TOWN OF SUNNYVALE
TOWN COUNCIL MEETING

MAY 29, 2012
7:00 PM

SPECIAL MEETING
6:00 PM
CALL TOWN COUNCIL MEETING TO ORDER

SWEARING IN OF NEWLY ELECTED TOWN COUNCIL MEMBERS

EXECUTIVE SESSION
Recess into executive session pursuant to Chapter 551, Subchapter D of the Texas Government Code:

EXECUTIVE SESSION AGENDA:

A. SECTION 551.071 – PENDING LITIGATION CONSULTATION WITH ATTORNEY
   1. ICP VS. TOWN OF SUNNYVALE
   2. VULCAN VS. TOWN OF SUNNYVALE

B. SECTION 551.071 - CONSULTATION ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THIS CHAPTER.

END OF EXECUTIVE SESSION
Reconvene into open session and take any action necessary as a result of the Executive Session.

CONSIDER ANY OFFICIAL ACTION ON THE EXECUTIVE SESSION CLOSED MEETING ITEMS:

A. SECTION 551.071 - CONSULTATION ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THIS CHAPTER.

B. SECTION 551.071 - CONSULTATION ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THIS CHAPTER

ADJOURN
ALL LOCATIONS IDENTIFIED ARE IN THE TOWN OF SUNNYVALE UNLESS OTHERWISE INDICATED. FOR A DETAILED PROPERTY DESCRIPTION, PLEASE CONTACT THE BUILDING OFFICIAL AT TOWN HALL. ALL ITEMS ON THE AGENDA ARE FOR POSSIBLE DISCUSSION AND ACTION. PLEASE TURN OFF ALL TELEPHONES AND HANDHELD COMMUNICATION DEVICES WHILE IN ATTENDANCE AT THIS MEETING.

THE SUNNYVALE TOWN COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY OF THE MATTERS LISTED ABOVE, AS AUTHORIZED BY TEXAS GOVERNMENT CODE SECTION 551.071 (CONSULTATION WITH ATTORNEY), 551.072 (DELIBERATION ABOUT REAL PROPERTY), 551.073 (DELIBERATIONS ABOUT GIFTS AND DONATIONS), 551.074 (PERSONNEL MATTERS), 551.076 (DELIBERATIONS ABOUT SECURITY DEVICES), AND 551.086 (ECONOMIC DEVELOPMENT).

THE TOWN OF SUNNYVALE IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA). REASONABLE ACCOMMODATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED TO THOSE WHO PROVIDE NOTICE TO THE DIRECTOR OF COMMUNITY SERVICES AT 972-226-7177 AT LEAST 48 HOURS PRIOR TO THE MEETING.

THE FOREGOING NOTICE WAS POSTED IN THE FOLLOWING LOCATIONS:

SUNNYVALE ISD 417 E. TRIPP ROAD
SUNNYVALE LIBRARY AT 402 TOWER PLACE

I HEREBY CERTIFY THAT THE FOREGOING NOTICE WAS POSTED ON MAY 25, 2012, IN THE FOLLOWING LOCATIONS AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING:

TOWN HALL AT 127 N. COLLINS ROAD

[Signature]

SCOTT CAMPBELL, ASST. TOWN SECRETARY
TOWN OF SUNNYVALE
SUNNYVALE TOWN COUNCIL
SPECIAL MEETING
TUESDAY, MAY 29, 2012
7:00 P.M.

INVOCATION

PLEDGE OF ALLEGIANCE

CALL MEETING TO ORDER
Mayor calls the Meeting to order, state the date and time. State Councilmember’s present and declare a quorum present.

PUBLIC FORUM
Citizens may speak on any matter other than personnel matters or matters under litigation. No Town Council actions or discussion will be taken until such matter is placed on the agenda and posted in accordance with law.

1. RECOGNITION OF SERVICE FOR OUTGOING TOWN COUNCIL MEMBER

PUBLIC HEARINGS

Open or continue public hearing, consider testimony and other information provided, close public hearing, and take necessary action with respect to the following:

2. CONSIDER AN ORDINANCE (AS REQUESTED BY APPLICANT, QUICK TRIP CORPORATION) AMENDING ZONING ORDINANCE NO. 324, AS AMENDED BY ORDINANCE NOS. 324, 332, 338, AND 339, AND AS AMENDED FROM TIME TO TIME, ADDING THE USE ‘CONVENIENT STORES WITH GASOLINE SALES’ AS A CONDITIONAL USE IN THE GENERAL BUSINESS (GB) ZONING CLASSIFICATION, PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CONFLICTS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

DISCUSSION/ACTION ITEMS

3. MAYOR AND COUNCIL REQUESTS FOR FUTURE STAFF UPDATES AND AGENDA ITEMS

CONVENE INTO EXECUTIVE SESSION

EXECUTIVE SESSION AGENDA:

A. SECTIONS 551.071 - ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF
PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THIS CHAPTER.

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1. CONSIDER ANY OFFICIAL ACTION ON THE EXECUTIVE SESSION CLOSED MEETING ITEMS:

   A. SECTIONS 551.071 - ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THIS CHAPTER.

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TOWN HALL AT 127 N. COLLINS ROAD

SCOTT CAMPBELL, ASST. TOWN SECRETARY
The information contained in this facsimile is intended only for the use of the individual or entity named above. If the recipient is not the intended recipient, you are hereby notified that any distribution, dissemination or copying of this communication is strictly prohibited. If you have received this in error, please notify me immediately by or email and return the original message to us at the above address via the U.S. Postal Service.
Town of Sunnyvale
127 Collins Road
Sunnyvale, TX 75182
972-226-7177 Phone
972-226-1804 Fax
www.townofsunnyvale.org

FAX COVER SHEET

Date: ___________________________ No. of Pages: ___________________________

Fax #: 972-203-0310

Attn: Doris

From: Leslie Malone, Town Secretary

Re: Agenda

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Meeting date 05-29-12 @ 7:00 PM

Applicant/property
Quik Trip/Jake Petras

Request
Requesting Zoning Ordinance Text Amendment – Adding ‘Convenience Store with Gasoline Sales’ as a Conditional Use to the General Business (GB) zoning classification.

Staff Comment
General Business Zoning allows for a ‘convenience store with less than (3) gas pump islands’. ‘Convenience store with gasoline sales’ is limited to Highway Commercial and Industrial Zoning districts (with no limitation on the number of gas pump islands).

The property in question falls within the Land Use Category of ‘Retail’ (R) as adopted in the Comprehensive Land Use Diagram. This category is intended for various types of retail and personal services, and low intensity office and professional uses. The ‘Commercial’ (C) Land Use Category is intended for higher intensity type uses that would generate greater volumes of vehicle traffic, noise and lighting.

The Comprehensive Plan does contemplate convenience stores as a retail use for this property’s existing land use category (Retail), and the existing zoning classification, General Business (GB), does conditionally allow for ‘convenience stores with less than three gas pump islands’ (requiring a Conditional Use Permit). The applicant originally contemplated seeking a change to the Comprehensive Land Use Diagram to change the land use category for this property to ‘Commercial’ (C). As mentioned above, this is a higher intensity land use category that would have accommodated a zoning change request to ‘Highway Commercial’ (HC) (which does not limit the number of gas pump islands for a convenient store). Staff conveyed to the applicant its concern and objection to a land use category change that was inconsistent and not compatible with the surrounding properties.

Chapter 23 of the Zoning Ordinance allows the owner of any property within the Town to request a change of zoning or an amendment to the text of the zoning regulations. The applicant has therefore requested a text change to conditionally allow this use (‘convenient stores with gasoline sales’) in the current zoning classification of ‘General Business’ (GB). As discussed above, intensity of the proposed use is a key consideration for this text change request. Because the applicant is requesting the use only be allowed conditionally, staff does not object to their request as ‘intensity’ issues can be addressed...
through the CUP process. The Planning and Zoning Commission denied the request for a text change at their May 21 regular meeting by a vote of 4-2 (one abstention).

Steve Gilbert,
Building Official
May 23rd, 2012

Steve Gilbert
Director of Community Development
127 N. Collins Road
Sunnyvale, TX 75182

Re: Proposed QuikTrip #997 Located at SEC of Collins and Interstate 80
Text Change Appeal to City Council

Mr. Gilbert,

QuikTrip Corporation is proposing to develop a 5704 square foot convenience store and a twelve (12) dispenser gasoline canopy that will service twenty-four (24) vehicles. The proposed QuikTrip development is located at the southeast corner of Collins and Interstate 80 on approximately 3.0529 acres of vacant land.

Under section 12.2 of the Sunnyvale Zoning Ordinance a Convenience Store with Gasoline Sales is limited to three (3) gasoline pump islands. QuikTrip Corporation would like to request a text change to the Sunnyvale Zoning Ordinance to add Convenience Store with Gasoline Sales as one of the conditional uses.

Please consider this letter a formal request to appeal the Planning and Zoning Commission’s recommendation to the City Council agenda scheduled May 28th, 2012.

Sincerely,

[Signature]

Jake Petras
Real Estate Project Manager
QuikTrip Corporation
PROPERTY INFORMATION

Addition Name: TBD  
Address/Location: SEC of Collins and I-80
Lot(s):  
Block:  
Current Zoning: GB - General Business
# of Acres: 3.0529  
# of Lots: 1  
# of Units:  

APPLICANT INFORMATION

Name: Jake Petras  
Company: QuikTrip Corporation
Mailing Address: 1120 N. Industrial Blvd
City: Euless  
State: TX  
Zip: 76039
Phone: (817) 358-7680  
Fax:  
Email: jpetras@quiktrip.com

OWNER INFORMATION

Name: James M. Kevlin  
Company: Fry Street, L.P.
Mailing Address: 3624 Long Prairie Rd, Ste 101
City: Flower Mound  
State: TX  
Zip: 75022
Phone:  
Fax:  
Email: 

ZONING APPLICATION SUBMITTAL REQUIREMENTS

(See Fee Schedule for all Amounts)

- Concept Plan 24"x36", 5 copies (folded)  
  Fee: $575.00
- Checklist
- Legal Description
- Letter stating reason for request

Page 1 of 2
OWNER AUTHORIZATION

Check one of the following:

☐ I will represent the application myself; or

☒ I authorize Jake Petras – QuickTrip Corp. (name of applicant) to represent this application on my behalf. The named applicant shall be the principal person for responding to all requests and to attend all meetings.

Owner's Signature: ___________________________ Date: 3/20/12

STATE OF TEXAS
COUNTY OF: Denton

BEFORE ME, a Notary Public, on this day personally appeared ____________________________ the above signed, who, under oath, stated the following: "I hereby certify that I am the owner or authorized corporate representative for the purposes of this application; that all information submitted herein is true and accurate."

Subscribed and sworn to before me this 20 day of MARCH, 2009:

JEANENE KENNELER
Notary Public, State of Texas
My Commission Expires
May 21, 2013

Notary Public in and for the State of Texas

This application is not considered accepted by the Town until the Town Engineer or Chief Building Official has signed below.

_________________________________________  ________________________________________
Town Engineer                                 Chief Building Official
CHAPTER 11 - LOCAL RETAIL DISTRICT

11.1 PURPOSE

The Local Retail (LR) district is intended to provide local shopping facilities which provide retail business service and office facilities for the convenience of residents of the Town. Site development regulations and performance standards are intended to ensure that uses will be compatible and complementary in scale and appearance with a residential environment. The Local Retail district corresponds to and implements in part the Retail land use category on the Land Use Diagram of the Comprehensive Plan.

11.2 USES PERMITTED

A. In a Local Retail District, land, buildings and structures may be used for any lawful retail business or service establishment providing the following goods or services:

1. Appliance Repair Shop
2. Antique Stores - indoor sales and storage
3. Aquarium
4. Art Gallery
5. Artist and/or Craftsman Store
6. Auto Parts Stores - indoor sales and storage of new or re-manufactured parts
7. Bakery — retail
8. Bank
9. Barber & Beauty Shop — retail
10. Pet Shops and Pet Grooming — retail with no outside pens
11. Book or Stationery Store
12. Camera Shop
13. Candy & Tobacco Stores — retail
14. Caterer & Wedding Service
15. Church or rectory
16. Cleaning & Laundry — retail - less than 6,000 sq. ft. - including self service
17. Clothing Store
18. **Convenience Store with less than three (3) gasoline pump islands**
19. Department Store
20. Offices & Clinics - Dental & Medical
21. Doughnut Shop
22. Drug Store or Pharmacy - retail
23. Electrical Goods (computers, televisions, etc.) — retail
24. Electrical Substation
25. Exterminating Company — retail
26. Film Developing & Printing
27. Fix It Shops (repair of items) — retail with no outside storage
28. Florist — retail
29. Furniture Store — retail (including office furniture, furnishings and appliances)
30. Furniture Repair and Upholstering
CHAPTER 12 - GENERAL BUSINESS DISTRICT

12.1 PURPOSE

The General Business (GB) district is intended to provide retail, service and office uses that serve the entire community as well as regional needs. The General Business district corresponds to and implements in part the Retail land use category on the Land Use Diagram of the Comprehensive Plan and is intended for use along the U.S. Highway 80 corridor.

12.2 USES PERMITTED

A. Any use allowed by right in the Local Retail (LR) District is allowed by right in the General Business District.

B. In the General Business District, land, buildings and structures may be used for the following purposes:

1. Animal Hospitals and Veterinary Clinics - no outside pens
2. Auto Glass Repair
3. Offices - Bank, Savings and Loan
4. Building Materials or Home Improvement Center — retail sales of materials for building or home improvement. Outside storage will be permitted under this use without restrictions generally applicable within the district, excluding concrete mixing operations and contractor yards.
5. Cabinet Shop
6. Ceramic Products - retail
7. Electrical Repairing and Contracting
8. Envelope Manufacturing
9. Lithographing
10. — Deleted by Ordinance 404, January 10, 2005 —
11. Mechanical Contracting (heating and air conditioning)
12. Motion Picture Studios - Commercial Films
13. Optical Goods Manufacturing
14. Plumbing Contractors
15. Printing
16. Publishing Company
17. Schools — all types, including business, trade, and commercial
18. Auto Parts Store - Storage and sale of reconditioned auto parts and accessories when located inside building and in which no automobiles or parts of automobiles for sale are stored or displayed in the open.
19. Stone Monument Works — retail
20. Upholstery shop
21. Venetian Blind Assembly
22. Welding - retail
CHAPTER 14 - HIGHWAY COMMERCIAL

14.1 PURPOSE

The Highway Commercial (HC) District is intended to accommodate a wide variety of commercial uses and have a general application as a highway service district. The Highway Commercial District corresponds to and implements in part the Commercial (COM) land use category on the Land Use Diagram of the Comprehensive Plan and is intended for use along U.S. Highway 80.

14.2 USES PERMITTED

A. Any use allowed by right in the Local Retail (LR) or General Business (GB) District is allowed by right in the Highway Commercial District.

B. In the Highway Commercial District, land, buildings and structures may be used for the following purposes:

1. Air Conditioning Contractor
2. Ambulance Service
3. Artificial Flower Manufacturing
4. Artificial Limb Manufacturing
5. Aquarium - wholesale
6. Bed and Breakfast
7. Boat sales
8. Book Printing, Binding, Bindery
9. Cabinet Shop
10. Candy Manufacturing
11. Carpenter Shop
12. Carpet and Rug Cleaning — washing and scouring if dust proof room and dust catching equipment is provided
13. Ceramic Products - retail
14. Church or rectory
15. Cleaning and Laundry - having an area in excess of six thousand (6,000) square feet
16. Colleges, Commercial, public, state or other institution of higher learning.
17. Convenience store with gasoline sales
18. Distribution Center
19. Electrical Repairing and Contracting
20. Electroplating; Electrotyping
21. Engraving Plant
22. Envelope Manufacturing
23. Feed Store - wholesale
24. Fence Company - sales and storage
25. Florist - wholesale
26. Furniture Repair and Upholstering - wholesale
27. Gas and electrical public utility regulating stations
65. Warehouse, wholesale or retail, offices, sales and storage - excluding self-storage
66. Welding Supply - retail or wholesale

C. Accessory buildings and structures incidental to the operation of businesses specified in Sections 11.2A, 12.2B, and 14.2B, above shall be permitted, provided that the building or structure does not exceed 400 square feet, is located behind the primary structure, and constructed with the same or similar building facade and material as the primary structure and pursuant to Section 19.1.

D. Outside display incidental to the operation of the retail business or service activities specified in Sections 11.2A, 12.2B, and 14.2B, above shall be permitted. Except as otherwise permitted as a conditional use, no outside display may be located outside a rectangular area extending no more than fifteen feet (15') from the front face of the primary structure on the lot or tract and limited in to the width of the primary structure. The display must be stored or removed daily at the close of business hours.

E. Outside storage is permitted but shall not exceed 20 percent of the lot area and must be screened in accordance with Section 20.5.

F. Service to the public of water, gas, electricity, telephone, telegraph, steam, hot or cold air shall be allowed. The foregoing shall be deemed to include attendant facilities and appurtenances to the above uses, including without limitations: distribution, collector and feeder lines; pumping or booster stations along pipelines; and substations along electric transmission lines, but not including public utility treatment and generating plants or offices.

14.3 USES PERMITTED AS CONDITIONAL USES

A. The following conditional uses may be permitted in this district in accordance with the procedures contained in Chapter 24:

1. Any use permitted as a conditional use in the General Business (GB) district
2. Auto Body Repair
3. Car Wash
4. Commercial Amusement — All types, both indoor and outdoor, commercial recreation or amusement, including but not limited to baseball fields, skating rinks, commercial swimming pools, driving ranges, miniature golf, carnivals and other similar open air activities
5. Boat Storage
6. Bus, recreational vehicle, truck or trailer storage
7. Clothing Manufacturing
8. Warehouse - cold storage
9. Commercial amusements, including all types, both indoor and outdoor commercial recreation or amusement, including but not limited to driving range, skating rink, playing fields, commercial swimming pools, miniature golf, carnivals, go-cart tracks, video arcades and other similar activities
10. Veterinarian or Dog Kennel with outside pens
11. Furniture manufacturing
TOWN OF SUNNYVALE, TEXAS
ORDINANCE NO. 12-07

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 324, AS AMENDED
BY ORDINANCE NOS. 324, 332, 338, AND 339, AND AS AMENDED FROM TIME
to time, adding the use ‘CONVENIENCE STORE WITH GASOLINE SALES’
as a conditional use in the General Business (GB) Zoning
District, conforming the Non-Residential Use Summary Chart,
Providing a severability clause; Providing a Conflicts clause;
and Providing an Effective date.

WHEREAS, the Town of Sunnyvale received a request from Quik Trip
Corporation to amend the text of the Sunnyvale Zoning Ordinance by adding the use
“convenient stores with gasoline sales” as a conditional use to the General Business
(GB) zoning district, and

WHEREAS, the Town Planning and Zoning Commission convened a public
hearing on May 21, 2012 to consider such text amendment request; and

WHEREAS, notice of the public hearings was published and posted according to
state law; and

WHEREAS, the Commission recommended by a vote of 4 ayes and 2 nays, and
one abstention to deny the text amendment request, and

WHEREAS, the Town Council convened a public hearing on May 29, 2012, to
take testimony and to consider the report and recommendations of the Planning and
Zoning Commission on such text amendments; and

WHEREAS, the Town Council hereby finds that it is in the best interest of the
Town of Sunnyvale, taking into consideration the public health, safety, and welfare, to
adopt amendments to the text of the zoning ordinance as set forth herein;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of
Sunnyvale, Texas:

SECTION 1. That the foregoing recitals are found to be true and correct in all respects.

SECTION 2. That the text of the zoning ordinance, Ordinance No. 339, of the
Town of Sunnyvale, Texas (the “Zoning Ordinance Text”), as amended, is hereby
further amended by adding the use “convenience store with gasoline sales” to Chapter
12, General Business (GB) District, section 12.3.A, and by further amending section 3.9, Nonresidential Uses, Chart 3.4, to add such use in conformance with section 12.3.A.

SECTION 3. That it is the intent of the Town Council that each paragraph, sentence, subdivision, clause, phrase, or section of the ordinance be deemed severable and should any such paragraph, sentence, subdivision, clause, phrase or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provisions of this ordinance left standing with the validity of any code or ordinance as a whole.

SECTION 4. All ordinances and provisions of the Town of Sunnyvale, Texas, that are in conflict with this Ordinance shall be and the same are hereby superseded to the extent in conflict, and all ordinances and provisions or ordinances of said Town not so expressly superseded are hereby retained in full force and effect.

SECTION 5. That this ordinance shall not take effect for a period of fifteen (15) calendar days from the date of its publication and passage by the Town Council.

PASSED AND APPROVED by the Town Council, the Town of Sunnyvale, on the 29th day of May 2012.

__________________________
Mayor, Town of Sunnyvale

ATTEST:

__________________________
Town Secretary