

# AGENDA

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas to be held in the Council Chamber at City Hall, 401 S. Rogers on **Monday, June 15, 2020 at 7:00 p.m.**

Council Members: David Hill, Mayor  
Mary Lou Shipley, Mayor Pro Tem  
Chuck Beatty, Councilmember  
Kevin Strength, Councilmember  
Melissa Olson, Councilmember

1. Call to Order
2. Invocation
3. Pledge of Allegiance and Texas Pledge of Allegiance
4. **Public Comments:** Persons may address the City Council on any issues. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meetings Act, the Council may not comment or deliberate such statements during this period, except as authorized by Section 551.042, Texas Government Code.
5. **Consent Agenda**

All matters listed under Item 5, Consent Agenda, are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. Approval of the Consent Agenda authorizes the Mayor/City Manager to execute all matters necessary to implement each item. Any item may be removed from the Consent Agenda for separate discussion and consideration by any member of the City Council.

- a. Minutes of the City Council meeting of June 1, 2020
- b. Application for Seasonal Vendor Permit at Lake Waxahachie
- c. Consider authorizing a Supplemental Appropriation from the Roadway Impact Fee Fund to the General Fund associated with the Five Year Impact Fee Update
- d. Consider authorizing a Supplemental Appropriation from the Water Impact Fee Fund to the Water Fund associated with the Five Year Impact Fee Update
- e. Consider authorizing a Supplemental Appropriation from the Wastewater Impact Fee Fund to the Wastewater Fund associated with the Five Year Impact Fee Update
- f. Consider a one year contract extension with Evoqua Water Technologies for 1) the purchase of sodium chlorite and 2) the rental of generators utilized to create chlorine dioxide for water treatment at the Howard Road and Sokoll Water Treatment Plants
- g. Consider award of a bid to Brenntag Southwest and Chameloen Industries for various chemicals required for Water treatment operations at the Howard Road and Sokoll Water Treatment Plants
- h. Consider amending Chapter 380 Agreement with Crepe Myrtle Enterprises & Showbiz Cinemas

6. **Consider** and take action on a resolution directing publication of notice of intention to issue Certificates of Obligation, Series 2020; directing the preparation of a preliminary official statement and related materials; and providing an effective date
7. **Public Hearing** on a request by Josh Millsap, KFM Engineering & Design, for a detailed Site Plan review for a proposed Subdivision development, Dove Hollow, within a Planned Development zoning district, located adjacent to and south of Grove Creek Rd (Property ID 192636, 192643, 192639, 192645) – Owner: CEH 212 LP (SP-75-2020)
8. **Consider** approval of Zoning Change No. SP-75-2020
9. **Continue Public Hearing** on a request by the City of Waxahachie to consider revoking, amending, or extending a Specific Use Permit (Ordinance 2616) at 500 Brown Industrial which allows for the use of metal granulators and crushers for the reclamation of vehicles, parts of vehicles, and other materials to be processed. (ZDC-000007-2020)
10. **Consider** proposed Ordinance approving ZDC-000007-2020
11. **Consider** Development Agreement for ZDC-000007-2020
12. **Consider** authorizing professional engineering design services with Freese and Nichols, Inc. associated with the Phase II College Street Drainage Improvement Project
13. **Consider** a resolution authorizing the reimbursement of the General Fund from the proceeds of future debt associated with Phase II professional engineering services for the College Street Drainage Project
14. Comments by Mayor, City Council, City Attorney and City Manager
15. Adjourn

**The City Council reserves the right to go into Executive Session on any posted item.** This meeting location is wheelchair-accessible. Parking for mobility-impaired persons is available. Any request for sign interpretive services must be made forty-eight hours ahead of the meeting. To make arrangements, call the City Secretary at 469-309-4005 or (TDD) 1-800-RELAY TX

(5a)

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas was held in the Council Chamber at City Hall, 401 S. Rogers on Monday, June 1, 2020 at 7:00 p.m.

Councilmembers Present: David Hill, Mayor  
Mary Lou Shipley, Mayor Pro Tem  
Melissa Olson, Councilmember

Via Teleconference: Chuck Beatty, Councilmember  
Kevin Strength, Councilmember

Others Present: Michael Scott, City Manager  
Albert Lawrence, Assistant City Manager  
Tommy Ludwig, Assistant City Manager  
Lori Cartwright, City Secretary

Others Absent: Robert Brown, City Attorney

**1. Call to Order**

Mayor David Hill called the meeting to order and did a roll call for members in attendance via teleconference. Members present via teleconference included Councilmember Chuck Beatty and Councilmember Kevin Strength.

**2. Invocation**

**3. Pledge of Allegiance and Texas Pledge of Allegiance**

Mayor Hill gave the invocation and led the Pledge of Allegiance and the Texas Pledge of Allegiance.

**4. Consent Agenda**

- a. Minutes of the City Council meeting of May 18, 2020
- b. Consider budget amendment from Emergency Management Department
- c. Approve Taxi Cab License Renewal

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to approve items a. through c. on the Consent Agenda. Councilmember Melissa Olson seconded, All Ayes.*

**5. Consider authorization of the Mayor and/or his designee to file application for funds from the Coronavirus Relief Fund or any other funds providing grants for Coronavirus related costs, including all understandings and assurance contained therein, and act in connection with the application and provide such additional information as may be required**

**Action:**

*Councilmember Kevin Strength moved to authorize the Mayor and/or his designee to file application for funds from the Coronavirus Relief Fund or any other funds providing grants for*

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*Coronavirus related costs, including all understandings and assurance contained therein, and act in connection with the application and provide such additional information as may be required. Councilmember Chuck Beatty seconded. The vote was as follows:*

*Ayes: David Hill  
Mary Lou Shipley  
Chuck Beatty  
Kevin Strength*

*Noes: Melissa Olson*

**The motion carried.**

- 6. Public Hearing on request by Jacob Perry, Waxahachie ISD, for a Specific Use Permit (SUP) for an Electronic Message Sign use within a Planned Development – Single Family – 2 zoning district, located at 631 Solon Rd (Property ID 220963) – Owner: Waxahachie ISD (ZDC-000064-2020)**

Mayor Hill opened the Public Hearing.

There being no others to speak for or against ZDC-000064-2020, Mayor Hill closed the Public Hearing.

- 7. Consider proposed Ordinance approving ZDC-000064-2020**

**ORDINANCE NO. 3192**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN ELECTRONIC MESSAGE SIGN USE WITHIN A PLANNED DEVELOPMENT-SINGLE FAMILY-2 (PD-SF-2) ZONING DISTRICT, LOCATED AT 631 SOLON RD, BEING PROPERTY ID 220963, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 1 IN THE SOLON ELEMENTARY ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Councilmember Melissa Olson moved to approve Ordinance No. 3192. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

- 8. Public Hearing on request by Jacob Perry, Waxahachie ISD, for a Specific Use Permit (SUP) for an Electronic Message Sign use within a Planned Development – Single Family – 2 zoning district, located at 231 Park Place Blvd (Property ID 237673) – Owner: Waxahachie ISD (ZDC-000069-2020)**

Mayor Hill opened the Public Hearing.

(5a)

There being no others to speak for or against ZDC-000069-2020, Mayor Hill closed the Public Hearing.

9. **Consider proposed Ordinance approving ZDC-000069-2020**

**ORDINANCE NO. 3193**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN ELECTRONIC MESSAGE SIGN USE WITHIN A PLANNED DEVELOPMENT-SINGLE FAMILY-2 (PD-SF-2) ZONING DISTRICT, LOCATED AT 231 PARK PLACE BLVD, BEING PROPERTY ID 237673, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 1, BLOCK 1 IN THE PARK PLACE ELEMENTARY SCHOOL ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Councilmember Chuck Beatty moved to approve Ordinance No. 3193. Councilmember Kevin Strength seconded, All Ayes.*

10. **Public Hearing on request by Jacob Perry, Waxahachie ISD, for a Specific Use Permit (SUP) for an Electronic Message Sign use within a Single Family – 3 zoning district, located at 650 Parks School House Rd (Property ID 241034) – Owner: Waxahachie ISD (ZDC-000070-2020)**

Mayor Hill opened the Public Hearing.

There being no others to speak for or against ZDC-000070-2020, Mayor Hill closed the Public Hearing.

11. **Consider proposed Ordinance approving ZDC-000070-2020**

**ORDINANCE NO. 3194**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN ELECTRONIC MESSAGE SIGN USE WITHIN A SINGLE FAMILY-3 (SF-3) ZONING DISTRICT, LOCATED AT 650 PARKS SCHOOL HOUSE RD, BEING PROPERTY ID 241034, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 1, BLOCK 1 IN THE WISD 6<sup>TH</sup> GRADE CENTER ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Councilmember Kevin Strength moved to approve Ordinance No. 3194. Councilmember Chuck Beatty seconded, All Ayes.*

12. **Public Hearing on request by Jacob Perry, Waxahachie ISD, for a Specific Use Permit (SUP) for an Electronic Message Sign use within a Single Family – 2 zoning district,**

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located at 110 Brown St (Property ID 222535) – Owner: Waxahachie ISD (ZDC-000071-2020)

Mayor Hill opened the Public Hearing.

There being no others to speak for or against ZDC-000071-2020, Mayor Hill closed the Public Hearing.

**13. Consider proposed Ordinance approving ZDC-000071-2020**

**ORDINANCE NO. 3195**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN ELECTRONIC MESSAGE SIGN USE WITHIN A SINGLE FAMILY - 2 (SF-2) ZONING DISTRICT, LOCATED AT 110 BROWN ST, BEING PROPERTY ID 222535, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 1, MARVIN ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to approve Ordinance No. 3195. Councilmember Melissa Olson seconded, All Ayes.*

**14. Continue Public Hearing on a request by the City of Waxahachie to consider revoking, amending, or extending a Specific Use Permit (Ordinance 2616) at 500 Brown Industrial which allows for the use of metal granulators and crushers for the reclamation of vehicles, parts of vehicles, and other materials to be processed. (ZDC-000007-2020)**

Mayor Hill continued the Public Hearing and announced ZDC-000007-2020 will continue to the City Council meeting of June 15, 2020.

**15. Consider approval of ZDC-000007-2020**

**Action:**

*No action taken.*

**16. Consider Development Agreement for ZDC-000007-2020**

**Action:**

*No action taken.*

**17. Consider authorizing an oversized participation agreement with 287 WAXAHACHIE, L.P. associated with the construction of the 16" Saddlebrook water line**

(5a)

Utilities Director David Bailey explained the participation agreement, in the amount of \$90,960 with 287 Waxahachie, L.P., is associated with the construction of the 16" water line along Big Brown Drive within the Saddlebrook Estates Phase 2A development, which is currently being constructed.

**Action:**

*Councilmember Melissa Olson moved to authorize an oversized participation agreement with 287 WAXAHACHIE, L.P. associated with the construction of the 16" Saddlebrook water line as presented. Councilmember Kevin Strength seconded, All Ayes.*

- 18. Consider resolution authorizing the reimbursement of the Water Fund from the proceeds of future debt associated with an oversized participation agreement for the construction of the 16" Saddlebrook water line**

Mr. Bailey reported Resolution 1288 is a planned capital expense and will be funded through the FY 2019-20 Certificate of Obligation Bond Sale.

**RESOLUTION NO. 1288**

**A RESOLUTION DECLARING INTENT TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT FOR THE PURPOSE OF THE OVERSIZING OF A 16" WATER LINE ASSOCIATED WITH SADDLEBROOK OVERSIZED PARTICIPATION AGREEMENT**

**Action:**

*Councilmember Kevin Strength moved to approve Resolution No. 1288 as presented. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

- 19. Consider authorizing sewer system point repairs by G2 General Contractors through the Sourcewell Purchasing Cooperative Agreement**

Mr. Bailey presented a contract in the amount of \$107,320.04 associated with the sanitary sewer system point repairs at various locations. He explained these point repairs were identified during the City's FY 2018-19 Smoke Testing program.

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to authorize a contract with G2 General Contractors as presented. Councilmember Melissa Olson seconded, All Ayes.*

- 20. Consider authorizing a Supplemental Appropriation to the Water Fund associated with Bardwell Reservoir Maintenance**

Mr. Richard Abernethy, Assistant Director of Utilities, reported the Trinity River Authority Contract for the maintenance of Bardwell Reservoir is an annual budgeted expense that is paid to TRA associated with the City's portion of the operation and maintenance of Bardwell Reservoir by the Army Corps of Engineers. Mr. Abernethy explained, per the contract the City is responsible for 45% of operation and maintenance cost. This year the city received a revised amount for

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Bardwell reservoir maintenance from the TRA after the City's budget was finalized. As a result, the Utilities Department is requesting a supplemental appropriation in the amount of \$56,000 to meet the required maintenance obligations for the remainder of the fiscal year. He explained in May 2020 the City received a refund check from TRA in the amount of \$75,000, as the USACE did not utilize the full amount of funds the City budgeted last fiscal year for Bardwell reservoir maintenance and will cover the additional expense.

**Action:**

*Councilmember Melissa Olson moved to authorize a Supplemental Appropriation to the Water Fund associated with Bardwell Reservoir Maintenance as presented. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

**21. Comments by Mayor, City Council, City Attorney and City Manager**

Assistant City Manager Albert Lawrence thanked Mr. Thomas Griffith and the Emergency Management team for their work during the COVID-19 pandemic. He stated Mr. Griffith and his team tracks city expenses such as employee purchases, packages for nursing homes, and test kits. He explained Mr. Griffith got a third party contractor to come in and do the testing so our fire fighters would not be exposed.

He stated the budget amendment on the Consent Agenda is to put more funds in that account to fund it and authorize the Mayor to submit the paperwork through the Coronavirus Relief Fund to get reimbursed because there is federal funding where we should be able to get 100% funding back on these items. He explained through the Cares Act and Public Relief Fund Act the City of Waxahachie was allotted \$2.1 million and will receive approximately \$425 million to start using for unexpected budget items.

Mr. Lawrence thanked the Mayor and Mayor Pro Tem for their guidance during the pandemic.

City Manager Michael Scott stated today was the first day to have City Hall unlocked and City Staff back full staffed. He stated members of the public were able to come into City Hall and conduct business. Mr. Scott stated city services would continue to be online.

Mayor Pro Tem Mary Lou Shipley stated she is very impressed with the Emergency Management Staff noting they are professional and efficient and we are lucky to have them.

Councilmember Melissa Olson asked for continued prayers for the City Secretary.

Mayor David Hill thanked Battalion Chief Gary Myers for his work at the Emergency Management Office and asked for continued prayers for City Staff and the Fire fighters.

**22. Adjourn**

There being no further business, the meeting adjourned at 7:24 p.m.

Respectfully submitted, Lori Cartwright  
City Secretary

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Return this form to: City Secretary's Office, P.O. Box 757, Waxahachie, TX 75168 or fax to (469) 309-4003



**APPLICATION FOR SPECIAL SEASONAL VENDORS PERMIT**  
**AT LAKE WAXAHACHIE**

Applicant Name PAT BARRETT Male \_\_\_\_\_ Female \_\_\_\_\_  
Home Address 200 Farley St Waxahachie Tx  
Street or Box No. City State  
Home Phone No. 214-755-2021 Business Phone No. 214-755-2021  
Name to be used at business location WHAT'S SUP + KAYAK'S

Proposed temporary location for selling: (describe in detail) Boat Dock Park  
AT WATERS EDGE, Behind gate

Proposed services provided: (describe in detail) Kayak, Tube, Paddle Board  
Life Vest, and water activity rentals.

It is understood and agreed that the premises will be kept clean and neat, that no radio or other noise-making equipment will be used, that the business will only be operated between sun-up and 10:00 p.m., that sale or rental shall be allowed only for water sport related equipment such as canoes, kayaks, life preservers, fishing equipment, and water sports related equipment. No food or beverages may be sold.

The City may revoke the permit if all city, state, or other governmental rules and regulations are not followed. The permit is from June 16, 2020, to September 30, 2020.

Date 5/20/2020 Applicant Signature Pat Barrett

<b>For Office Use Only</b>	
Date Received: <u>6-2-2020</u>	Staff approval: <u>6-2-2020</u>
<input checked="" type="checkbox"/> Completed Application	Park Board Approval: <u>NA</u>
<input type="checkbox"/> \$1,000,000 Liability Insurance	City Council Approval: _____
<input checked="" type="checkbox"/> \$25 fee	Permit issued: _____

(5c, 5d, 5e)



## Memorandum

To: Honorable Mayor and City Council  
From: Tommy Ludwig, Assistant City Manager  
Thru: Michael Scott, City Manager  
Date: June 12, 2020  
Re: Impact Fee Update – Supplemental Appropriation

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On Monday, June 15, 2020, three items authorizing supplemental appropriations will appear before the City Council for consideration related to professional engineering services associated with the Impact Fee Capital Improvement Plan and Land Use Assumption Updates. Specifically the supplement appropriations will be funded from 1) the Roadway Impact Fee Fund to the General Fund (100-320-53200) in the amount of \$12,500; 2) the Water Impact Fee Fund to the Water Fund (510-700-53200) in the amount of \$10,000; and 3) the Waste Water Impact Fee Fund (520-750-53200) to the Waste Water Fund in the amount of \$10,000.

As a reminder earlier this fiscal year the City authorized professional services with Freese and Nichols Incorporated (FNI) and Birkhoff, Hendricks, and Carter LLC (BHC) to update the City's Impact Fee Capital Improvement Plan and Land Use Assumptions, as is required by State Law every five years. In past updates the City has worked with the professional engineering firms to project which impact fee eligible improvements would be completed within the next 10 year time frame. Any project projected to be completed in such a time was included in the plan and was impact fee eligible. The shortcoming of this approach is that development may or may not occur as anticipated. There have been projects that developed, which provided additional capacities, that were not impact fee eligible because they were not anticipated and not included in the Capital Improvement Plan.

As a result, staff has determined that a more efficient approach would be to include the entire Thoroughfare Plan, Water Master Plan, and Waste Water Master Plan in the Impact Fee Capital Improvement Plan. This approach would allow the City to be more

(50, 5d 59)

flexible and responsive to development through the use of impact fees. As FNI and BHC did not anticipate updating the Impact Fee Capital Improvement Plan with the entire master plans, a change in scope is required. The requested supplemental appropriations will provide sufficient funding for the City Manager to authorize change orders to proceed with the newly recommended approach.

I am available at your convenience should you need additional information.

Tommy Ludwig



## Memorandum

To: Honorable Mayor and City Council  
From: Tommy Ludwig, Assistant City Manager  
Thru: Michael Scott, City Manager  
Date: June 12, 2020  
Re: Contract Renewal – Evoqua Water Technologies

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On Monday, June 15, 2020 an item to renew the City's contract with Evoqua Water Technologies for 1) the purchase of sodium chlorite and 2) the rental and maintenance of generators utilized to create chlorine dioxide for water treatment purposes at the Howard Road and Sokoll Water Treatment Plants will appear before City Council for consideration. Chlorine dioxide is utilized as the pre-disinfectant at the Howard Road and Robert W. Sokoll Treatment Plants iron and manganese control.

The City has held annual agreements with Evoqua Water Technologies for over ten years. This year there is a three percent increase in the cost per pound to cover manufacturing cost increases. The City anticipates it will purchase approximately 180,000 pounds of chemical from Evoqua; this increase will result in an additional costs of \$4,140 for the Utilities Department next fiscal year. This cost increase was anticipated and accounted for in next years proposed budget. Contracts are for a one year duration with an effective date of October 1, 2020 through September 30, 2021.

I am available at your convenience should you need additional information.

Tommy Ludwig

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## Memorandum

To: Honorable Mayor and City Council  
From: Tommy Ludwig, Assistant City Manager  
Thru: Michael Scott, City Manager  
Date: June 12, 2020  
Re: Water Treatment Chemical Bids

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On Monday June 15, 2020 an item will appear before City Council for consideration for a bid award for water treatment chemicals. Sealed bids were received and opened on May 28, 2020 and staff recommends awarding to the lowest responsive bidders for each chemical. These chemicals are used in both the Howard Road and Robert Sokoll Water treatment plant for production of the city's public drinking water.

There were various treatment chemicals advertised for bid with Brenntag Southwest submitting the lowest qualified bids for: Citric Acid 50%, Sodium Hydroxide 25% Caustic, Sodium Hydroxide 50%, and Liquid Chlorine. Chameleon Industries submitted the lowest qualified bids for: Liquid Aluminum Sulfate (Alum), Liquid Ammonium Sulfate (LAS), Cationic Polymer. The bids received from DPC have been disqualified due to vendor's unwillingness to meet the city's bid requirements.

Brenntag Southwest and Chameleon Industries both have supplied treatment chemicals to the city in the past, and have performed very satisfactory. The contract period for the bid award would be from October 1, 2020 through September 30, 2021. There is an option in the contract terms for renewal options of four (4) additional one year periods at the city's sole discretion. The bids are within budget and staff recommends award.

I am available at your convenience should you need any additional information.

Tommy Ludwig

# TABULATION OF BIDS

Bid Opening Date: 5/28/2020

## Water Treatment Chemical Bids

### Bidders

				Current Vendor	Current Price	Brenntag SW Houston, Tx.	Chameleon Ind. Mesquite, Tx.	Ft. Bend Services Stafford, Tx.	DPC Ind. Cleburne, Tx.
Item No.	Approximate Quantities	Unit	Description			Unit Bid Price	Unit Bid Price	Unit Bid Price	Unit Bid Price
1	12	Totes	Citric Acid 50%	Not Under Contract	\$2,902.90	\$ 1,702.60			
2	379,170.00	Gallons	Liquid Aluminum Sulfate (Alum)	Chameleon	\$0.57	\$ 0.65	\$ 0.57		
3	32,040.00	Gallons	Liquid Ammonium Sulfate	Chameleon	\$0.88	\$ 1.05	\$ 0.86		
4	63,450.00	Gallons	Liquid Sodium Hydroxide 50%	Brenntag	\$1.85	\$ 2.05			
5	98,500.00	Gallons	Liquid Sodium Hydroxide 25%	DPC Industries	\$1.22	\$ 1.04			Non-Responsive
6	20	Totes	Cationic Polymer WTP	Chameleon	\$1,343.850	\$ 1,428.98	\$ 1,350.00	\$ 1,462.50	Non-Responsive
7	111	Tons	Liquid Chlorine	Brenntag	\$609.00	\$ 639.00			Non-Responsive

DPC Industries - Exceptions noted by vendor to citywide standards for contracts, bidder listed as non-responsive.

(59)



(5h)

## Memorandum

To: Honorable Mayor and City Council  
From: Warren Ketteman, Senior Economic Development Director  
Thru: Michael Scott, City Manager  
Date: June 11, 2020  
Re: Consider Adopting an Amendment to the Chapter 380 Agreement with Crepe Myrtle Enterprises, LLC and Showbiz Cinemas, LLC

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**Item Description:** Consider adopting an amendment to the Chapter 380 Agreement with Crepe Myrtle Enterprises, LLC and Showbiz Cinemas executed October 7, 2019. The amendment revises the expansion size from 11,000 sf to 21,000 sf, extends the completion date from October 31, 2020 to December 31, 2020 and adds a force majeure clause.

**Item Summary:** On October 7, 2019, City Council adopted a resolution authorizing a Chapter 380 Agreement with Crepe Myrtle Enterprises and Showbiz Cinemas, LLC (Showbiz) that provided economic development assistance with ad valorem tax on real and personal property for new improvements and sales tax receipts on new taxable gross revenues. The agreement was adopted to incentivize the addition of a family entertainment center to the existing movie theater, as well as, luxury recliner retrofits and updated technology upgrades in all auditoriums. In order to receive these incentives, the agreement required Showbiz to meet numerous obligations and deadlines.

One such obligation/deadline in the agreement, required Showbiz to provide the City with documentation that they had made improvements to the property in a minimum amount of \$9,400,000 by October 31, 2020. Due to delays related to the COVID-19 Pandemic, this date needs to be extended to December 31, 2020. Since an amendment was needed to extend this date, staff wanted to take this opportunity to revise the size of the expansion from 11,000 sf to 21,000 sf to more accurately reflect the true size of the expansion. Also, a force majeure clause was added to account for circumstances beyond anyone's control. All other terms and conditions remain the same.

**Fiscal Impact:** There would be no financial impact to the budget.

(6)

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS §  
COUNTY OF ELLIS §  
CITY OF WAXAHACHIE §

We, the undersigned officers of the City Council of the City, hereby certify as follows:

1. The City Council of the City convened in a REGULAR MEETING ON THE 15TH DAY OF JUNE, 2020, at the regular designated meeting place, and the roll was called of the duly constituted officers and members of the City Council, to wit:

David Hill, Mayor  
Mary Lou Shipley, Mayor Pro-Tem  
Chuck Beatty, Member  
Kevin Strength, Member  
Melissa Olson, Member

Lori Cartwright, City Secretary

and all of the persons were present, except \_\_\_\_\_, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

**RESOLUTION BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS,  
DIRECTING PUBLICATION OF NOTICE OF INTENTION TO  
ISSUE CERTIFICATES OF OBLIGATION, SERIES 2020; DIRECTING THE PREPARATION  
OF A PRELIMINARY OFFICIAL STATEMENT AND RELATED MATERIALS; AND  
PROVIDING AN EFFECTIVE DATE**

was duly introduced for the consideration of the City Council. It was then duly moved and seconded that the Resolution be passed; and, after due discussion, the motion, carrying with it the passage of the Resolution, prevailed and carried by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTENTIONS: \_\_\_\_\_

2. That a true, full and correct copy of the aforesaid Resolution passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that the Resolution has been duly recorded in the City Council's minutes of the Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the City Council's minutes of the Meeting pertaining to the passage of the Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that the Resolution would be introduced and considered for passage at the Meeting, and each of the officers and members consented, in advance, to the holding of the Meeting for such purpose; that the Meeting was open to the public and public notice of the time, place and purpose of the Meeting as given, all as required by Chapter 551, Government Code.

(6)

3. That the Mayor of said City has approved and hereby approves the aforesaid Resolution; that the Mayor and the City Secretary of said City have duly signed said Resolution; and that the Mayor and the City Secretary of said City hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of said Resolution for all purposes.

**SIGNED AND SEALED** the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

\_\_\_\_\_  
Mayor

(SEAL)

(6)

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION, SERIES 2020; DIRECTING THE PREPARATION OF A PRELIMINARY OFFICIAL STATEMENT AND RELATED MATERIALS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Waxahachie, Texas (the "City") expects to pay expenditures in connection with the design, planning, acquisition and construction of the projects described in Exhibit A to this Resolution prior to the issuance of the Certificates of Obligation hereinafter described; and

WHEREAS, the City's City Manager, the City's Director of Finance, the City's Financial Advisor, and the City's Bond Counsel are prepared to draft and distribute necessary documents for the sale on a competitive bid basis of the Certificates of Obligation;

WHEREAS, the City Council hereby finds, considers and declares that the reimbursement of the payment by the City of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the U.S. Treasury Regulations, to reimburse itself for such payments at such time as it issues the hereinafter described Certificates of Obligation; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was considered was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

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

Section 1. That attached hereto and marked Exhibit A is a form of notice (the "Notice"), the form and substance of which are hereby passed and approved.

Section 2. That the City Secretary shall cause the Notice to be published, in substantially the form attached hereto, in the Waxahachie Sun, a newspaper of general circulation in the City of Waxahachie, Texas, for two (2) consecutive weeks, the date of the first publication to be before the forty-fifth (45<sup>th</sup>) day before the date tentatively set for the adoption of the ordinance authorizing the issuance of the Certificates of Obligation as shown in the Notice.

Section 3. That the City Secretary shall cause the Notice to be posted, in substantially the form attached hereto, continuously on the City's internet website for at least forty-five (45) days before the date tentatively set for the adoption of the ordinance authorizing the issuance of the Certificates of Obligation as shown in the Notice.

Section 4. That the facilities and improvements to be financed with proceeds from the proposed Certificates of Obligation are to be used for the purposes described in the attached Notice of Intention. No bond proposition to authorize the issuance of bonds for the same purpose as any of the projects described in Exhibit A to be financed with the proceeds of the proposed Certificates of Obligation was submitted to the voters of the City during the preceding three (3) years and failed to be approved.

Section 5. That all costs to be reimbursed pursuant to this Resolution will be capital expenditures; the proposed Certificates of Obligation shall be issued within eighteen (18) months of the later of (i) the date the expenditures are paid or (ii) the date on which the property, with respect to which such expenditures were made, is placed in service; and the foregoing notwithstanding, the Certificates of Obligation will not be issued pursuant to this Resolution on a date that is more than three years after the date any expenditure which is to be reimbursed is paid.

Section 6. The City Manager and Director of Finance are hereby directed to cause the preparation of a Preliminary Official Statement for the Certificates of Obligation, together with related materials, and the

(6)

Director of Finance and the Financial Advisor are authorized to distribute same among entities which would be interested in bidding on the Certificates of Obligation and other interested persons.

Section 7. The Director of Finance and the Financial Advisor are authorized to apply to rating agencies for ratings on the Certificates of Obligation and to make presentations to them and provide to such entities the information reasonably requested by them.

Section 8. The Council hereby authorizes its advisors, the City Manager and the Director of Finance of the City, and its members to do all things necessary to prepare for the sale of the Certificates of Obligation.

Section 9. That this Resolution shall be effective immediately upon passage and adoption.

(6)

EXHIBIT A

NOTICE OF INTENTION TO ISSUE  
CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that it is the intention of the City Council of the City of Waxahachie, Texas, to issue one or more series of the interest bearing certificates of obligation of the City to be entitled "City of Waxahachie, Texas Combination Tax and Revenue Certificates of Obligation", for the purpose of paying contractual obligations to be incurred by the City, to-wit, the construction, installation and equipment of park and recreational improvements in the City; the construction and equipment of fire stations and the purchase of fire apparatuses; improvements to streets and public mobility infrastructure, including related signage and drainage and the acquisition of right-of-way, throughout the City; the construction of improvements and extensions to the City's water and wastewater system; and the payment of fiscal, engineering and legal fees incurred in connection therewith.

The City Council tentatively proposes to authorize the issuance of said series (one or more) of Certificates of Obligation at its regular meeting place in the City Hall at a meeting to commence at 7 o'clock, p.m., on the 17<sup>th</sup> day of August, 2020. In the event City Council will be unable to meet at City Hall on August 17, 2020, the City will post information on its website for attending the meeting by telephone, teleconference, or other electronic means. The maximum amount of Certificates of Obligation that may be authorized to be sold on said date for such purposes described above is \$23,255,000. The City Council presently proposes to provide for payment of said series (one or more) of Certificates of Obligation from the levy of taxes and from a limited surplus revenue pledge (not to exceed \$1,000) derived from the operation of the City's water and wastewater systems.

In accordance with the provisions of Subchapter C of Chapter 271, Texas Local Government Code, as amended ("Chapter 271"), the following information has been provided by the City: (i) the principal amount of all outstanding debt obligations of the City is \$160,210,000; (ii) the current combined principal and interest required to pay all outstanding debt obligations of the City on time and in full is \$219,978,992; (iii) the maximum principal amount of the certificates of obligation to be authorized is \$23,255,000; (iv) the estimated combined principal and interest required to pay the certificates of obligation to be authorized on time and in full is \$29,000,817; (v) the maximum interest rate for the certificates may not exceed the maximum legal interest rate; and (vi) the maximum maturity date of the certificates of obligation to be authorized is August 1, 2040.

CITY OF WAXAHACHIE, TEXAS

/s/ David Hill  
Mayor

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## Memorandum

To: Honorable Mayor and City Council

From: Shon Brooks, Director of Planning

Thru: Michael Scott, City Manager

Date: June 3, 2020

Re: SP-75-2020 Site Plan for Dove Hollow

---

On June 3, 2020, the applicant asked staff to continue case no. SP-75-2020 from the June 9, 2020 Planning and Zoning Commission agenda, as well as the June 15, 2020 City Council meeting agenda and instead be placed on the June 23, 2020 Planning and Zoning Commission agenda and the July 6, 2020 City Council meeting agenda.

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# Planning & Zoning Department

## Zoning Staff Report

Case: ZDC-07-2020



**MEETING DATE(S)**

*Planning & Zoning Commission:* June 9, 2020

*City Council:* June 15, 2020 (continued from June 1, 2020)

**ACTION SINCE INITIAL STAFF REPORT**

At the Planning & Zoning Commission meeting, held June 9, 2020, the Commission voted 7-0 to recommend approval of case number ZDC-07-2020, subject to staff comments.

**CAPTION**

*Public Hearing* request by the City of Waxahachie to consider revoking, amending, or renewing a **Specific Use Permit** (Ordinance 2616) at 500 Brown Industrial which allows for the use of metal granulators and crushers for the reclamation of vehicles, parts of vehicles, and other materials to be processed. (ZDC-000007-2020)

**APPLICANT REQUEST**

The purpose of this request is for the City of Waxahachie to consider approving a new Specific Use Permit along with a Development Agreement, for Oak Cliff Metals at the subject property 500 Brown Industrial Rd.

**CASE INFORMATION**

<i>Applicant:</i>	Oak Cliff Metals
<i>Property Owner(s):</i>	Falcon Transit Inc.
<i>Site Acreage:</i>	17.996 acres
<i>Current Zoning:</i>	Heavy Industrial
<i>Requested Zoning:</i>	Heavy Industrial w/ SUP

**SUBJECT PROPERTY**

<i>General Location:</i>	500 Brown Industrial Rd.
<i>Parcel ID Number(s):</i>	233797
<i>Existing Use:</i>	Existing industrial recycling site
<i>Development History:</i>	N/A

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**Adjoining Zoning & Uses:**

Direction	Zoning	Current Use
North	FD	Currently Undeveloped
East	FD & LI1	Rivera Truck
South	HI	Estrada Truck Parts
West	FD	Currently Undeveloped

**Future Land Use Plan:** Highway Commercial

**Comprehensive Plan:** Highway Commercial areas are intended to allow for traditional commercial land uses, but such uses should be developed to a higher standard. For example, outside storage may be permitted, but would have to be screened and not visible from the road. In addition, a more limited array of commercial uses would be permitted. Hotels, motels, and car dealerships would be permitted, for example, but manufactured home sales and self-storage buildings would not. The idea is for these areas to show a positive image of Waxahachie and make visitors want to travel into the main part of the City.

**Thoroughfare Plan:** The subject property is accessible via Brown Industrial Rd.

**Site Image:**



**PLANNING ANALYSIS**

Due to the significant fires that have occurred at the property on August 24, 2013, August 12, 2014, January 21, 2015, February 14, 2016, July 7, 2016, and December 18, 2019, safety has become a major concern for the subject property as well as surrounding properties. Furthermore, other violations for the property include exceeding the height limitations for storage piles, exceeding the limited hours of operation of 7:00 A.M. to 7:00 P.M., not maintaining a 24-foot pathway through the site, and not having adequate water to fight fires.

Due to the aforementioned concerns, staff suggests that a Development Agreement is considered and approved to allow for further standards and guidelines to be placed on the property. On June 15, 2020, City Council will consider an action to approve the proposed Development Agreement and a new Specific Use Permit, or revoke the existing Specific Use Permit for Oak Cliff Metals Recycling in relation to Ordinance 2616.

CHANGES FROM THE 5/26/20 PLANNING AND ZONING MEETING

At the May 26, 2020 Planning and Zoning meeting, the Planning and Zoning Commission voted 3-2 to continue case number ZDC-07-2020 to the June 9, 2020 Planning and Zoning meeting and June 15, 2020 City Council meeting. The Commission recommended that the case be continued so that the attorneys (City Attorney and Oak Cliff Metals Recycling Attorney) could have time to make revisions to the Development Agreement concerning the granulator and fluff piles. Changes from the May 26, 2020 Development Agreement include:

Section 3, Agreements

*(Information highlighted in bold was presented at the June 9, 2020 Planning and Zoning meeting)*

1. OCR will not operate the Harris Model 6090 shredder, or any other comparable shredder or granulator that creates piles of combustible "fluff" in substantially the same quantities as the Harris Model 6090 shredder. The portions damaged or destroyed in the December 2019 fire will be scrapped. The useable portions will be sold or scrapped.
2. The piles of combustible "fluff" that were generated by the operation of the Harris Model 6090 shredder (and were the source of the December 2019 fire) will no longer accumulate because the shredder ~~will no longer operate~~, or any comparable shredder that creates piles of combustible "fluff" in substantially the same quantities as the Harris Model 6090 shredder, will no longer operate on the Property.

CHANGES FROM THE 6/9/20 PLANNING AND ZONING MEETING

On June 10, 2020, the attorney for Oak Cliff Metals Recycling requested that staff amend the fourth paragraph of Section 3 within the Development Agreement to propose additional time for the installation of fire lanes on the property. Below are the changes proposed by staff to the June 15, 2020 Development Agreement:

Section 3, Agreements

*(Information highlighted in bold has been added since the June 9, 2020 Planning and Zoning meeting)*

4. OCR will maintain twenty-four foot (24') wide fire lanes through and completely around any storage located in those areas marked "Inventory" and "Reduction Grinder Easement" on that certain Davis & McDill, Inc. survey attached hereto and marked "Special Use Permit Lot 10R". Because the amount and location of materials stored on the Property changes on a daily or weekly basis, OCR will maintain the twenty-four foot (24') wide fire lanes in such locations that make it possible for firefighting equipment to reach any storage. While the internal fire lanes shall be in place immediately upon the effective date of this Agreement, the perimeter fire lanes are not required to be in place until July 31st, 2020.

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Note: Aside from the aforementioned revisions, no other changes were made to the Oak Cliff Metals Recycling Development Agreement.

#### **PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 14 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

#### **PROPERTY OWNER NOTIFICATION RESPONSES**

Inside 200 ft. Notification Area: Staff has received three (3) letters of support for the revocation of the SUP for Oak Cliff Metals.

Outside 200 ft. Notification Area: Staff has received one (1) letter of support for the revocation of the SUP for Oak Cliff Metals.

#### **STAFF CONCERNS**

1. Due to frequent fires on the property, as well as repeated ordinance (Ord. 2616) violations for the site, staff suggests that a Development Agreement, along with a revised SUP, is considered and approved to allow for further standards and guidelines to be placed on the property.

#### **APPLICANT RESPONSE TO CONCERNS**

1. The applicant understands staff's concerns and intends to state their reasoning at the June 15, 2020 City Council meeting.

#### **RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- Denial
- Approval, as presented.
- Approval, per the following comments:
  1. Staff recommends approval pending that the applicant agrees to meet the required standards detailed within the proposed Development Agreement and the revised Specific Use Permit for the property.

#### **ATTACHED EXHIBITS**

1. Development Agreement/Ordinance
2. Location Exhibit
3. Notice of Specific Use Permit Revocation Hearing
4. Ordinance 2616
5. Property Owner Notification Responses

#### **APPLICANT REQUIREMENTS**

1. If approved by City Council, applicant can apply for building permits from the Building and Community Services Department.

#### **STAFF CONTACT INFORMATION**

*Prepared by:*  
Colby Collins  
Senior Planner  
[ccollins@waxahachie.com](mailto:ccollins@waxahachie.com)

*Reviewed by:*  
Shon Brooks, AICP  
Director of Planning  
[sbrooks@waxahachie.com](mailto:sbrooks@waxahachie.com)

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STATE OF TEXAS           §           DEVELOPMENT AGREEMENT  
                                   §           FOR OAK CLIFF RECYCLING, INC.  
 COUNTY OF ELLIS       §

This Development Agreement for Oak Cliff Recycling, Inc. ("Agreement") is entered into between Oak Cliff Recycling, Inc. ("OCR"), and the City of Waxahachie, Texas ("City"), and is effective as of June 15, 2020. OCR and the City are sometimes referred herein together as the "Parties" and individually as a "Party."

**Recitals:**

1. OCR operates a metal recycling business on Lot 10R of Brown Industrial Sites, more commonly known as 500 Brown Industrial Road, Waxahachie, Texas 75165 ("Property"). The Property is zoned Heavy Industrial ("HI"). A Specific Use Permit ("SUP") for the Property was issued on July 5, 2011, pursuant to Waxahachie Ordinance No. 2616, which allows for the use of metal granulators and crushers for the reclamation of listed materials on the Property.

2. At least two fires have occurred on the Property involving a Harris Model 6090 metal shredder, the most recent being in December 2019. After the December 2019 fire, on January 8, 2020, the City sent OCR a letter regarding "Notice of Specific Use Permit Revocation Hearing." The letter indicates a hearing will be held for the City Council to consider revoking or amending the SUP.

3. To address the shared concerns of the City and OCR regarding operations at, and conditions on, the Property, the Parties have reached a number of agreements regarding the use of the Property and additional terms and conditions that should be included within a new or amended SUP for the Property. As is reflected by the public records of the City, significant discussions and negotiations between representatives of OCR and the City of Waxahachie staff have occurred during various meetings, in an effort to obtain an agreed-upon and negotiated set of zoning, development, and operational standards to be reflected in the SUP for the Property, which SUP Ordinance ("OCR SUP"), a copy of which is attached hereto as *Exhibit A*, which contains the negotiated zoning, development, and operational standards for the Property.

4. This Agreement seeks to incorporate the negotiated and agreed upon zoning, development, and operational standards for the Property contained in the OCR SUP as contractually-binding obligations between the City and OCR, and to recognize OCR's reasonable investment-backed expectations in the OCR SUP and the continued operation of the Property for a metal recycling business.

**NOW, THEREFORE**, for and in consideration of the above and foregoing premises, the benefits to each of the Parties from this Agreement, and other good and valuable consideration, the sufficiency of which is hereby acknowledged and agreed, the Parties do hereby agree as follows:

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

**Section 2. Term.** This Agreement shall be effective as of the date of execution of this Agreement by the last of the Parties to do so ("**Effective Date**"). This Agreement shall remain in full force and effect from the Effective Date until terminated by the mutual agreement of all of the Parties in writing ("**Term**").

**Section 3. Agreements.** The Parties agree as follows:

**Incorporation of Zoning and Recognition of Investment-Backed Expectations:**

The negotiated and agreed upon zoning, development, and operational standards contained in the OCR SUP, which incorporate by reference the general zoning regulations of the City of Waxahachie zoning ordinance, are hereby adopted and incorporated into this Agreement as contractually-binding obligations of OCR.

OCR agrees to the following:

1. OCR will not operate the Harris Model 6090 shredder, or any other comparable shredder or granulator that creates piles of combustible "fluff" in substantially the same quantities as the Harris Model 6090 shredder. The portions damaged or destroyed in the December 2019 fire will be scrapped. The useable portions will be sold or scrapped.

2. The piles of combustible "fluff" that were generated by the operation of the Harris Model 6090 shredder (and were the source of the December 2019 fire) will no longer accumulate because the shredder, or any comparable shredder that creates piles of combustible "fluff" in substantially the same quantities as the Harris Model 6090 shredder, will no longer operate on the Property.

3. OCR will not operate noisy machinery outside the hours of 7:00 a.m. – 7:00 p.m.

4. OCR will maintain twenty-four foot (24') wide fire lanes through and completely around any storage located in those areas marked "Inventory" and "Reduction Grinder Easement" on that certain Davis & McDill, Inc. survey attached hereto and marked "Special Use Permit Lot 10R". Because the amount and location of materials stored on the Property changes on a daily or weekly basis, OCR will maintain the twenty-four foot (24') wide fire lanes in such locations that make it possible for firefighting equipment to reach any storage. While the internal fire lanes shall be in place immediately upon the effective date of this Agreement, the perimeter fire lanes are not required to be in place until July 31st, 2020.

5. OCR agrees to employ KPA (kpa.io) (or other similar company) to conduct twice yearly training and inspections/audits on workplace health and safety, environmental

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risk management, and fire safety. OCR agrees to notify a person designated by the City of the completion of each inspection/audit, at which time the fire chief may inquire about any fire safety related issues identified in the inspection/audit. The City reserves the right, however, to conduct routine inspections of the Property to determine compliance with the terms of this Agreement, the OCR SUP, and other applicable City regulations.

6. OCR will discuss with its neighbors on Brown Industrial Road the potential costs of bringing City services to the street (water, sewer, street maintenance, etc.) and explore with the them potential financial cost-sharing options to do so.

7. OCR will limit the size of all piles of materials to not greater than 25 feet in height, 250 feet in length and 150 feet in width. OCR will have until the September 30, 2020, to complete the task of conforming all piles of materials to these size restrictions.

8. OCR will work with appropriate City employees to identify any landscaping to be completed at the Property necessary to comply with applicable City ordinances and will complete such landscaping no later than June 30, 2020.

9. OCR will not allow combustible waste that is produced by the recycling process that has no value (*i.e.*, wiring insulation) to accumulate. As a minimum, OCR shall haul off such waste at least once per week.

10. OCR will not allow combustible waste that is produced by the recycling process that has value (*i.e.*, cardboard bales) to accumulate in excess of one (1) truck load.

In consideration of OCR's agreement in this regard, the City agrees that OCR has reasonable investment-backed expectations in the OCR SUP, and that the City may not unilaterally change the zoning and development standards contained in the OCR SUP without impacting OCR's reasonable investment-backed expectations.

**Additional Understandings:**

While not part of the OCR SUP, the Parties have reached the additional understandings regarding the use and operation of the Property to provide instructive clarification on the use and operation of the Property as it relates to the City's zoning for the Property. Those understandings are as follows:

1. Because the Property is zoned HI, OCR is not required to obtain a SUP for the Property for use of other machines or equipment OCR operates on the Property other than the Harris Model 6090 shredder. Specifically, operation of the following machines/equipment does not require a SUP:

- A. Two Sweed Choppers;
- B. Copper Wire Chopper;
- C. Alligator Shear;

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- D. Wire Stripper;
- E. Non-ferrous baler;
- F. Metso Shear;
- G. Sierra Shear;
- H. Rail-breaker; and
- I. Two mobile excavators with shears.

2. The machines/equipment listed above are identified by either their respective brand name or a common-use description. Since the December 2019 fire, the City fire marshal has inspected the Property and viewed this machines/equipment and did not indicate that any of them posed any fire hazards.

3. The revocation or amendment of the current SUP would not affect or impact OCR's operation of these machines/equipment on the Property, or its operation of other similar equipment that does not generate combustible "fluff" similar to the Harris Model 6090 shredder.

4. The City does not consider any of these machines/equipment, or other similar types of equipment that may be used in the future, to be "metal granulators and crushers," as those terms are used in the current SUP.

5. Notwithstanding the understandings set forth in paragraphs 1-4, above, the City reserves the right to object to the use of any of the listed machines/equipment should their operation be determined to violate other City ordinances other than the SUP and zoning ordinances (*i.e.*, nuisance ordinance, noise ordinance, etc.)

**Section 4. Miscellaneous**

A. This Agreement and any dispute arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without reference to its conflict of law rules. In the event of any dispute or action under this Agreement, venue for any and all disputes or actions shall be instituted and maintained in Ellis County, Texas.

B. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership, joint venture, joint enterprise, or other relationship between or among the Parties.

C. 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, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

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D. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the Parties may have by law statute, ordinance, or otherwise. The failure by any Party to exercise any right, power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such Party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. Any rights and remedies any Party may have with respect to the other arising out of this Agreement shall survive the cancellation, expiration or termination of this Agreement. The City agrees to give written notice to OCR of any asserted violations of this Agreement and OCR shall be given five (5) calendar days to cure said violations prior to the City's undertaking any enforcement actions to address the asserted violations. Should said asserted violations remain uncured, the City shall have the right to enforce this Agreement through specific performance, as appropriate, or maintain other lawful actions to address the asserted violations.

E. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

F. 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 or expiration of this Agreement shall survive termination or expiration.

G. This Agreement is made subject to the existing provisions of the City of Waxahachie, its present rules, regulations, procedures and ordinances, and all applicable laws, rules, and regulations of the State of Texas and the United States.

H. The undersigned officers and/or agents of the Parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

I. This Agreement may be only amended or altered by written instrument signed by the Parties.

J. The headings and captions used in this Agreement are for the convenience of the Parties only and shall not in any way define, limit or describe the scope or intent of any provisions of this Agreement.

K. This Agreement is the entire agreement between the Parties with respect to the subject matters covered in this Agreement. There are no other collateral oral or written agreements between the Parties that in any manner relates to the subject matter of this Agreement, except as provided or referenced in this Agreement.

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L. This Agreement shall be recorded in the real property records of Ellis County, Texas. This Agreement and all of its terms, conditions, and provisions is and shall constitute a restriction and condition upon the development of the Property and all portions thereof and a covenant running with the Property and all portions thereof, and is and shall be binding upon SC and all heirs, successors, and assigns and the future owners of the Property and any portion thereof; provided, however, this Agreement shall not constitute an obligation of or be deemed a restriction or encumbrance with respect to any platted residential lot upon which a completed structure has been constructed.

**EXECUTED** by the Parties on the dates set forth below, to be effective as of the date first written above.

**OAK CLIFF RECYCLING, INC.**

**CITY OF WAXAHACHIE, TEXAS**

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

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

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

Michael Scott, City Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

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

City Secretary

STATE OF TEXAS       §  
                                  §  
COUNTY OF ELLIS    §

Before me, the undersigned authority, on this \_\_\_\_ day of \_\_\_\_\_ 2020, personally appeared MICHAEL SCOTT, City Manager of the City of Waxahachie, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

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

Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

(9)

**STATE OF TEXAS**

§

**COUNTY OF ELLIS**

§

§

Before me, the undersigned authority, on this \_\_\_\_ day of \_\_\_\_\_, 2020, personally appeared \_\_\_\_\_, representative of Oak Cliff Recycling, Inc., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

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

My Commission Expires: \_\_\_\_\_

(9)

**EXHIBIT A**

**OCR SUP Ordinance**

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

**AN AMENDMENT TO ORDINANCE 2616 AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT OUTSIDE STORAGE (METAL GRANULATORS AND CRUSHERS FOR THE RECLAMATION OF VEHICLES, PARTS OF VEHICLES, AND OTHER MATERIALS TO BE PROCESSED) WITHIN A HEAVY INDUSTRIAL (HI) ZONING DISTRICT, LOCATED AT 500 BROWN INDUSTRIAL ROAD, BEING PROPERTY ID 233797, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 10R, BROWN INDUSTRIAL SITES, PHASE TWO, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:**

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, the described property is classified in said ordinance and any amendments thereto as HI; and

**WHEREAS**, a proper application for an SUP has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-07-2020. Said application having been referred to the Planning and Zoning (P&Z) Commission was recommended by the P&Z Commission for approval and the issuance thereof; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and,

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said SUP;

**NOW, THEREFORE**, this property is rezoned from HI to HI, with an SUP in order to permit Outside Storage (metal granulators and crushers for the reclamation of vehicles, parts of vehicles, and other materials to be processed) on the following property: Lot 10R, Brown Industrial Sites, Phase Two which is shown on Exhibit A.

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## SPECIFIC USE PERMIT

### Purpose and Intent

The purpose of this Ordinance is to provide the appropriate restrictions and development controls that ensure this Specific Use Permit is compatible with the surrounding development and zoning and to also ensure that the development complies with the City's Comprehensive Plan and Zoning Ordinance.

### Specific Use Permit

**FOR OPERATION OF SPECIFIC USE PERMIT FOR OUTSIDE STORAGE (METAL GRANULATORS AND CRUSHERS FOR THE RECLAMATION OF VEHICLES, PARTS OF VEHICLES, AND OTHER MATERIALS TO BE PROCESSED) IN THE HEAVY INDUSTRIAL (HI) DISTRICT;** the following standards and conditions are hereby established as part of this ordinance:

1. The applicant, Oak Cliff Recycling, shall conform to the Development Agreement as approved by the City Council.
2. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.
3. If approved, the City Council shall have the right to review the Specific Use Permit after 12-months if needed.

### Compliance

1. It shall be unlawful for the owner, manager, or any person in charge of a business or other establishment to violate the conditions imposed by the City Council when a Specific Use Permit is granted, and the violation of those conditions could result in a citation being issued by the appropriate enforcement officers of the City of Waxahachie.
2. Furthermore, by this Ordinance, if the premises covered by this Specific Use Permit is vacated and/or ceases to operate for a period exceeding six months (6 months), a new Specific Use Permit shall be required to reestablish the use.
3. This Specific Use Permit is effective only as to the owner. Should the property be conveyed to a new owner, that owner must obtain a new Specific Use Permit and a new Certificate of Occupancy.
4. The Certificate of Occupancy shall note the existence of this Specific Use Permit by its number and title.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

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The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

**PASSED, APPROVED AND ADOPTED** on this 15<sup>th</sup> day of June, 2020.

\_\_\_\_\_  
MAYOR

ATTEST:

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

(9)



# Exhibit A - Location Exhibit

0 350 700 1,400 2,100 2,800 Feet

ZDC-000007-2020 (SUP Revocation)  
City Limits

(9)



# CITY OF WAXAHACHIE

Oak Cliff Recycling, Inc.  
500 Brown Industrial  
Waxahachie, Texas 75165

June 2, 2020

Re: Notice of Specific Use Permit Revocation Hearing

Oak Cliff Recycling:

I am writing you concerning your Specific Use Permit on your property known as Lot10R of Brown Industrial Sites. I have enclosed a copy of the Ordinance for your reference. Please note that it provides that the Specific Use Permit can be revoked upon ninety (90) days' notice.

The City of Waxahachie has become very concerned about the use of this property under this permit and the property's suitability for this use given the propensity for fires. The City Council voted at their meeting on January 6, 2020 to set in motion the procedures to consider a zoning change (revoking or amending the Specific Use Permit). The council approved calling for a public hearing to consider the revocation of this specific use permit for the use of metal granulators and crushers. The staff has set the hearing times for the two hearings required by law for:

Planning and Zoning Commission at 7:00 P.M. on Tuesday, June 9, 2020 at City Hall

City Council at 7:00 P.M. on Monday, June 15, 2020 at City Hall

The public hearings will allow you and interested citizens to present your case. The City Council, after the June 15<sup>th</sup> public hearing, may leave the permit as-is, amend it, or revoke it, at its discretion.

City Council will consider an action revoking the Specific Use Permit. This is because of frequent fires on the property, and in addition to the significant fires that have occurred (on August 24, 2013, August 12, 2014, January 21, 2015, February 14, 2016, July 7, 2016, and December 18, 2019) at this property, other conditions of the above referenced city ordinance have also been repeatedly violated. Additional violations include: exceeding the height limitations of storage piles, as well as the limited hours of operation of 7:00 A.M. to 7:00 P.M., and not maintaining a 24-foot pathway through the site. Additionally, this site does not have adequate water to fight fires.

Sincerely,

Michael Scott  
City Manager

(9)

**ORDINANCE NO. 2616**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT ON LOT 10R, BROWN INDUSTRIAL SITES, PHASE TWO, CONTAINING 17.996 ACRES, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS LOCATED AT 500 BROWN INDUSTRIAL ROAD, WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING HEAVY INDUSTRIAL (HI) TO HEAVY INDUSTRIAL WITH SPECIFIC USE PERMIT (HI w/SUP), FOR THE PURPOSE OF ALLOWING THE USE OF METAL GRANULATORS AND CRUSHERS FOR THE RECLAMATION OF VEHICLES, PARTS OF VEHICLES, AND OTHER MATERIALS TO BE PROCESSED, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:**

**WHEREAS**, the City of Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and,

**WHEREAS**, the hereinbelow described property is classified in said ordinance and any amendments thereto as Heavy Industrial (HI); and

**WHEREAS**, proper application for a Specific Use Permit has been made in accordance with the zoning ordinances in the City of Waxahachie, and same having been referred to the Planning and Zoning Commission, and said Planning and Zoning Commission has recommended the issuance thereof; and,

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and,

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said Specific Use Permit;

**NOW, THEREFORE**, this Specific Use Permit is to allow the use of metal granulators and crushers for the reclamation of vehicles, parts of vehicles, and other materials to be processed, which is a potential noise hazard. This permit is issued subject to the requirement that hours of operation shall be limited to 7:00 a.m. to 7:00 p.m., that no storage shall be visible from IH-35E, and landscaping approved by the City shall be placed and maintained to provide screening from surrounding properties, and the Specific Use Permit is hereby authorized on the following property:

Lot 10R, Brown Industrial Sites, Phase Two, containing 17.996 acres,  
located at 500 Brown Industrial Road, Waxahachie, Ellis County, Texas.

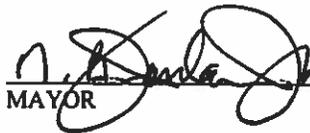
Said Specific Use Permit is granted subject to the provision that, although it is to be automatically renewed each year, it shall at any time be subject to cancellation upon hearing before the City Council upon ninety (90) days notice in writing of said hearing; and further is subject to all state regulations and licensing requirements.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance herewith.

**PASSED, APPROVED AND ADOPTED** on this 5<sup>th</sup> day of July, 2011.



**ATTEST:**

  
MAYOR

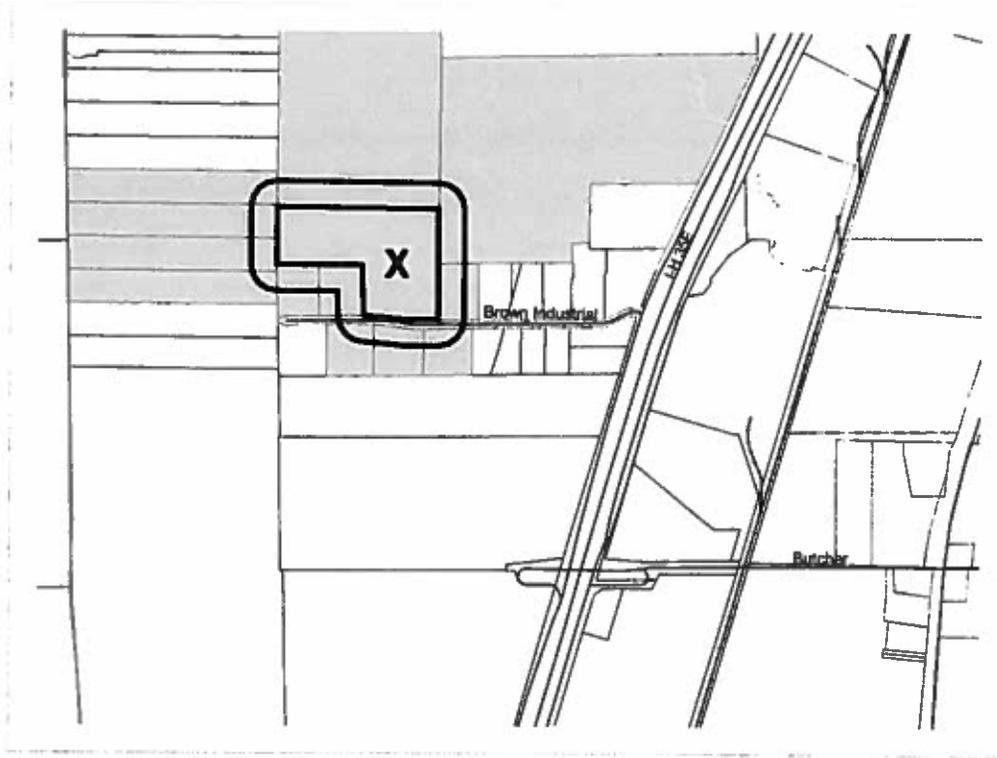
  
City Secretary



(9)

500 0 500 1000 Feet

SUP2011-15



(9)

Case ZDC-000007-2020  
Responses Received Inside Required 2007 Notification Area  
Support: 3 Oppose: 0

Property ID	Owner's Name	Acres	Legal Description	Owner's Address	Owner's City	Owner's State	Owner's Zip	Physical Address
148211	PERETTE EVELYN G	3.06	LOT 4 BROWN IND SITES 3.06 AC	6431 TRANQUIL APT 1021	IRVING	TX	75039	BROWN INDUSTRIAL RD WAXAHACHIE TX 75167
148212	F W N O LLC	2.73	LOT 12 BROWN IND SITES 1 2.73 AC	PO BOX 810223	DALLAS	TX	75281	BROWN INDUSTRIAL RD WAXAHACHIE TX 75167
148294	ESTRADA LUIS	1.34	LOT 8 BROWN IND SITES 2 3.34 AC	524 BROWN INDUSTRIAL RD	WAXAHACHIE	TX	75167	BROWN INDUSTRIAL RD WAXAHACHIE TX 75167
148297	FRANK DOBBS L	1	LOT 6 BROWN IND SITES 2 1 AC	514 BROWN INDUSTRIAL RD	WAXAHACHIE	TX	75167	514 BROWN INDUSTRIAL RD WAXAHACHIE TX 75167
148298	ESTRADA JOSE L & HORTENCIA	3	LOT 9 BROWN IND SITES 2 3 AC	410 SUNFLOWER ST	RED OAK	TX	75184	524 BROWN INDUSTRIAL RD WAXAHACHIE TX 75167
148303	ESTRADA LUIS	3.38	LOT 5 BROWN IND SITES 2 3.38 AC	524 BROWN INDUSTRIAL RD	WAXAHACHIE	TX	75167	524 BROWN INDUSTRIAL RD WAXAHACHIE TX 75167
188266	DALLAS DOWDY PARTNERS LLC	77.49	752 MC KINNEY & WILLIAMS 77.49 ACRES	2735 TROPHY CLUB DR	TROPHY CLUB	TX	76262	GUN CLUB RD WAXAHACHIE TX 75165
191079	DALLAS DOWDY PARTNERS LLC	50.686	1003 PETER B STOUT 50.686 ACRES	2735 TROPHY CLUB DR	TROPHY CLUB	TX	76262	INTERSTATE 35 WAXAHACHIE TX 75165
205686	TRUJILLO DELFINA ETAL	9.58	LOT 17 WEST STERRETT ESTS 9.58 AC	2540 SOLON RD	WAXAHACHIE	TX	75167	2540 SOLON RD WAXAHACHIE TX 75167
205693	STEMBRIDGE DAVID	9.59	14 WEST STERRETT ESTS 9.59 ACRES	2630 SOLON RD	WAXAHACHIE	TX	75167	2630 SOLON RD WAXAHACHIE TX 75167
205694	CLUCK ANTONIO D & SOCORRO J JIMENEZ	9.59	LOT 15 WEST STERRETT ESTS 9.59 ACRES	2630 SOLON RD	WAXAHACHIE	TX	75167	2630 SOLON RD WAXAHACHIE TX 75167
205695	GARCIA MARTIN & OLGA	9.59	18 WEST STERRETT ESTS 9.59 ACRES	18125 4223	HEWLETT	TX	78611	2618 SOLON RD WAXAHACHIE TX 75167
213797	FALCON TRANSIT INC	17.998	LOT 10R BROWN IND SITES 2-REV 17.998 AC	500 BROWN INDUSTRIAL RD	WAXAHACHIE	TX	75167	500 BROWN INDUSTRIAL RD WAXAHACHIE TX 75167
261785	HILTON REAL ESTATE PROPERTIES LLC	15.758	1003 PETER B STOUT 15.758 ACRES	5907 N INTERSTATE HIGHWAY 35 E	WAXAHACHIE	TX	75165	INTERSTATE 35 WAXAHACHIE TX 75165

(9)

Case ZDC-07-2020  
Responses Received Outside 200'  
Support: 1 Oppose: 0

PropertyID	Owner's Name	Owner's Address	Owner's City
205887	BILL AND JUDITH HENDRICH	2530 SOLON RD	WAXAHACHIE

(9)

Case Number: ZDC-000007-2020

City Reference: 148297

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **Wednesday, April 8, 2020** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

SUPPORT

OPPOSE

Comments:

We object to the noise and the buildup of fumes that catched on fire. We also object of him parking his vehicles on the road and blocking the way to the end of the road.

Signature Doris Franks

Date 4-7-20

Printed Name and Title DORIS FRANKS - OWNER

Address 674 BROWN INDUSTRIAL Rd.

RECEIVED  
4/7/20

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*



(9)

City of Waxahachie, Texas  
Notice of Public Hearing  
Case Number: ZDC-000007-2020

GARCIA MARTIN & OLGA  
161 CR 4929  
NEWARK, TX, 76071

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, April 14, 2020 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, April 20, 2020 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by the City of Waxahachie to consider revoking a Specific Use Permit (Ordinance 2616) at 500 Brown Industrial which allows for the use of metal granulators and crushers for the reclamation of vehicles, parts of vehicles, and other materials to be processed. (ZDC-000007-2020)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: ZDC-000007-2020

City Reference: 205895

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **Wednesday, April 8, 2020** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

SUPPORT

OPPOSE

Comments:

I definitely disagree having a junk yard  
so close to my property

Martin Garcia  
Signature

3-28-2020  
Date

Martin Garcia Owner  
Printed Name and Title

161 C.R. 4929 Newark Tx. 76071  
Address

RECEIVED  
4/7/20

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*

(9)

Case Number: ZDC-000007-2020

City Reference: 205894

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on Wednesday, April 8, 2020 to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

SUPPORT

OPPOSE

Comments:

WE support city of Waxahachie to revoke the permit and remove the business because we think its // dangerous for our community, we have horses and the last time it was on fire almost came to our property.

*Socorro Jimenez*  
Signature

05-15-2020  
Date

Socorro Jimenez x Antonio Ojeda  
Printed Name and Title  
owners

2620 Solon Rd Waxahachie Tx  
Address  
75167

It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)

If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.

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Planning Department,

This is a follow up per our conversation of Monday, May 11, 2020. I am writing this to voice my opposition to letting Oak Cliff Metals retain their Licenses to Operate. We live on Solon Road, West of Oak Cliff Metals and we have managed to make it thru all the fires they have had, so far. I object to the 30 and 40 feet high piles of metal they accumulate and the piles of the waste from the metal that are that high that also accumulate. It's only a matter of time until something catastrophic happens. We see the junk go in but rarely see it leave. They also have junk set along both sides of Brown Industrial that is not on their property. They have 2 containers at the back of my fence/gate that is on the road right of way and they need moved immediately. They have ruined the road and all that junk is an eye sore. I know the chemicals coming off of the metal as it is cut up can't be healthy for us as it blows in the wind. Our biggest fear is the next fire, and I'm sure there will be one, will not be contained and wipe out a lot of people and property. They have cleaned up the metal that burned, as they always do after a fire, but I can just about guarantee that as soon as the spotlight is off of them the piles will build and it will be back to the same old same old as before, that is unless you pull their permits and they have to clean up and move. It's our sincere hope Oak Cliff Metals will have their permits pulled so we may live in safety and have peace of mind. Every time there is an explosion we run to look out to see if it's another fire or just their mishandling the gas tanks, etc. We sincerely hope this will be the last time we have to address this issue and you will pull their permits and make them relocate.

Thank you,

Judy and Bill Hendrich

2530 Solon Road

469-223-3370

(10)

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

**AN AMENDMENT TO ORDINANCE 2616 AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT OUTSIDE STORAGE (METAL GRANULATORS AND CRUSHERS FOR THE RECLAMATION OF VEHICLES, PARTS OF VEHICLES, AND OTHER MATERIALS TO BE PROCESSED) WITHIN A HEAVY INDUSTRIAL (HI) ZONING DISTRICT, LOCATED AT 500 BROWN INDUSTRIAL ROAD, BEING PROPERTY ID 233797, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 10R, BROWN INDUSTRIAL SITES, PHASE TWO, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, the described property is classified in said ordinance and any amendments thereto as HI; and

**WHEREAS**, a proper application for an SUP has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-07-2020. Said application having been referred to the Planning and Zoning (P&Z) Commission was recommended by the P&Z Commission for approval and the issuance thereof; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and,

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said SUP;

**NOW, THEREFORE**, this property is rezoned from HI to HI, with an SUP in order to permit Outside Storage (metal granulators and crushers for the reclamation of vehicles, parts of vehicles, and other materials to be processed) on the following property: Lot 10R, Brown Industrial Sites, Phase Two which is shown on Exhibit A.

**SPECIFIC USE PERMIT**

**Purpose and Intent**

The purpose of this Ordinance is to provide the appropriate restrictions and development controls that ensure this Specific Use Permit is compatible with the surrounding development and zoning and to also ensure that the development complies with the City's Comprehensive Plan and Zoning Ordinance.

**Specific Use Permit**

**FOR OPERATION OF SPECIFIC USE PERMIT FOR OUTSIDE STORAGE (METAL GRANULATORS AND CRUSHERS FOR THE RECLAMATION OF VEHICLES, PARTS OF VEHICLES, AND OTHER MATERIALS TO BE PROCESSED) IN THE HEAVY INDUSTRIAL (HI) DISTRICT; the following standards and conditions are hereby established as**

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part of this ordinance:

1. The applicant, Oak Cliff Recycling, shall conform to the Development Agreement as approved by the City Council.
2. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.
3. If approved, the City Council shall have the right to review the Specific Use Permit after 12-months if needed.

Compliance

1. It shall be unlawful for the owner, manager, or any person in charge of a business or other establishment to violate the conditions imposed by the City Council when a Specific Use Permit is granted, and the violation of those conditions could result in a citation being issued by the appropriate enforcement officers of the City of Waxahachie.
2. Furthermore, by this Ordinance, if the premises covered by this Specific Use Permit is vacated and/or ceases to operate for a period exceeding six months (6 months), a new Specific Use Permit shall be required to reestablish the use.
3. This Specific Use Permit is effective only as to the owner. Should the property be conveyed to a new owner, that owner must obtain a new Specific Use Permit and a new Certificate of Occupancy.
4. The Certificate of Occupancy shall note the existence of this Specific Use Permit by its number and title.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

**PASSED, APPROVED AND ADOPTED** on this 15<sup>th</sup> day of June, 2020.

\_\_\_\_\_  
MAYOR

ATTEST:

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

(11)

STATE OF TEXAS

§

DEVELOPMENT AGREEMENT

§

FOR OAK CLIFF RECYCLING, INC.

COUNTY OF ELLIS

§

This Development Agreement for Oak Cliff Recycling, Inc. ("Agreement") is entered into between Oak Cliff Recycling, Inc. ("OCR"), and the City of Waxahachie, Texas ("City"), and is effective as of June 15, 2020. OCR and the City are sometimes referred herein together as the "Parties" and individually as a "Party."

**Recitals:**

1. OCR operates a metal recycling business on Lot 10R of Brown Industrial Sites, more commonly known as 500 Brown Industrial Road, Waxahachie, Texas 75165 ("Property"). The Property is zoned Heavy Industrial ("HI"). A Specific Use Permit ("SUP") for the Property was issued on July 5, 2011, pursuant to Waxahachie Ordinance No. 2616, which allows for the use of metal granulators and crushers for the reclamation of listed materials on the Property.

2. At least two fires have occurred on the Property involving a Harris Model 6090 metal shredder, the most recent being in December 2019. After the December 2019 fire, on January 8, 2020, the City sent OCR a letter regarding "Notice of Specific Use Permit Revocation Hearing." The letter indicates a hearing will be held for the City Council to consider revoking or amending the SUP.

3. To address the shared concerns of the City and OCR regarding operations at, and conditions on, the Property, the Parties have reached a number of agreements regarding the use of the Property and additional terms and conditions that should be included within a new or amended SUP for the Property. As is reflected by the public records of the City, significant discussions and negotiations between representatives of OCR and the City of Waxahachie staff have occurred during various meetings, in an effort to obtain an agreed-upon and negotiated set of zoning, development, and operational standards to be reflected in the SUP for the Property, which SUP Ordinance ("OCR SUP"), a copy of which is attached hereto as *Exhibit A*, which contains the negotiated zoning, development, and operational standards for the Property.

4. This Agreement seeks to incorporate the negotiated and agreed upon zoning, development, and operational standards for the Property contained in the OCR SUP as contractually-binding obligations between the City and OCR, and to recognize OCR's reasonable investment-backed expectations in the OCR SUP and the continued operation of the Property for a metal recycling business.

**NOW, THEREFORE**, for and in consideration of the above and foregoing premises, the benefits to each of the Parties from this Agreement, and other good and valuable consideration, the sufficiency of which is hereby acknowledged and agreed, the Parties do hereby agree as follows:

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

**Section 2. Term.** This Agreement shall be effective as of the date of execution of this Agreement by the last of the Parties to do so ("**Effective Date**"). This Agreement shall remain in full force and effect from the Effective Date until terminated by the mutual agreement of all of the Parties in writing ("**Term**").

**Section 3. Agreements.** The Parties agree as follows:

**Incorporation of Zoning and Recognition of Investment-Backed Expectations:**

The negotiated and agreed upon zoning, development, and operational standards contained in the OCR SUP, which incorporate by reference the general zoning regulations of the City of Waxahachie zoning ordinance, are hereby adopted and incorporated into this Agreement as contractually-binding obligations of OCR.

OCR agrees to the following:

1. OCR will not operate the Harris Model 6090 shredder, or any other comparable shredder or granulator that creates piles of combustible "fluff" in substantially the same quantities as the Harris Model 6090 shredder. The portions damaged or destroyed in the December 2019 fire will be scrapped. The useable portions will be sold or scrapped.

2. The piles of combustible "fluff" that were generated by the operation of the Harris Model 6090 shredder (and were the source of the December 2019 fire) will no longer accumulate because the shredder, or any comparable shredder that creates piles of combustible "fluff" in substantially the same quantities as the Harris Model 6090 shredder, will no longer operate on the Property.

3. OCR will not operate noisy machinery outside the hours of 7:00 a.m. – 7:00 p.m.

4. OCR will maintain twenty-four foot (24') wide fire lanes through and completely around any storage located in those areas marked "Inventory" and "Reduction Grinder Easement" on that certain Davis & McDill, Inc. survey attached hereto and marked "Special Use Permit Lot 10R". Because the amount and location of materials stored on the Property changes on a daily or weekly basis, OCR will maintain the twenty-four foot (24') wide fire lanes in such locations that make it possible for firefighting equipment to reach any storage. While the internal fire lanes shall be in place immediately upon the effective date of this Agreement, the perimeter fire lanes are not required to be in place until July 31st, 2020.

5. OCR agrees to employ KPA (kpa.io) (or other similar company) to conduct twice yearly training and inspections/audits on workplace health and safety, environmental

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risk management, and fire safety. OCR agrees to notify a person designated by the City of the completion of each inspection/audit, at which time the fire chief may inquire about any fire safety related issues identified in the inspection/audit. The City reserves the right, however, to conduct routine inspections of the Property to determine compliance with the terms of this Agreement, the OCR SUP, and other applicable City regulations.

6. OCR will discuss with its neighbors on Brown Industrial Road the potential costs of bringing City services to the street (water, sewer, street maintenance, etc.) and explore with the them potential financial cost-sharing options to do so.

7. OCR will limit the size of all piles of materials to not greater than 25 feet in height, 250 feet in length and 150 feet in width. OCR will have until the September 30, 2020, to complete the task of conforming all piles of materials to these size restrictions.

8. OCR will work with appropriate City employees to identify any landscaping to be completed at the Property necessary to comply with applicable City ordinances and will complete such landscaping no later than June 30, 2020.

9. OCR will not allow combustible waste that is produced by the recycling process that has no value (*i.e.*, wiring insulation) to accumulate. As a minimum, OCR shall haul off such waste at least once per week.

10. OCR will not allow combustible waste that is produced by the recycling process that has value (*i.e.*, cardboard bales) to accumulate in excess of one (1) truck load.

In consideration of OCR's agreement in this regard, the City agrees that OCR has reasonable investment-backed expectations in the OCR SUP, and that the City may not unilaterally change the zoning and development standards contained in the OCR SUP without impacting OCR's reasonable investment-backed expectations.

**Additional Understandings:**

While not part of the OCR SUP, the Parties have reached the additional understandings regarding the use and operation of the Property to provide instructive clarification on the use and operation of the Property as it relates to the City's zoning for the Property. Those understandings are as follows:

1. Because the Property is zoned HI, OCR is not required to obtain a SUP for the Property for use of other machines or equipment OCR operates on the Property other than the Harris Model 6090 shredder. Specifically, operation of the following machines/equipment does not require a SUP:

- A. Two Sweed Choppers;
- B. Copper Wire Chopper;
- C. Alligator Shear;

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- D. Wire Stripper;
- E. Non-ferrous baler;
- F. Metso Shear;
- G. Sierra Shear;
- H. Rail-breaker; and
- I. Two mobile excavators with shears.

2. The machines/equipment listed above are identified by either their respective brand name or a common-use description. Since the December 2019 fire, the City fire marshal has inspected the Property and viewed this machines/equipment and did not indicate that any of them posed any fire hazards.

3. The revocation or amendment of the current SUP would not affect or impact OCR's operation of these machines/equipment on the Property, or its operation of other similar equipment that does not generate combustible "fluff" similar to the Harris Model 6090 shredder.

4. The City does not consider any of these machines/equipment, or other similar types of equipment that may be used in the future, to be "metal granulators and crushers," as those terms are used in the current SUP.

5. Notwithstanding the understandings set forth in paragraphs 1-4, above, the City reserves the right to object to the use of any of the listed machines/equipment should their operation be determined to violate other City ordinances other than the SUP and zoning ordinances (*i.e.*, nuisance ordinance, noise ordinance, etc.)

#### **Section 4. Miscellaneous**

A. This Agreement and any dispute arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without reference to its conflict of law rules. In the event of any dispute or action under this Agreement, venue for any and all disputes or actions shall be instituted and maintained in Ellis County, Texas.

B. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership, joint venture, joint enterprise, or other relationship between or among the Parties.

C. 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, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

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D. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the Parties may have by law statute, ordinance, or otherwise. The failure by any Party to exercise any right, power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such Party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. Any rights and remedies any Party may have with respect to the other arising out of this Agreement shall survive the cancellation, expiration or termination of this Agreement. The City agrees to give written notice to OCR of any asserted violations of this Agreement and OCR shall be given five (5) calendar days to cure said violations prior to the City's undertaking any enforcement actions to address the asserted violations. Should said asserted violations remain uncured, the City shall have the right to enforce this Agreement through specific performance, as appropriate, or maintain other lawful actions to address the asserted violations.

E. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

F. 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 or expiration of this Agreement shall survive termination or expiration.

G. This Agreement is made subject to the existing provisions of the City of Waxahachie, its present rules, regulations, procedures and ordinances, and all applicable laws, rules, and regulations of the State of Texas and the United States.

H. The undersigned officers and/or agents of the Parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

I. This Agreement may be only amended or altered by written instrument signed by the Parties.

J. The headings and captions used in this Agreement are for the convenience of the Parties only and shall not in any way define, limit or describe the scope or intent of any provisions of this Agreement.

K. This Agreement is the entire agreement between the Parties with respect to the subject matters covered in this Agreement. There are no other collateral oral or written agreements between the Parties that in any manner relates to the subject matter of this Agreement, except as provided or referenced in this Agreement.

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L. This Agreement shall be recorded in the real property records of Ellis County, Texas. This Agreement and all of its terms, conditions, and provisions is and shall constitute a restriction and condition upon the development of the Property and all portions thereof and a covenant running with the Property and all portions thereof, and is and shall be binding upon SC and all heirs, successors, and assigns and the future owners of the Property and any portion thereof; provided, however, this Agreement shall not constitute an obligation of or be deemed a restriction or encumbrance with respect to any platted residential lot upon which a completed structure has been constructed.

**EXECUTED** by the Parties on the dates set forth below, to be effective as of the date first written above.

**OAK CLIFF RECYCLING, INC.**

**CITY OF WAXAHACHIE, TEXAS**

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

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

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

Michael Scott, City Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

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

City Secretary

**STATE OF TEXAS** §

§

**COUNTY OF ELLIS** §

Before me, the undersigned authority, on this \_\_\_\_ day of \_\_\_\_\_ 2020, personally appeared MICHAEL SCOTT, City Manager of the City of Waxahachie, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

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

Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

(11)

STATE OF TEXAS

§  
§  
§

COUNTY OF ELLIS

Before me, the undersigned authority, on this \_\_\_\_ day of \_\_\_\_\_, 2020, personally appeared \_\_\_\_\_, representative of Oak Cliff Recycling, Inc., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

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

My Commission Expires: \_\_\_\_\_

(11)

**EXHIBIT A**

**OCR SUP Ordinance**

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

**AN AMENDMENT TO ORDINANCE 2616 AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT OUTSIDE STORAGE (METAL GRANULATORS AND CRUSHERS FOR THE RECLAMATION OF VEHICLES, PARTS OF VEHICLES, AND OTHER MATERIALS TO BE PROCESSED) WITHIN A HEAVY INDUSTRIAL (HI) ZONING DISTRICT, LOCATED AT 500 BROWN INDUSTRIAL ROAD, BEING PROPERTY ID 233797, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 10R, BROWN INDUSTRIAL SITES, PHASE TWO, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:**

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, the described property is classified in said ordinance and any amendments thereto as HI; and

**WHEREAS**, a proper application for an SUP has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-07-2020. Said application having been referred to the Planning and Zoning (P&Z) Commission was recommended by the P&Z Commission for approval and the issuance thereof; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and,

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said SUP;

**NOW, THEREFORE**, this property is rezoned from HI to HI, with an SUP in order to permit Outside Storage (metal granulators and crushers for the reclamation of vehicles, parts of vehicles, and other materials to be processed) on the following property: Lot 10R, Brown Industrial Sites, Phase Two which is shown on Exhibit A.

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## SPECIFIC USE PERMIT

### Purpose and Intent

The purpose of this Ordinance is to provide the appropriate restrictions and development controls that ensure this Specific Use Permit is compatible with the surrounding development and zoning and to also ensure that the development complies with the City's Comprehensive Plan and Zoning Ordinance.

### Specific Use Permit

**FOR OPERATION OF SPECIFIC USE PERMIT FOR OUTSIDE STORAGE (METAL GRANULATORS AND CRUSHERS FOR THE RECLAMATION OF VEHICLES, PARTS OF VEHICLES, AND OTHER MATERIALS TO BE PROCESSED) IN THE HEAVY INDUSTRIAL (HI) DISTRICT;** the following standards and conditions are hereby established as part of this ordinance:

1. The applicant, Oak Cliff Recycling, shall conform to the Development Agreement as approved by the City Council.
2. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.
3. If approved, the City Council shall have the right to review the Specific Use Permit after 12-months if needed.

### Compliance

1. It shall be unlawful for the owner, manager, or any person in charge of a business or other establishment to violate the conditions imposed by the City Council when a Specific Use Permit is granted, and the violation of those conditions could result in a citation being issued by the appropriate enforcement officers of the City of Waxahachie.
2. Furthermore, by this Ordinance, if the premises covered by this Specific Use Permit is vacated and/or ceases to operate for a period exceeding six months (6 months), a new Specific Use Permit shall be required to reestablish the use.
3. This Specific Use Permit is effective only as to the owner. Should the property be conveyed to a new owner, that owner must obtain a new Specific Use Permit and a new Certificate of Occupancy.
4. The Certificate of Occupancy shall note the existence of this Specific Use Permit by its number and title.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

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The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

**PASSED, APPROVED AND ADOPTED** on this 15<sup>th</sup> day of June, 2020.

\_\_\_\_\_  
MAYOR

ATTEST:

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



## Memorandum

To: Honorable Mayor and City Council  
From: Tommy Ludwig, Assistant City Manager  
Thru: Michael Scott, City Manager  
Date: January 21, 2020  
Re: College Street Drainage – Engineering Proposal

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On Monday, June 15, 2020, an item will appear on before City Council to consider authorization of professional engineering services by Freese and Nichols, Inc. (FNI) related to drainage improvements to replace the existing College Street drainage tunnel in the amount of \$310,497. The services will include design and preparation of construction plans, specification for drainage improvements, sanitary sewer replacement, and associated pavement replacement.

Property owners along N. College Street constructed a brick tunnel drainage system over the existing creek several decades ago. They built the tunnel in order to expand their parking lots and building footprints. The brick tunnel is a private drainage structure which has multiple structural issues and evidence of failures in multiple locations. The proposed improvements will reroute the private drainage to connect to a public storm system under College Street in order to abandon in place the private storm system. The services proposed are based on the preliminary alignment, size and profile identified in the first phase of engineering for the College Street Drainage project. The scope of this phase of the project will include design of approximately 1,700 linear feet of storm drain ranging in size from 60 inch diameter reinforced concrete pipe to a 7 feet by 7 feet reinforced concrete box culvert. In addition to the storm drain improvements, the scope will include design of the replacement of the aging sanitary sewer main in N. College Street and associated pavement rehabilitation.

This engineering design phase of the project is scheduled to be completed within four months of notice to proceed. Bidding and construction is anticipated to follow directly after completion of the design phase. Staff included \$400,000 of certificate of obligation bonds in the FY19-20 Capital Improvement Plan for engineering services associated with the College Street drainage study. As a result there is a companion resolution to this agenda item authorizing a reimbursement to the Public Works and Engineering Department from future bond sales. This will allow any expenses associated with this project that occur prior to the bond issuance to be

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paid from the General Fund with reimbursement of these expenditures after the bonds have been issued.

I am available at your convenience should you need additional information.

Tommy Ludwig

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**RESOLUTION NO.**

**A RESOLUTION DECLARING INTENT TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT FOR THE PURPOSE OF PERFORMING PHASE II PROFESSIONAL ENGINEERING SERVICES ASSOCIATED WITH THE COLLEGE STREET DRAINAGE PROJECT**

**WHEREAS**, the City of Waxahachie (the "City") intends to issue debt to finance cost to be incurred for professional engineering services associated with the College Street Drainage Project and related expenses prior to the issuance of such debt with the expectation that such expenditures are to be reimbursed with proceeds of such debt; and

**WHEREAS**, Treas. Reg. § 1.150-2 (the "Regulation") provides that to fund such reimbursement with proceeds of tax-exempt obligations the City must declare its expectation to make such reimbursement; and

**WHEREAS**, the City desires to preserve its ability to reimburse the expenditures with proceeds of tax-exempt obligations.

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

**SECTION 1**

That the City reasonably expects to reimburse General Fund with proceeds of debt hereafter to be issued by the City, and this resolution shall constitute a declaration of official intent under the Regulation.

**SECTION 2**

That the City Manager is authorized to take those steps reasonable and necessary to comply with the intent of this resolution including a loan from the General Fund in an amount not to exceed \$311,000

**SECTION 3**

That this resolution shall take effect immediately from and after the date of passage.

ADOPTED THIS 15<sup>th</sup> day of June, 2020.

\_\_\_\_\_  
MAYOR

ATTEST:

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