



ORDINANCE NO: 1435

AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR 7.51 ACRES OF REAL PROPERTY LOCATED 10833 IH-10 TO ALLOW FOR CONCRETE ASPHALT BATCHING PLANT (TEMPORARY); DECLARING COMPLIANCE WITH APPLICABLE STATE AND LOCAL LAWS; INCORPORATING RECITALS; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, Texas Local Government Code Section 211.004 provides that zoning regulations and district boundaries must be adopted in accordance with a duly adopted Comprehensive Plan; and

WHEREAS, Texas Local Government Code Section 211.002 authorizes the City of Cibolo ("City"), as a home-rule municipality, to adopt, repeal or amend zoning district boundaries in order to promote the public health, safety and general welfare of the City; and

WHEREAS, the subject property of this Conditional Use Permit ("CUP") is located within a Mixed Use Regional Employment Center (MURE); and

WHEREAS, the Commercial Uses Table set forth in Section 13.2 of Appendix A of the Code of Ordinances for the City of Cibolo, also known as the Unified Development Code ("UDC"), permits a Concrete/Asphalt Batching Plant as a temporary, short-term use within any zoning district, including the MURE zoning district, upon approval of a CUP for same, provided that such conditional use may occur until completion of a specific construction project or projects supplied by the concrete batching plant unless City Council renews the CUP for a specific, additional period of time; and

WHEREAS, the City of Cibolo has received a valid and completed application from Owner MLM Trust, through its representative Miya Janes-Green of Webber LLC, to request a CUP to allow for a temporary, short-term Concrete/Asphalt Batching Plant to operate on the subject property, located at 10833 IH-10 and legally described as ABS: 134 SUR: JOSE FLORES, 7.51 AC; and

WHEREAS, the City Council has duly considered the requested CUP and finds that the proposed concrete batching operation will provide concrete exclusively to the Texas Department of Transportation (TxDOT) and/or its affiliates, operating under a TCEQ permit as a "registered portable facility" to be located contiguous to the right-of-way to provide concrete batching services for use on a single infrastructure project within the right-of-way of IH-10 at 10833 E. IH-10, and therefore any concrete batching operations permitted by the requested CUP will be temporary and

will not be permitted to continue once said TxDOT project is completed, and finds further that the applicant has agreed to the terms and conditions set forth in this ordinance, including requirements relating to dust prevention and other potential nuisances such as light, noise, and traffic; and

WHEREAS, two public hearings were held to discuss the rezoning to the real property described herein; with the first public hearing being conducted by the Planning & Zoning Commission on December 13, 2023, and the second public hearing being conducted by City Council on January 9, 2024; each being conducted for the purpose of providing all interested persons the opportunity to be heard concerning the proposed CUP to allow for Concrete/Asphalt Batching Plant on the subject property, comprised of 7.51 acres located at 10833 IH-10, as described herein and further depicted in **Exhibit “A”** hereto; and

WHEREAS, legal notice notifying the public of both public hearings on the property proposed to be rezoned, was posted on the City’s official website and published in the *Seguin Gazette*, a newspaper of general circulation in the City of Cibolo, on November 26, 2023; and

WHEREAS, written notice of the aforementioned public hearings before the Planning & Zoning Commission and the City Council were sent to each owner of real property within 200 feet of the subject property of this CUP, as indicated on the most recently approved municipal tax roll of the City of Cibolo, in accordance with applicable state and local law; and

WHEREAS, on December 13, 2023, the Planning and Zoning Commission, after due consideration of the requested CUP, including all matters listed in Section 4.3.2 of the UDC, voted to recommend that the City Council approve the requested CUP; and

WHEREAS, on January 23, 2024, the City Council, having duly considered the request for CUP, determined that the CUP should be approved as requested by adoption of this Ordinance; and

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

SECTION 1. CUP GRANTED.

- A. The zoning district for 7.51 acres of land in Guadalupe County, Texas, located 10833 IH-10, Cibolo, Texas, and being legally described as ABS: 134 SUR: JOSE FLORES, 7.51 AC, and as depicted in **EXHIBIT “A”** hereto (the “Property”), and incorporated herein by reference, is hereby amended by Conditional Use Permit (“CUP”) for the use of Concrete/Asphalt Batching Plant, subject to all applicable federal, state or local laws or regulations, including supplemental use regulations set forth in the City’s UDC, and the following conditions:

1. **Time Restriction** – This CUP shall effectively expire on December 31, 2026, and shall not be valid thereafter; however, the applicant may apply for an extension of this CUP prior to December 31, 2026, if more time is needed to complete the applicant’s contractual work for the Texas Department of Transportation and/or its affiliates. Any extension of this CUP shall be limited to a period of time not to exceed twelve (12) months.

2. **Plat** – Within 30 days of the date on which this CUP is approved, the owner/applicant shall submit a valid and completed plat application as required by the UDC or, alternatively, initiate the process to obtain a variance or other waiver from any applicable platting requirements.
3. **Site Plan** – An official site plan submittal, in accordance with the UDC, shall be submitted within 30 days of the date on which this CUP was granted. The concrete batching plant use and related activities permitted by this CUP may not substantially deviate from the submitted conceptual/preliminary site plan attached hereto as **Exhibit “B,”** nor any final site plan that may subsequently be approved by the City.
4. **Permits & Inspections** – Any and all required building permits and a valid Certificate of Occupancy must be obtained by the owner/applicant. All permit applications submitted for this property are subject to the requirements of the City Code, and the City reserves the right to inspect the premises at least once per quarter, i.e. at least once per three-month period, to ensure compliance with the terms of this CUP and other applicable laws and regulations.
5. **Perimeter Fence** – Within 90 days of the date on which this CUP was granted, a perimeter fence must be installed per UDC Sec. 4.4.7.4.3.E.2 and Sec. 9.3.2. TxDOT, as owner of the IH-10 frontage road abutting the property, has expressed that a perimeter fence is not needed along their property, and such fencing shall not be required between the subject property and the IH-10 frontage road owned by TxDOT. Perimeter fencing shall be required along all other boundaries of the subject property.
6. **Landscape Buffer** – Within 30 days of the date on which this CUP was granted, an approved Landscape Buffer must be installed per UDC Sec. 17.1.L and Sec. 4.4.7.4.3.J.
7. **Hours of Operation** – Subject to authorized letter from TxDOT. Concrete batching operations shall be allowed to occur outside of the permitted timeframe(s) listed within the Cibolo Code of Ordinances in order to accommodate the logistical requirements of the TxDOT highway expansion project.
8. **Dust Mitigation** – The RA-200, or equivalent, dust controller shall be in operation at all times during which the silo is operating.
9. **Cessation of the Concrete Batch Plant** – Upon the cessation of the concrete batching operations associated with this conditional use permit, the site shall be restored to the approved permit grading plan. The site shall be restored to previously approved grading no later than December 31, 2026, unless an extension of this CUP has been granted prior to such date.

10. **Additional Uses** – No other conditional uses are allowed under this conditional use permit.

- B. The zoning map of the City of Cibolo is hereby amended to reflect the CUP as created by this Ordinance, being more specifically defined on **EXHIBIT “C”**.

SECTION 2. DECLARATION OF COMPLIANCE. The City Council finds that all required public notices for a Conditional Use Permit for the Property described in **Exhibit “A”** have been properly issued and all required public hearings have been properly conducted.

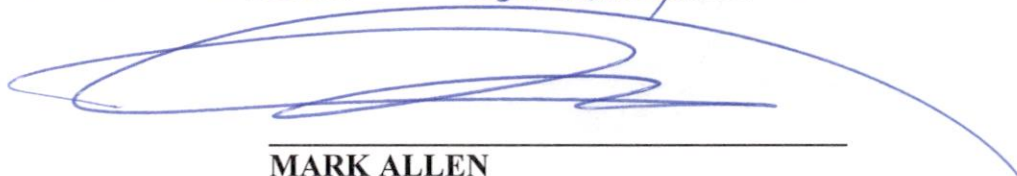
SECTION 3. INCORPORATION OF RECITALS. The City Council finds the recitals in the preamble of this Ordinance are true and correct and incorporates them as findings of fact.

SECTION 4. REPEALED. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void; and that in lieu of each clause or provision of this Ordinance that is invalid, illegal, or unenforceable there be added by the Mayor as necessary with the approval of the City Attorney as to form, and as a part of the Ordinance a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

SECTION 6. EFFECTIVE DATE. This ordinance shall become effective upon the adoption of this ordinance.

PASSED, APPROVED, AND ADOPTED THIS 23 **DAY OF** January **2024.**



MARK ALLEN
Mayor

ATTEST:



PEGGY CIMICS, TRMC
City Secretary

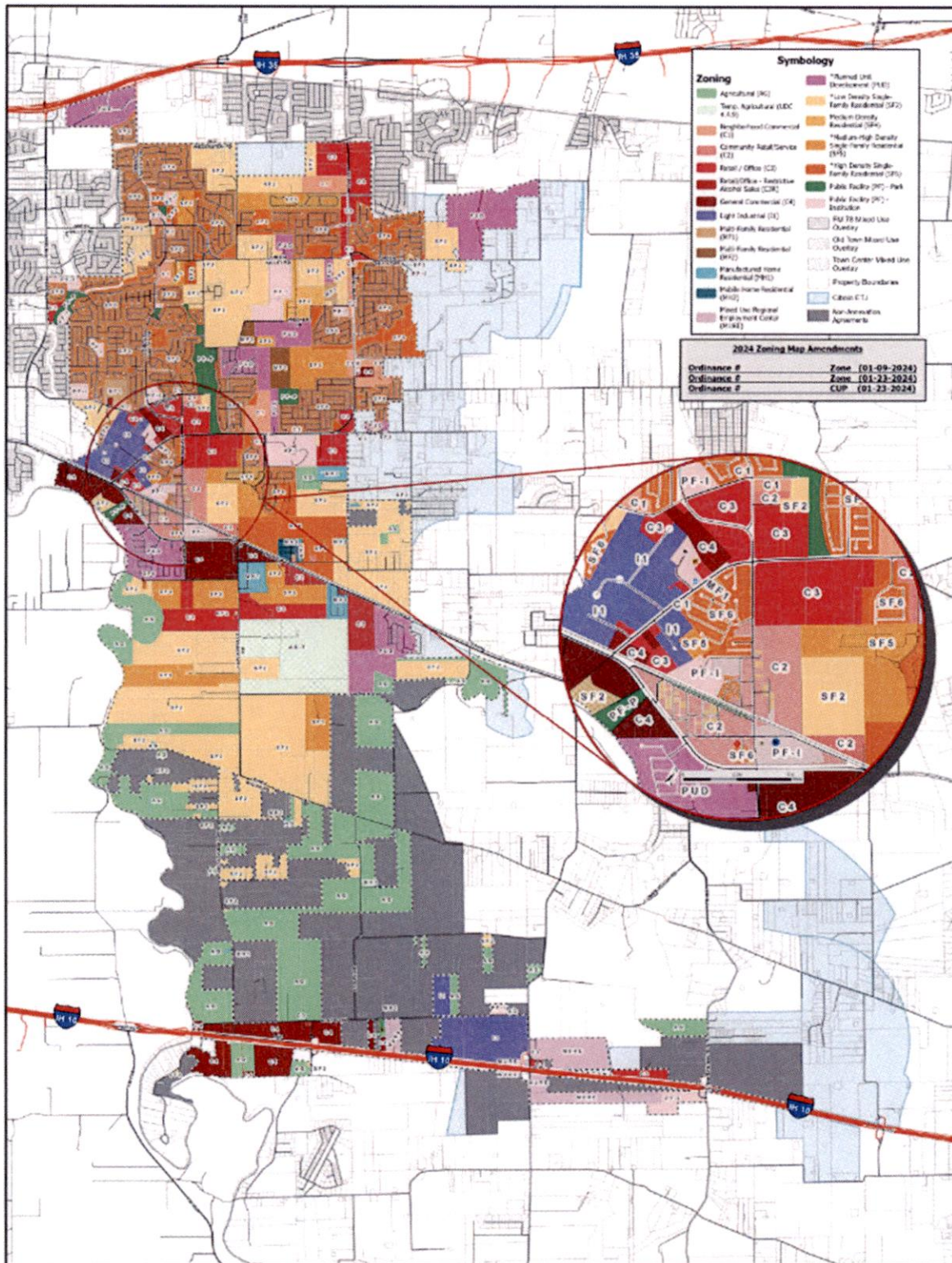


EXHIBIT "A": SUBJECT PROPERTY FOR CONDITIONAL USE PERMIT



[illegible]

EXHIBIT “C”: UPDATED OFFICIAL ZONING MAP - CITY OF CIBOLO, TEXAS



1:24,000

OFFICIAL ZONING MAP

City of Cibola

Tuesday, January 23rd 2024

0 0.5 1 2 Miles

This is to certify that this is the Official Zoning Map referred to in the City of Cibola Code of Ordinances, Appendix A, currently referred to as the Unified Development Code (UDC), Adopted by Ordinance Number _____ on January 23rd, 2024 by the City Council of the City of Cibola, Texas.

SIGNED: _____
Mark Alan, Mayor

ATTEST: _____
Angie Collins, City Secretary

(City Seal Goes Here)