

**AGENDA REQUEST
BUSINESS OF THE CITY COUNCIL
CITY OF PEARLAND, TEXAS**

AGENDA OF:	May 15, 2017 - CUP 17-00006	ITEM NO:	AIR - 0422
DATE SUBMITTED:	09 May 2017	DEPT. OF ORIGIN:	Community Development
PREPARED BY:	Martin Griggs		

SUBJECT: Conditional Use Permit Application No. CUP 17-00006

A request of MSJ Business Group, LLC., represented by James Daniel, applicant, on behalf of Shadow Creek Investors 1, LLC., owner, represented by David Sutton; for approval of a Conditional Use Permit (CUP) to allow for a Liquor/Package Store in the Planned Unit Development (PUD) zoning district; on approximately 6.944 acres of land.

Legal Description: Being Lot "A" a 6.944 acre parcel of land out of 49.279 acres of land located in the T.C.R.R. Co. survey Section 4. Abstract No. 675, James Crawley Survey, Abstract No. 174, and the W. W. Dupuy & L. F. Robert Survey, Abstract No. 726, Brazoria County, Texas, more particularly being the residue of that certain called 40.8803 acre tract conveyed to GCCLE-Shadow Creek, L.P. by instrument of record under document number 2007005788, B.C.O.R., all of that certain called 7.376 acre that conveyed to GCCLE-Shadow Creek, L.P. by instrument of record under document number 2007005791, B.C.O.R., and all of that certain called 11.429 acre tract conveyed to Kroger Texas L.P. by "Correction Special Warranty Deed" by instrument of record under document number 2007025822, B.C.O.R., also being all of Reserve "A" of the C&S Asphalt Sealing Company Subdivision, a subdivision of record in Volume 24, Page 24 of the Brazoria County Plat Records (B.C.P.R.), said 49.279 acres.

General Location: 11041 Shadow Creek Parkway, Pearland, TX.

EXHIBITS: 1. Aerial Map 2. Zoning Map 3. Future Land Use Map 4. Notification Map 5. Notification List 6. Applicant Packet

FUNDING:

<input type="checkbox"/> Bonds To Be Sold	<input type="checkbox"/> Grant	<input type="checkbox"/> Developer/Other	<input type="checkbox"/> Cash
<input type="checkbox"/> Bonds - Sold	<input type="checkbox"/> L/P - Sold	<input type="checkbox"/> L/P - To Be Sold	

EXPENDITURE REQUIRED:	\$	AMOUNT BUDGETED:	\$
AMOUNT AVAILABLE:	\$	PROJECT NO:	
ACCOUNT NO:			
ADDITIONAL APPROPRIATION REQUIRED:	\$		
ACCOUNT NO:			
PROJECT NO:			

To be completed by Department:

EXECUTIVE SUMMARY

BACKGROUND

This request is for approval of a Conditional Use Permit (CUP) located at 11041 Shadow Creek Parkway, to allow for a Liquor/Package Store in the Planned Unit Development (PUD). The property is currently developed as the Shadow Creek Market Place which is a Kroger anchored shopping center at the northwest corner of SH 288 and Shadow Creek Parkway. The proposed use will be located in an existing 1,202 square foot suite within the center.

Recommendation

Staff recommends approval of the requested CUP for a Liquor/Package Store on the approximately 6.944 acre site for the following reasons:

1. The parcel is surrounded by other commercially zoned properties.
2. The proposed use is a retail use of similar size and intensity to the surround retail and commercial uses and therefore compatible.
3. The location is not at an entrance to residential neighborhoods.
4. The location in an established shopping center mitigates the potential for negative aesthetics or activity that might accompany this type of retail use.
5. The applicant has not proposed any modifications to the suite such as bars over the windows or additional light which would negatively affect the surrounding businesses.

If the CUP is considered for approval, staff recommends the following conditions:

1. Bars over or behind the windows would be prohibited.
2. Neon and LED strip lighting around the doors or windows would be prohibited.

Site History

The subject property is currently developed as a shopping center. The site was annexed into the City in 1997 and zoned Suburban Development Residential (SDR). In 2006, with the adoption of the Unified Development Code (UDC), the property was rezoned to BP-288. In 2007, Ordinance 2000M-25, a PUD with BP-288 base zoning and designed for a retail shopping center, was approved. The property remains PUD today. The site is bounded by PUD zoning to the east, south, and west. Spectrum District – S3 (SPD-S3) zoning is to the north across Clear Creek. The below table identifies surrounding uses and zoning districts:

	Zoning	Land Use
North	Spectrum District - S3: (SPD-S3)	Vacant
South	Planned Unit Development (PUD)	Hospital
East	Planned Unit Development (PUD)	Retail Center
West	Planned Unit Development (PUD)	Retail Center and Vacant Property

Conformance with the Comprehensive Plan

The current zoning of PUD with base zoning of BP-288 on the subject property is in conformance with the future land use designation of the Comprehensive Plan. The Future Land Use Plan (FLUP) indicates the property to be “288 Gateway” which is suitable for large office and medical complexes and complementary retail centers with vertically integrated residential uses. The purpose of the CUP is to allow uses that may be suitable in certain locations within a zoning district or when additional standards and conditions can be imposed to ensure compatibility with adjoining uses. The proposed use is a retail use of similar size and intensity to the surround retail and commercial uses and therefore compatible.

Conformance with the Thoroughfare Plan

According to City records, Shadow Creek Parkway is a Major Thoroughfare of sufficient width. The right-of-way in this portion of Shadow Creek Parkway is approximately 160 feet. Major Thoroughfares are defined as having a minimum right-of-way of 120 feet.

Conformance with the Unified Development Code

The location for the proposed use is within an existing shopping center. The shopping center currently meets the requirements of the UDC and is in compliance with the existing PUD. The PUD with BP-288 zoning district The PUD intends to align with the regulations of the BP-288 zoning district. The BP-288 zoning district is intended to create large, high quality office complexes and retail development in locations with good visibility and roadway access. The proposed business is compatible with and compliments the surrounding uses.

The lot requirements exceed the lot and setback requirements of the proposed BP-288 zoning district, as indicated in the in the following table.

Business Park District - 288 (BP-288) Area Regulations		
Size of Lot	Required	Proposed
Minimum Lot Size	1 acre (43,560 sq. ft.)	6.944 Acres (302,466 sq. ft.)
Minimum Lot Width	150 ft.	155 ft. (at the frontage)
Minimum Lot Depth	200 ft.	Approximately 589 ft.

Platting Status

The subject property is currently platted as Shadow Creek Marketplace, Lot A, which was recorded January 11, 2008.

Availability of Utilities

According to City records, the subject property has access to City water and sanitary sewer infrastructure. A 10-inch water line and an 8-inch sanitary sewer run along the east side of the subject structure and throughout the shopping center property.

Impact on Existing and Future Development

The proposed development is not anticipated to have a negative impact on the surrounding area. The proposed land use will take place within an existing shopping center that is equipped with parking and other requirements of development. The retail nature of the proposed use is compatible with the existing shopping center and neighboring retail uses.

Additional Comments

The request has been reviewed by the City's Development Review Committee (DRC) and there were no additional comments from other departments at the time of this report.

Public Notification

Staff sent public notices, comment forms and a vicinity map to the applicant, the owner of the property and to property owners within 200 feet of the subject property under consideration for the zone change. Additionally, a legal notice of the public hearing was published in the local newspaper, and a notification sign was placed on the property by the applicant.

Opposition to or Support of Proposed Request

Staff has received not received any notices in support or in opposition of the proposed CUP request.

**AGENDA REQUEST
BUSINESS OF THE CITY COUNCIL
CITY OF PEARLAND, TEXAS**

AGENDA OF:	May 15, 2017 - Zone 17-00005	ITEM NO:	AIR - 0423
DATE SUBMITTED:	09 May 2017	DEPT. OF ORIGIN:	Community Development
PREPARED BY:	Martin Griggs		

SUBJECT: Zone Change Application No. ZONE 17-00005

A request of Richard Skotak, applicant, on behalf of Larry Darcey, owner; for approval of a change in zoning from the Multiple-Family (MF) zoning to a General Business (GB) zoning district; on approximately 0.698 acres of land.

Legal Description: 30,403 square feet of land, located in the H.T. & B. RR. Company Survey, Abstract 242, in Brazoria County, Texas, being out of a called 1.000 acre tract save and except tract out of a called 1.5 acre tract (surveyed as 1.9859 acre tract) conveyed to Jose De Jesus Mata, recorded in Brazoria County Clerk's File Number (B.C.C.F. No.) 98-016186.

General Location: 7501 Fite Road, Pearland, TX.

EXHIBITS: 1. Aerial Map 2. Zoning Map 3. Future Land Use Map 4. Notification Map 5. Notification List 6. Applicant Packet

FUNDING:

<input type="checkbox"/> Bonds To Be Sold	<input type="checkbox"/> Grant	<input type="checkbox"/> Developer/Other	<input type="checkbox"/> Cash
<input type="checkbox"/> Bonds - Sold	<input type="checkbox"/> L/P - Sold	<input type="checkbox"/> L/P - To Be Sold	

EXPENDITURE REQUIRED:	\$	AMOUNT BUDGETED:	\$
AMOUNT AVAILABLE:	\$	PROJECT NO:	
ACCOUNT NO:			
ADDITIONAL APPROPRIATION REQUIRED:	\$		
ACCOUNT NO:			
PROJECT NO:			

To be completed by Department:

EXECUTIVE SUMMARY

BACKGROUND

This request is for approval of a change in zoning from the Multiple-Family (MF) zoning district to General Business (GB) zoning district on approximately 0.698 acres of land, located at 7501 Fite Road. The property is currently developed with a single family home and detached garage. The applicant proposes the change in

zoning in order to allow for a wellness center and yoga studio. The yoga studio was established without approvals and was not a permitted use. There is an open code enforcement case on the yoga studio.

Recommendation

Staff does not recommend approval of the requested change in zoning from MF to GB on the approximately 0.698 acre site for the following reasons:

1. The site is surrounded by residential uses and the zone change to GB will permit a number of non-residential uses that could have a negative impact on the surrounding area. Zoning this site as GB without any commercial context in the direct vicinity could constitute spot zoning.
2. The site is currently developed with a single family home that is appropriate only for residential use and is surrounded by residentially zoned properties.
3. The site is not larger enough to convert this single family home into a commercial site. For example, with 4,623 square feet of structure, 23 parking spaces space will be required to be constructed to city standards for size, driving lanes, and concrete.
4. The proposed use is not in conformance with the future land use designation of the Comprehensive Plan. The future land use designation for the site is High Density Residential and the proposed change in zoning to GB does not promote the type of development appropriate for this designation.
5. Fite Road is not built to handle commercial traffic.

Site History

The subject property is currently developed with a single family home structure that was built in 2000 and a detached garage structure that was constructed in 2013. The site was annexed into the city in 2006 and has been zoned MF since that time. The previous occupant was a yoga studio which is similar to the proposed use for the site. The yoga studio was established without permit and was not permitted. There is an open code enforcement case on the yoga studio.

The site is bounded by MF to the north and west; Townhouse Residential (TH) to the east; and the extraterritorial district (ETJ) is located to the south across Fite Road.

The below table identifies surrounding uses and zoning districts:

	Zoning	Land Use
North	Multiple-Family Residential (MF)	Apartments
South	ETJ	Residential
East	Townhouse Residential (TH)	Undeveloped
West	Multiple-Family Residential (MF)	Apartments

Conformance with the Comprehensive Plan

The proposed zoning of GB on the subject property is not in conformance with the future land use designation of the Comprehensive Plan. The Future Land Use Plan (FLUP) indicates the property to be “High Density Residential” which is intended for multiple-family housing. The comprehensive Plan also recommends that commercial developments be located within commercial districts or at major intersections. The proposed change in zoning to GB would not be consistent with the High Density Residential Land use designation and the locations is not located within a commercial district nor at a major intersection.

Conformance with the Thoroughfare Plan

According to City records, Fite Road is a Major Collector that is to be widened. The right-of-way for Fite Road is approximately 60 feet. Major Collectors are defined as having a minimum right-of-way of 80 feet.

Conformance with the Unified Development Code

At this time, the property is not in conformance with development regulations of the Unified Development Code (UDC). The subject property is currently developed with a two-story single family home structure. The current residential structure on the site limits any commercial business that could be permitted to a home occupation. Health studio is a prohibited home occupation. The proposed change in zoning to GB would require the site to

come into full compliance with the requirements of the UDC for the GB zoning district. The following is a list of requirements that would have to be met:

1. For 4,623 square feet of structure, 23 parking spaces space will be required to be constructed to city standards for size, driving lanes, and concrete.
2. A 25 foot sideyard is required if abutting a residential zoning district.
3. A screen refuse container required on the site.
4. 6 trees are on the site with five of them along the frontage.
5. Each parking space must be within 100 feet of a tree.
6. Any signage on the site would have to meet the requirements of Section 4.2.5 Signage.

The lot requirements exceed the lot and setback requirements of the proposed GB zoning district, as indicated in the in the following table.

General Business (GB) Area Regulations		
Size of Lot	Required	Proposed
Minimum Lot Size	22,500 sq.ft.	0.698 acres (30,403 sq.ft.)
Minimum Lot Width	150 ft.	173.76 ft.
Minimum Lot Depth	125 ft.	177.88 ft.

Platting Status

The subject property is not currently platted. Platting will be required prior to expansion of the buildings or an increase in paving on site. The 0.3 acre lot to the north of the subject property is the remainder of the total 1 acre lot on which the subject property is located.

Availability of Utilities

According to City records, the subject property has access to City water and sanitary sewer infrastructure. A 12-inch water line exists along the south side of Fite Road. A 24-inch sanitary sewer line runs along the north side of Fite Road.

Impact on Existing and Future Development

The proposed development will take place in an existing single family structure on Fite Road. The unpermitted yoga studio located on the property and the proposed use for the property are similar in nature. The low intensity of a wellness clinic would not likely have a negative impact on the surrounding properties, however GB zoning allows for a variety of more intense commercial uses that may not be compatible with the neighboring uses. Additional buffers would be required on the adjacent Townhouse zoned parcel when it is developed if the rezoning were granted. The location on Fite Road supports a mix of medium to high density residential and low intensity commercial along. The southern side of Fite Road between Manvel Road and Old Chocolate Bayou Road is primarily residential and there are four properties currently developed with commercial business on the north. Fite Road is intended for residential development and is not currently constructed to handle commercial traffic commercial traffic. The proposed change in zoning would not be compatible with the surrounding area.

Additional Comments

The request has been reviewed by the City's Development Review Committee (DRC) and there were no additional comments from other departments at the time of this report.

Public Notification

Staff sent public notices, comment forms and a vicinity map to the applicant, the owner of the property and to property owners within 200 feet of the subject property under consideration for the zone change. Additionally, a legal notice of the public hearing was published in the local newspaper, and a notification sign was placed on the property by the applicant.

Opposition to or Support of Proposed Request

Staff has received one notices in opposition from an adjacent property owner concerned about the additional buffers that would be required on their property if the lot were rezoned. There were no notices received in support of the request.

**AGENDA REQUEST
BUSINESS OF THE CITY COUNCIL
CITY OF PEARLAND, TEXAS**

AGENDA OF:	May 15, 2017 - Zone 17-00007	ITEM NO:	AIR - 0424
DATE SUBMITTED:	09 May 2017	DEPT. OF ORIGIN:	Community Development
PREPARED BY:	Martin Griggs		

SUBJECT: Zone Change Application No. ZONE 17-00007

A request of request of Kevin Cole, applicant, on behalf of Anthony and Kimberly Giuliani, owner; for approval of a change in zoning from Single-Family Residential-1 (R-1) to a General Business (GB) zoning district; on approximately 9.6135 acres of land.

Legal Description: A tract or parcel of land containing 9.6135 acres of land (418,766 square feet), being out of and a part of Lot 76, George W. Jenkins Subdivision of the lower one-fourth, (1/4), of the W.D.C. Hall Survey, Abstract No. 70, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 79, Page 616 of the Office of the County Clerk of Brazoria County.

General Location: 3205 Dixie Farm Road, Pearland, TX.

EXHIBITS: 1. Aerial Map 2. Zoning Map 3. Future Land Use Map 4. Notification Map 5. Notification List 6. Applicant Packet

FUNDING:

<input type="checkbox"/> Bonds To Be Sold	<input type="checkbox"/> Grant	<input type="checkbox"/> Developer/Other	<input type="checkbox"/> Cash
<input type="checkbox"/> Bonds - Sold	<input type="checkbox"/> L/P - Sold	<input type="checkbox"/> L/P - To Be Sold	

EXPENDITURE REQUIRED:	\$	AMOUNT BUDGETED:	\$
AMOUNT AVAILABLE:	\$	PROJECT NO:	
ACCOUNT NO:			
ADDITIONAL APPROPRIATION REQUIRED:	\$		
ACCOUNT NO:			
PROJECT NO:			

To be completed by Department:

EXECUTIVE SUMMARY

BACKGROUND

This request is for approval of a change in zoning from the Single-Family Residential-1 (R-1) zoning district to General Business (GB) zoning district on approximately 9.6135 acres of land, located at 3205 Dixie Farm Road. This site currently has a single family residence on the property and is used as a single-family home. In

the last year, there have been two workshops conducted regarding the development of this site for senior housing. The applicant is not proposing a specific use for the property, but believes the allowable uses in the GB zoning district stated in the Unified Development Code (UDC) are suitable.

Recommendation

Staff does not recommend approval of this change in zoning from Single-Family Residential-1 (R-1) to General Business (GB) zoning district on the approximately 9.6135 acre site for the following reasons:

1. The site is currently developed with a single family home that is appropriate only for residential use. The proposed change in zoning to GB would allow a commercial entity to occupy the building which would be out of character for the major corridor near a commercial hub with large box retail stores.
2. The applicant has no specific use for development of the site. If the site were undeveloped staff would be more supportive to rezone the land or if a Planned Unit Development was proposed that could ensure an appropriate use and buffering to transition from the large box retail to the adjacent single family residential.
3. While the rezoning would be in conformance with the Future Land Use Plan, the development potential for the site is out of scale with the surrounding properties. The scale of this site compared to the adjacent properties is much larger which would allow for large big box style development. The buffers required by the UDC are not adequate at this scale to mitigate potential issues with height, noise, or other nuisances.

Site History

The site is developed with a single-family residence and a barn. The property was annexed into the City of Pearland in June, 1960. The subject property is surrounded by a majority of residential mix of land uses and zoning districts, as illustrated by the below table:

	Zoning	Land Use
North	General Commercial (GC) Single-Family Residential-4 (R-4)	Home Depot Undeveloped
South	Single-Family Residential-1 (R-1)	Single Family Residence
East	Single-Family Residential-3 (R-3)	Pine Hollow - Single Family Subdivision
West	General Commercial (GC)	Walmart

In the last year, there's been two joint workshops conducted on this property by a developer for similar Planned Developments (PD). The first workshop was held in September 2016. At that time the applicant identified the PD's base zoning for this development to be Multi-Family for senior independent living with the added uses of assisted living and memory care facilities. During that workshop City Council expressed concerns regarding the Multi-Family base zoning designation. The applicant then submitted a revised PD with GB as the base zoning and requested a second workshop in December 2016 to gain input from City Council and the Planning and Zoning Commission on the PD with a GB base zoning. After the workshop the developer chose not to proceed to Joint Public Hearing with the the PD.

Currently, the property owner has submitted an application requesting a straight zone change from R-1 to GB with no specific use proposed.

Conformance with the Comprehensive Plan

The subject property is located within Retail, Offices, and Services Future Land Use Designation which is characterized as including a variety of office and retail development. The 2015 Pearland Comprehensive Plan recommends that neighborhood retail and services should be located at the intersections of thoroughfare or collector streets or at the edge of logical neighborhood areas. There is no proposed use at this time. The GB zoning district allows for a variety of commercial uses permitted by right and by Conditional Use Permit. This zoning classification would be in conformance with the FLUP.

Conformance with the Thoroughfare Plan

According to City records, Dixie Farm Road is a Major Thoroughfare of sufficient width having a minimum right-of-way of 120 feet. Dixie Farm Road is in the Corridor Overlay District which has enhanced requirements for aesthetic, functional, and safety characteristics of development along Major Thoroughfares where higher development standards can enhance the City's image as a desirable place to live, work, and shop.

Conformance with the Unified Development Code

The subject property is currently developed with a single family home structure and is in conformance with development regulations of the UDC. If the proposed change in zoning is approved, the existing house would not be in conformance with the permitted uses and development regulations of the GB zoning district. Any new development on the site would be required to meet the regulations of the UDC.

The lot requirements exceed the lot and setback requirements of the proposed GB zoning district, as indicated in the in the following table.

General Business (GB) Area Regulations		
Size of Lot	Required	Proposed
Minimum Lot Size	22,500 sq.ft.	9.6135 acres (418,766 sq.ft.)
Minimum Lot Width	150 ft.	424.40 ft.
Minimum Lot Depth	125 ft.	985.99 ft

Platting Status

Platting will be required for the proposed development prior to the issuance of building permits and Certificates of Occupancy.

Availability of Utilities

The subject parcel is serviced by a 16 inch water line along Dixie Farm Road. The applicant would need to extend sewer to the site. A 30 inch sewer gravity line is available across Dixie Farm Road. Proposed extension of services and capacity issues and other required off-site improvements will be addressed during platting.

Impact on Existing and Future Development

Although the proposed change in zoning is in accordance with the Retail, Offices and Services category of the Future Land Use Plan the development of this site will likely have a negative impact on existing adjacent residential properties. The scale of this site compared to the adjacent properties is much larger which would allow for large big box style development. The buffers required by the UDC are not adequate at this scale to mitigate potential issues with height, noise, or other nuisances.

Additional Comments

The request has been reviewed by the City's Development Review Committee (DRC) and there were no additional comments from other departments at the time of this report.

Public Notification

Staff sent public notices, comment forms and a vicinity map to the applicant, the owner of the property and to property owners within 200 feet of the subject property under consideration for the zone change. Additionally, a legal notice of the public hearing was published in the local newspaper, and a notification sign was placed on the property by the applicant.

Opposition to or Support of Proposed Request

Staff has received 48 notices in opposition of the proposed change in zoning request. The letters stated the following concerns:

1. GB zone accepts: Assisted living is multifamily
2. GB is an encroachment on the residential nature of the adjoining properties

3. Once GB is accepted, Owner can then apply for a Conditional Use Permit. This opens land use to even a broader use of land.
4. Potential decrease of land value with GB use.
5. Land use is not consistent with the character of the existing neighborhood.
6. GB opens to Multi story building (2,3,4)(Office or Multifamily) on Dixie not consistent
7. Spot Zoning: Review Existing Zoning, GB is on 518 Broadway) Dixie Rd is Residential.
8. Not consistent with comprehensive plan
9. Traffic impact
10. Access
11. Pipeline safety
12. Conforming to existing City requirements.

**AGENDA REQUEST
BUSINESS OF THE CITY COUNCIL
CITY OF PEARLAND, TEXAS**

AGENDA OF:	May 15, 2017 UDC 17-00008	ITEM NO:	AIR - 0425
DATE SUBMITTED:	09 May 2017	DEPT. OF ORIGIN:	Community Development
PREPARED BY:	Martin Griggs		

SUBJECT:	Amendments to the Unified Development Code (UDC) No. (T-25) ZONE 17-00008
	A request of the City of Pearland, for proposed amendments to the Unified Development Code, Ordinance No. 2000T-25.

EXHIBITS:	
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FUNDING:	<input type="checkbox"/> Bonds To Be Sold	<input type="checkbox"/> Grant	<input type="checkbox"/> Bonds - Sold	<input type="checkbox"/> Developer/Other	<input type="checkbox"/> L/P - Sold	<input type="checkbox"/> Cash	<input type="checkbox"/> L/P - To Be Sold
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EXPENDITURE REQUIRED:	\$	AMOUNT BUDGETED:	\$
AMOUNT AVAILABLE:	\$	PROJECT NO:	
ACCOUNT NO:			
ADDITIONAL APPROPRIATION REQUIRED:	\$		
ACCOUNT NO:			
PROJECT NO:			

To be completed by Department:

EXECUTIVE SUMMARY

BACKGROUND

These set of amendments include:

1. Changes to the Land Use Matrix to allow uses such as martial arts studio, dance and drama studio, tutoring centers, and learning centers by right in Office Professional (OP) zones).
2. Changes to the Land Use Matrix to allow breweries, micro distilleries, and micro wineries to park food trucks in their parking lots.
3. Prohibit lighting along edges of windows, doors and other openings.
4. Prohibit bars/metal grills on outer facades on windows, doors, and other openings.