material to repair the gangway and dock is estimated at \$45,000.00. Please see attached the estimate relating to this repair.
2. (Erosion Protection for Hole #2). Labor and Material estimated at \$20,000.00 to \$30,000.00.
3. Repairs to fairways for Hole # 3 & Hole #4. Labor and Material estimated at \$2500.00 to \$7500.00.

We also have suffered a loss of revenue due to the reduced amount of rounds played caused by the inclement weather. Accordingly, we are seeking assistance from the City Council in terms of a possible rent reduction for 2016. The Council's assistance in granting us a rent reduction for up to \$10,000.00 for 2016, will assist us in making the necessary repairs to the infrastructure of the Golf Course and to help us in our commitment to ensure that the Golf Course is in the best shape ever.

I have attached photographs of the course for your review. As always, your assistance and the assistance of the City Council in the past is greatly appreciated. Please do not hesitate to call me if you have any questions or need further information regarding this matter.

Very truly yours,

Jaime Anderson, President

# Rayco Marinas Inc.

## Installation and Repairs

1270 Tribble Road  
Sherman, TX 75090  
(972) 978-7227  
Fax 903-781-0570  
Email: [raymanwrb@netzero.net](mailto:raymanwrb@netzero.net)

Date: January 14, 2016

Stewart Peninsula Golf Course  
100 Cottonwood Springs Circle  
The Colony, TX 75056  
Janderinc@gmail.com

### Proposal

Remove existing damaged dock/gangway from water and replace with new.

Rayco Marinas will remove and dispose of the existing damaged floating pier and replace it with a new complete floating pier and gangway of same dimensions. All steel dock components will be hot dipped Galvanized and all substructure hardware will be grade 8 zinc bolts. All other hardware will be grade 5. Decking will be 2x6 pressure treated lumber secured to 2x4 pressure treated stringers below. Flotation will be encapsulated flotation and anchored with spud poles to hold dock in place. Rayco Marinas will provide all material and labor to complete the dock project and the owner is responsible for the pump, electrical, plumbing, Ect.

The owner will be responsible for acquiring any permits necessary, paying any permit fees and paying any use tax directly to the state.

**Proposal total** **\$45,840.17**

Terms: Estimate only payment schedule and terms to be determined upon contract.











**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 27, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF REQUEST:** Discuss and consider approving an ordinance amending the Code of Ordinance, Chapter 6, Article III, entitled "Minimum Housing and Building Standards Code", by amending section 6-89(A) of the code of ordinances, entitled "Proceedings," by establishing the quorum requirement for the Building and Standards Commission (General Admin, Perez)

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**Background:**

**Purpose:**

This section of ordinance currently requires that all five members of the Building and Standards Commission be present for a hearing to be conducted. Because of unforeseen circumstances, all five board members may not be able to attend a scheduled hearing. Due to the advertising and notification requirements surrounding BSC hearings, staff is proposing amending this requirement to require a majority of members be present for the hearing to be conducted.

**Issues:**

**Alternatives:**

**Recommendations:**

**Attachments:**

Ordinance

**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. 2016-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING CHAPTER 6, ARTICLE III, ENTITLED “MINIMUM HOUSING AND BUILDING STANDARDS CODE,” BY AMENDING SECTION 6-89(A) OF THE CODE OF ORDINANCES, ENTITLED “PROCEEDINGS,” BY ESTABLISHING THE QUORUM REQUIREMENT FOR THE BUILDING AND STANDARDS COMMISSION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of The Colony, Texas (“City Council”), upon full consideration of the matters, has determined the necessity and desirability of providing regulations concerning the inspection of buildings within the jurisdictional limits of the City of The Colony, Texas (“City”); and

**WHEREAS**, Sections 54.033(b) and 54.034(a) of the Texas Local Government Code provides the authority for three (3) members of a five (5) member buildings and standards commission to hear cases before that board; and

**WHEREAS**, the City Council has discussed and considered such revisions and has determined that it is in the best interest of the City to amend the current Chapter 6, Section 6-89(a) of the Code of Ordinances by addressing the quorum, requirements for the Building and Standards Commission, in accordance with State law.

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

**SECTION 1.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That the Code of Ordinances of the City of The Colony, Texas be, and the same is, hereby amended by amending Chapter 6, Section 6-89, entitled “Proceedings,” by amending subsection (a) which shall read as follows:

“(a) All cases to be heard by the commission must be heard by a majority of its members~~panel of at least five members and/or alternate members.~~”

**SECTION 3.** If any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons or circumstances 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 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.** That all provisions of the Ordinances of the City of The Colony, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 5.** This Ordinance shall become effective from and after its date of passage in accordance with law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 2<sup>nd</sup> day of February, 2016.**

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Joe McCourry, Mayor

**ATTEST:**

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Christie Wilson, City Secretary

**APPROVED AS TO FORM:**

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Jeff Moore, City Attorney

**TO:** Mayor, City Council, and City Manager

**DATE SUBMITTED:** January 28, 2016

**MEETING DATE:** 2/2/2016

**SUMMARY OF  
REQUEST:**

A. Council shall convene into a closed executive session pursuant to Section 551.071 of the TEXAS GOVERNMENT CODE to consult with the city attorney regarding magistration of prisoners, setting of bonds, and personal recognizance bond issues.

B. Council shall convene into a closed executive session pursuant to Section 551.071 of the TEXAS GOVERNMENT CODE to seek legal advice from the city attorney regarding a contract with Atlantic Hotels.

C. Council shall convene into a closed executive session pursuant to Section 551.071 of the TEXAS GOVERNMENT CODE to see legal advice from the city attorney regarding a Hawaiian Falls Waterpark Ground lease Operating Agreement and related documents.

D. Council shall convene into a closed executive session pursuant to Sections 551.071 and 551.087 of the TEXAS GOVERNMENT CODE to seek legal advice from the city attorney, and to deliberate commercial or financial information the City has received from a business prospect, and to deliberate the offer of a financial or other incentive to a business prospect – Grandscape and The Colony Public Improvement District No. 1 matter.

E. Any action as a result of executive session.

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